

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 a cumulative period of more than four and a half years. The previous assessment 1001313-O was tabled in Parliament on 29 November 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	1970
Ombudsman ID	1001313-O1
Date of department's report	10 October 2017
Total days in detention	1,640 (at date of department's report)

Recent detention history

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

Recent visa applications/case progression

October 2017	<p>The Department of Home Affairs (the department) advised that it continues to reconsider Mr X's Safe Haven Enterprise visa (SHEV) application under s 501 of the <i>Migration Act 1958</i>.</p> <p>The department further advised that Mr X remains a person of interest to the department in relation to offshore matters.</p>
--------------	---

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment for chronic shoulder pain. He attended physiotherapy and underwent neural therapy. He was referred for a computed tomography scan in May 2017 which remained pending at the time of IHMS's report.</p> <p>IHMS further advised that Mr X continued to engage with the mental health team for the management of multiple complex mental health concerns. He was reviewed by a psychologist and presented with feelings of hopelessness and frustration related to his prolonged detention.</p>	
--	--

Other matters

July 2017	<p>Mr X's advocate lodged a complaint on his behalf with the Office of the Commonwealth Ombudsman (the Office) in relation to a number of concerns, including a request for particular documents, a request to be transferred to a detention facility closer to his support networks, and concerns about his shoulder treatment and the status of his immigration case.</p> <p>The department provided responses in September 2017, November 2017 and December 2017. At the time of drafting this assessment the matter remained ongoing.</p>
-----------	---

Information provided by Mr X's advocate

Mr X's advocate provided the Office with a copy of a psychological assessment report produced by a clinical psychologist. The assessment advised that Mr X presented with severe symptoms of complex mental health concerns. The assessment advised that Mr X's mental health issues arose from, and continued to be exacerbated by, his prolonged detention, separation from his family and support networks, and the uncertainty of his immigration status. The psychologist recommended that Mr X's case be urgently resolved for the benefit of his mental health.

Ombudsman assessment/recommendation

Mr X was detained in October 2012 after arriving in Australia by sea and has remained in an immigration detention facility for a cumulative period of more than four and a half years.

The Ombudsman's previous assessment recommended that in light of the significant length of time he has remained in detention, the department consider transferring Mr X to Facility C or Facility D to enable him to have greater access to his support networks while he awaits the resolution of his immigration status.

On 29 November 2017 the Minister advised that the department had reviewed Mr X's detention placement and in November 2017 he was transferred to Facility C.

The department advised that it continues to reconsider Mr X's SHEV application under s 501 and that he remains a person of interest in relation to offshore matters.

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.

IHMS has advised that Mr X continued to receive treatment for complex mental health concerns.

In light of these concerns and noting that Mr X's case has been under consideration since January 2017, the Ombudsman recommends that the department expedite the consideration of Mr X's case under s 501.