

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 two years.

Name	Mr X
Citizenship	Country A
Year of birth	1983
Ombudsman ID	1002815-O
Date of department's report	20 December 2017
Total days in detention	730 (at date of department's report)

Detention history

November 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea. He was transferred to Facility B.
November 2012	Transferred to Facility C.
November 2012	Transferred to Facility B.
November 2012	Transferred to Facility D.
December 2012	Granted bridging visa and released from immigration detention.
February 2016	Re-detained under s 189(1) following a criminal conviction. He was transferred to Facility E.
July 2017	Transferred to Facility B.

Visa applications/case progression

December 2012	The Minister intervened under s 195A to grant Mr X a bridging visa. On the same day he was granted a Temporary Humanitarian Stay visa. While residing in the community Mr X was granted a further bridging visa valid until June 2015.
November 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
May 2016	Lodged a Safe Haven Enterprise visa (SHEV) application.
December 2016	Issued with a Notice of Intention to Consider Refusal of his SHEV under s 501 following a criminal conviction. In February 2017 Mr X provided a response.
March 2017	SHEV refused under s 501. In March 2017 Mr X applied to the Administrative Appeals Tribunal (AAT) for merits review.
June 2017	AAT affirmed the decision to refuse Mr X's SHEV application and on the following day Mr X applied to the Federal Court (FC) for judicial review.
March 2018	The FC remitted Mr X's case to the AAT to be determined according to law.

Criminal history

February 2016	Convicted of an offence and sentenced to two years and three months imprisonment suspended for a period of 15 months.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was prescribed with medication and received treatment for symptoms of depression. In May 2016 Mr X was placed under observation and reviewed by the mental health team who also noted symptoms of detention fatigue.

Mr X attended several sessions with a psychologist and psychiatric reviews in August and October 2017 noted low grade anxiety and depressive symptoms in the context of prolonged detention.

IHMS further advised that Mr X disclosed physical health concerns but at the time did not wish to attend the IHMS clinic for treatment.

Other matters

April 2016	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman in relation to his re-detention and ongoing mental health concerns. His concerns were raised with detention centre staff and on the same day the complaint was finalised.
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Case status

Mr X was detained in November 2012 after arriving in Australia by sea and was subsequently granted a bridging visa and released from detention. He was re-detained in February 2016 following a criminal conviction and has remained in an immigration detention facility for a cumulative period of more than two years.

Mr X's SHEV application was refused under s 501 in March 2017 and in June 2017 the AAT affirmed this decision.

At the time of the department's latest report Mr X was awaiting the outcome of judicial review.

In March 2018 the FC remitted Mr X's case to the AAT to be determined according to law.