

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 four and a half years. The previous assessment 1002128-O was tabled in Parliament on 6 September 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	1974
Ombudsman ID	1002128-O1
Date of department's reports	30 August 2017 and 28 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 has remained at Facility B.

Recent visa applications/case progression

March 2017	Mr X provided further information regarding his Safe Haven Enterprise visa (SHEV) application.
August 2017	The Department of Home Affairs (the department) advised that Mr X was no longer a person of interest in relation to alleged offshore criminal matters.
November 2017	The Minister declined to intervene under s 195A of the <i>Migration Act 1958</i> to grant Mr X a bridging visa.
February 2018	Identified for assessment against the guidelines for referral to the Minister under s 195A for the grant of a bridging visa.
February 2018	The department advised that it continued to assess Mr X's SHEV application.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment for a number of physical health concerns. He was prescribed with medication and provided with lifestyle advice and regularly reviewed for a medical condition. Mr X was scheduled to attend a specialist appointment in February 2018.

IHMS further advised that Mr X engaged with the mental health team and specialist counselling for the management of a history of torture and trauma, situational stress and insomnia. In November 2017 a general practitioner (GP) noted that Mr X presented as very flat and despondent and his mental health was deteriorating in the context of his uncertain future and the length of time he had remained in immigration detention. In December 2017 a counsellor noted that Mr X displayed symptoms of detention fatigue and anxiety associated with his family that remain in Country A.

Other matters

February 2018	The department was notified that Mr X lodged a complaint with the Australian Human Rights Commission. The matter remained ongoing at the time of the department's latest report.
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Ombudsman assessment/recommendation

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

In August 2017 the department advised that Mr X was no longer a person of interest in relation to alleged offshore criminal matters and in February 2018 the department advised that it continued to assess Mr X's SHEV application.

The Ombudsman's previous assessment recommended that in light of ongoing mental and physical health concerns that Mr X be considered for the grant of a community placement or bridging visa while he awaits the outcome of his SHEV application.

On 6 September 2017 the Minister advised that the department was preparing a submission for his consideration of Mr X's case under s 195A for the grant of a bridging visa, and pending that outcome, Mr X may be considered for the grant of a community placement under s 197AB.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose.

In November 2017 a general practitioner noted that Mr X presented as flat and despondent and that his mental health was deteriorating in the context of his uncertain future and the length of time he had remained in immigration detention. In December 2017 a counsellor also noted that Mr X displayed symptoms of detention fatigue.

In light of the significant length of time Mr X has remained in detention and the absence of any recent behavioural or security concerns, the Ombudsman recommends that the department expedite the consideration of Mr X's case under s 195A.