

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O assessment on Mr X who has remained in immigration detention for more than 54 months (four and a half years). The previous assessment 1002115-O was tabled in Parliament on 18 October 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1972
Ombudsman ID	1002115-O1
Date of department's reports	21 August 2017 and 19 February 2018
Total days in detention	1,640 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Facility B.	
12 July 2017	Transferred to Facility C.

Recent visa applications/case progression

26 May 2017	The Federal Circuit Court (FCC) quashed the refusal of Mr X's Safe Haven Enterprise visa (SHEV) application and remitted the decision to the Department of Home Affairs (the department) for reconsideration.
21 August 2017	The department advised that Mr X remains a person of interest.
18 and 23 January 2018	The department invited Mr X to provide additional information in relation to his SHEV application.
19 February 2018	Found not to meet the guidelines for referral to the Minister under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa. The department advised that it continued to reassess Mr X's SHEV application.

Health and welfare

International Health and Medical Services advised that Mr X continued to present with sleeping difficulties and nightmares and was prescribed with short-term medication for insomnia. Following a psychological review in August 2017 Mr X disclosed that being separated from his family was very stressful but he did not wish to engage with the mental health team. Mr X also received treatment for a skin condition and elevated cholesterol and blood pressure.	
22 November 2017	An Incident Report recorded that Mr X refused food and fluid.

Other matters

Mr X's wife and two children reside in the community on bridging visas.	
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Ombudsman assessment/recommendation

Mr X was detained on 24 August 2013 after arriving in Australia by sea and has remained in an immigration detention facility for more than four and a half years.

The Ombudsman's previous assessment recommended that Mr X be considered under s 195A for the grant of a bridging visa in light of the significant length of time he has remained in detention and his continued separation from his family.

The Ombudsman further recommended that if Mr X was not granted a bridging visa, the department explore options to facilitate visits with his family, either by sourcing a service provider to accompany his children to visit him at Facility B while his wife was working, or transporting him to and from Facility D for scheduled visits with his family.

On 18 October 2017 the Minister advised that Mr X would be assessed against the s 195A guidelines for a possible referral for the grant of a bridging visa. He further advised that Mr X's placement had been reviewed and at that time the department considered his placement appropriate. Additionally, arrangements were in place to allow Mr X to maintain contact with his family support network.

On 26 May 2017 the FCC quashed the refusal of Mr X's SHEV application and remitted the decision to the department for reconsideration. At the time of the department's latest report Mr X was awaiting the reconsideration of his SHEV application.

Mr X has been transferred to Facility C and during an interview with Ombudsman staff in May 2017 Mr X advised that his family reside in City E. Mr X further advised that his mental health had improved upon being transferred from Facility D to Facility B, but due to his wife's extensive work commitments to effectively support her children, it was very difficult for his family to visit him.

1. In light of Mr X's separation from his family and the impact Facility D had on his mental health, the Ombudsman recommends that Mr X be transferred back to Facility B.
2. The Ombudsman again recommends that the department facilitate visits with Mr X's family with consideration of his wife's work commitments, either by sourcing a service provider to accompany his children to visit him at Facility B while his wife is working, or transporting him to and from Facility D for scheduled visits with his family.