

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the first s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1984
<b>Ombudsman ID</b>	1002561-O
<b>Date of DIBP's reports</b>	3 January 2017 and 3 July 2017
<b>Total days in detention</b>	914 (at date of DIBP's latest report)

### Detention history

19 July 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland <sup>1</sup> by sea. He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
16 August 2013	Transferred to Wickham Point APOD.
27 March 2014	Transferred to community detention.
11 March 2015	Granted a bridging visa and released from detention.
23 August 2016	Re-detained under s 189(1) following his release from criminal custody. He was transferred to Villawood Immigration Detention Centre (IDC).
7 December 2016	Transferred to Facility B.

### Visa applications/case progression

11 March 2015	Granted a bridging visa with an associated Temporary Humanitarian Stay visa.
16 October 2015	Bridging visa cancelled under s 116 following criminal charges.
7 September 2016	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
7 February 2017	Lodged a Safe Haven Enterprise visa (SHEV) application.
24 February 2017	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a bridging visa.
1 May 2017	SHEV application refused.
5 May 2017	Mr X's case was referred to the Immigration Assessment Authority (IAA) for review.
12 May 2017	The Minister declined to intervene under s 195A.
6 June 2017	The IAA affirmed the decision to refuse Mr X's SHEV application.

<sup>1</sup> Following legislative amendment on 20 May 2013, all unauthorised maritime arrivals, including those who arrived on the Australian mainland or an 'excised offshore location' were barred from lodging a Protection visa application under s 46A.

**Other legal matters**

13 October 2015	Mr X was remanded in custody and charged with multiple family violence offences. In August 2016 the charges were dismissed and Mr X was released from custody.
-----------------	--

**Health and welfare**

International Health and Medical Services advised that Mr X was provided with treatment for multiple physical health concerns, including chronic asthma, a previous hepatitis B infection and a skin condition. In 2014 he was identified as a tuberculosis contact and monitored as per state policy.	
25 August 2013	An Incident Report recorded that Mr X refused food and fluid as a form of protest.

**Detention incidents**

17 November 2013	An Incident Report recorded that Mr X allegedly assaulted his wife. The matter was investigated by police and no further action was taken.
------------------	--

**Other matters**

Mr X's wife and son reside in the community on bridging visas.
--

**Case status**

<p>Mr X was detained on 19 July 2013 after arriving in Australia by sea and has been held in detention facility for a cumulative period of more than two and a half years.</p> <p>On 7 September 2016 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 7 February 2017 Mr X lodged a SHEV application.</p> <p>Mr X's SHEV application was refused on 1 May 2017 and on 6 June 2017 the IAA affirmed the refusal.</p> <p>At the date of the Department of Immigration and Border Protection's latest report, Mr X was still within the timeframe to apply for judicial review of the IAA's decision.</p>
---