

486N-1000030-02

24 November 2018

The Hon David Coleman MP  
Minister for Immigration, Citizenship and Multicultural Affairs  
Parliament House  
CANBERRA ACT 2600

Dear Minister

**Assessments under s 486O of the *Migration Act 1958***

In accordance with s 486O of the *Migration Act 1958* (the Act) I am forwarding my assessment concerning 12 cases on the schedule (Attachment A) regarding 19 individuals who fall within the reporting and assessment obligation imposed by Part 8C of the Act.

My office has assessed the appropriateness of the immigration detention arrangements of the 12 cases on the schedule and has made a total of 27 recommendations in relation to 11 cases (Attachment B).

The Act also requires that I prepare this de-identified statement for tabling in Parliament.

As part of this assessment my office reviewed information relating to each individual's case progression, detention placement, legal matters and health and welfare. When required, further information was requested under s 486Q or s 8 of the *Ombudsman Act 1976*.

I note that three individuals on the schedule are subject to an adverse security assessment and eight individuals are subject to a qualified security assessment.

An adverse security assessment is issued by the Australian Security Intelligence Organisation (ASIO) when an individual has been assessed as presenting either a direct or indirect risk to Australia's security. A qualified security assessment is issued when an individual is assessed by ASIO not to be directly or indirectly a risk to security. Qualified security assessments contain information that could be prejudicial to the interests of the person but do not contain a recommendation with regards to any prescribed administrative action.

The Department of Home Affairs (the Department) has previously advised that when issuing a qualified security assessment, ASIO assesses that it is consistent with requirements of national security for individuals to be granted a temporary visa, including a bridging visa, a Temporary Protection visa or a Safe Haven Enterprise visa (SHEV).

However, the Department has also advised that persons issued with a qualified security assessment who are identified as being on a positive pathway for a protection visa are currently referred for assessment against visa cancellation and refusal provisions. This has the effect of persons issued with a qualified security assessment not generally being referred to the Minister for consideration under s 195A of the Act for the grant of a bridging visa unless there are other relevant or compelling compassionate circumstances.

I note that Mr X (1002167-O2) was subject to a qualified security assessment and in April 2018 he was released from immigration detention on a SHEV.

I note with concern that:

- Mr X (1000030-O2), Mr X (1000034-O2), Mr X (1000267-O2) and Mr X (1000785-O2) have remained in immigration detention for a period between seven and a half years and eight and a half years.
- Mr X (1000967-O2), Mr X (1001613-O2), Mr X (1001818-O2), Mr X (1001929-O2), Mr X (1002118-O2), Mr X (1002151-O2) and Mr X (1002248-O2) have remained in detention for a period between four and a half years and six years.

The prolonged and apparently indefinite detention of these individuals poses a serious risk to their mental and physical health. These cases continue to raise significant concerns about the impact of prolonged detention resulting from ongoing security concerns.

Since September 2011 my Office has noted the impact of security assessments on individuals' detention placement and case progression and has recommended that a more durable solution be developed and implemented as a matter of urgency.

It is my view that individuals who have been issued a qualified security assessment, and therefore have been assessed to not pose a direct or indirect threat to Australia's security, should be referred to the Minister for consideration under s 195A for the grant of a bridging visa.

My Office has previously recommended that as part of the solution, the Department should give consideration to developing, in consultation with ASIO, a more targeted and flexible assessment process that identifies the specific nature of the risk to the Australian community. Consideration should be given to alternative, less restrictive detention arrangements, including community detention, for those who do not pose a direct threat to the Australian community. In such cases appropriate safeguards and oversight could be put in place to address any security concerns that have been identified in the assessment process.

Where appropriate, vulnerable long-term detainees should be placed in low-security facilities until they are released from detention to better support their mental health, recognising that they have remained in immigration detention for significantly prolonged periods and are likely to remain in detention for the foreseeable future.

If an appropriately tailored low-security facility is not currently available in the detention network, the Department should ensure that long-term vulnerable detainees are appropriately managed while they remain in detention.

Yours sincerely



Michael Manthorpe PSM  
Commonwealth Ombudsman  
*Influencing systemic improvement in public administration*

**SCHEDULE**  
**Assessments of people placed in immigration detention for more than two years**

When coming to this assessment, the Office reviewed information relating to each individual's case progression, detention placement, legal matters and health and welfare. Additionally, when required, further information was requested under s 486Q of the Act or s 8 of the *Ombudsman Act 1976*.

No	Ombudsman ID	Recommendations	Name	No. of People	Year of birth	Days in detention <sup>1</sup>	Detention Status <sup>2</sup>	Date of 486N report	Date last assessment tabled
1	1000030-O2	2	Mr X	1	1973	3,098	IDF	4 December 2017 and 4 June 2018	21 March 2018
2	1000034-O2	3	Mr X	1	1985	3,098	IDF	4 December 2017 and 4 June 2018	21 March 2018
3	1000267-O2	2	Mr X	1	1983	3,104	IDF	13 March 2018 and 18 September 2018	21 March 2018
4	1000785-O2	4	Mr X	1	1953	2,738	IDF	8 March 2018 and 12 August 2018	21 March 2018
5	1000967-O2	3	Mr X (husband) Ms X (wife) Miss X (daughter) Miss X (daughter) Miss X (daughter) Miss X (daughter) Master X (son) Master X (son)	8	1971 1976 1995 1997 1998 2000 2003 2010	2,186	IDF CD CD CD CD CD CD CD	6 November 2017 and 6 May 2018	6 December 2017
6	1001613-O2	3	Mr X	1	1987	1,827	IDF	19 June 2018	18 June 2018
7	1001818-O2	2	Mr X	1	1985	1,827	IDF	10 January 2018 and 16 July 2018	7 February 2018
8	1001929-O2	2	Mr X	1	1985	1,825	IDF	24 July 2018	15 October 2018
9	1002118-O2	2	Mr X	1	1997	1,825	IDF	20 February 2018 and 24 August 2018	7 February 2018
10	1002151-O2	2	Mr X	1	1980	1,826	IDF	10 September 2018	25 June 2018
11	1002167-O2	0	Mr X	1	1985	1,641	SHEV	19 March 2018	21 March 2018
12	1002248-O2	2	Mr X	1	1987	1,458	IDF	30 November 2017	29 November 2017

<sup>1</sup> At date of the Department's latest report.

<sup>2</sup> Immigration Detention Facility (IDF), Community Placement (CD), Safe Haven Enterprise visa (SHEV).

**RECOMMENDATIONS BY THE COMMONWEALTH OMBUDSMAN TO  
THE MINISTER FOR HOME AFFAIRS**  
*Under s 486O of the Migration Act 1958*

<b>Name</b>	Mr X
<b>Ombudsman ID</b>	1000030-O2
<p>Mr X was detained in December 2009 after arriving in Australia by sea and has remained in an immigration detention facility for more than eight and a half years.</p> <p>Following re-assessment of his protection claims, Mr X has been found not to engage Australia's protection obligations under the <i>Migration Act 1958</i>. His Temporary Protection visa application was refused in July 2017 and Mr X applied for merits review with the Administrative Appeals Tribunal. At the date of the Department of Home Affairs' (the Department) latest report, his application for merits review remained ongoing.</p> <p>Mr X remains subject to a qualified security assessment which was issued in November 2016, superseding his previous adverse security assessment.</p> <p>The Ombudsman's previous assessment noted that the Department had assessed Mr X through its Community Protection Assessment Tool as being a low risk of harm to the Australian community.</p> <p>The Ombudsman's previous assessment recommended that:</p> <ul style="list-style-type: none"><li>• The Minister urgently consider Mr X's case under s 195A of the <i>Migration Act 1958</i> and grant him a bridging visa or transfer him to a lower security placement, such as a designated alternative place of detention in the community.</li><li>• The Department brief the Minister on management options for the cohort of long-term detainees with qualified security assessments.</li><li>• The Minister prioritise finding a solution for this cohort that meets Australia's <i>non-refoulement</i> obligations without detaining individuals indefinitely.</li></ul> <p>On 21 March 2018 the Minister advised that the Department would prepare a submission requesting his consideration to intervene under s 195A and that if he declined to consider intervention the Department would review Mr X's detention placement. The Minister further advised that the Department would also prepare a submission outlining management options for long-term detainees with qualified security assessments.</p> <p>In April 2018 the Minister indicated that he was not inclined to consider Mr X's case under s 195A.</p> <p>International Health and Medical Services (IHMS) advised that Mr X received treatment for complex mental health concerns. In June 2017 a psychiatrist recommended that Mr X be admitted to inpatient care in light of his long history of detention and the potential risks associated with deterioration. Mr X was transferred and a treating psychiatrist noted the negative effects of prolonged detention on Mr X's mental health and recommended an early transfer to the community.</p> <p>Upon discharge, Mr X's mood was noted to have improved, however ongoing symptoms continued to be documented. IHMS advised in its latest report in April 2018 that Mr X's mental health condition continues to be exacerbated by remaining in his current detention environment.</p> <p>In light of this medical advice, the Ombudsman is of the opinion that Mr X's current placement in an immigration detention facility is inappropriate.</p>	

Attachment B

<b>Name</b>	Mr X (continued)
<b>Ombudsman ID</b>	1000030-O2
<b>Recommendation</b>	
The Ombudsman recommends that:	
<ol style="list-style-type: none"><li>1. The Minister consider Mr X's case under s 195A and grant him a bridging visa, recognising the length of time he has remained in detention and his vulnerability as a long-term detainee with ongoing health and welfare concerns.</li><li>2. If the Minister declines to intervene under s 195A, the Department urgently reassess Mr X's detention circumstances and consider transferring him to a lower-security placement, such as Facility Y.</li></ol>	

Attachment B

<b>Name</b>	Mr X
<b>Ombudsman ID</b>	1000034-O2
<p>Mr X was detained in December 2009 after arriving in Australia by sea and has remained in an immigration detention facility for more than eight and a half years.</p> <p>Mr X was initially detained while awaiting the outcome of a security assessment. He was issued a qualified security assessment in May 2016.</p> <p>Mr X has been found to engage Australia's complementary protection obligations through an International Treaties Obligations Assessment. Mr X's Safe Haven Enterprise visa (SHEV) application is currently being considered for refusal under s 501 of the <i>Migration Act 1958</i>. The Ombudsman notes with concern that if Mr X's SHEV is refused or he is not granted a bridging visa, it appears he will remain in detention indefinitely.</p> <p>The Ombudsman's previous assessment noted that the Department of Home Affairs (the Department) had assessed Mr X through its Community Protection Assessment Tool as being a low risk of harm to the Australian community.</p> <p>The Ombudsman's previous assessment recommended that:</p> <ul style="list-style-type: none"><li>• The Minister urgently consider Mr X's case under s 195A and grant him a bridging visa or transfer him to a lower security placement, such as a designated alternative place of detention in the community.</li><li>• The Department brief the Minister on management options for the cohort of long-term detainees with qualified security assessments.</li><li>• The Minister prioritise finding a solution for this cohort that meets Australia's <i>non-refoulement</i> obligations without detaining individuals indefinitely.</li></ul> <p>On 21 March 2018 the Minister advised that the Department would prepare a submission for referral to the Minister for consideration under s 195A and that if he declined to consider intervention the Department would review Mr X's detention placement. The Minister further advised that the Department would also prepare a submission outlining management options for long-term detainees with qualified security assessments.</p> <p>In April 2018 the Minister indicated that he was not inclined to consider Mr X's case under s 195A. The Department also advised that Mr X had not been referred for alternative detention placement as his needs were being appropriately managed.</p> <p>International Health and Medical Services (IHMS) advised that during this assessment period Mr X received treatment for complex mental health concerns. A treating psychiatrist previously advised that Mr X's prolonged detention has had a significant impact on his mental state, with a recommendation made for a community detention placement.</p> <p>In February 2018 IHMS noted that Mr X was experiencing detention fatigue and in April 2018 IHMS reiterated that Mr X's ongoing detention continues to have a negative impact on his mental health.</p> <p>In light of this medical advice, the Ombudsman is of the opinion that Mr X's current placement in an immigration detention facility is inappropriate.</p> <p><b>Recommendation</b></p> <p>The Ombudsman recommends that:</p> <ol style="list-style-type: none"><li>1. The Department urgently expedite consideration of Mr X's SHEV application under s 501 in light of the length of time he has awaited a resolution.</li></ol>	

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<b>Name</b>	Mr X (continued)
<b>Ombudsman ID</b>	1000034-O2
<p>2. The Minister consider Mr X's case under s 195A and grant him a bridging visa, recognising the length of time he has remained in detention and his vulnerability as a long-term detainee with ongoing health and welfare concerns.</p> <p>3. If the Minister declines to intervene under s 195A, the Department reassess Mr X's detention circumstances and consider transferring him to a lower-security placement, such as Facility Y.</p>	

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<b>Name</b>	Mr X
<b>Ombudsman ID</b>	1000267-O2
<p>Mr X was detained in March 2010 after arriving in Australia by sea and has remained in an immigration detention facility for more than eight years.</p> <p>Mr X remains subject to a qualified security assessment which was issued in December 2016, superseding his previous adverse security assessment.</p> <p>In December 2015 Mr X lodged a Temporary Protection visa (TPV) application. The Department of Home Affairs' (the Department) latest report, dated September 2018, advised that Mr X's TPV application continues to be assessed.</p> <p>The Ombudsman's previous assessment recommended that the Department reassess Mr X's detention placement in light of specialist advice and that the Minister urgently transfer Mr X to a lower-security detention placement appropriately tailored to his mental health needs, such as a designated alternative place of detention in the community.</p> <p>On 21 March 2018 the Minister advised that the Department had reviewed Mr X's placement in consultation with a number of stakeholders and his current placement remained appropriate.</p> <p>International Health and Medical Services advised that Mr X continued to receive treatment for multiple complex mental health concerns.</p> <p>Mr X's placement in an immigration detention facility has been the subject of consistent review, involving numerous stakeholders, since 2010. Mr X has been hospitalised on occasion and has been the subject of a mental health treatment plan and a community treatment order.</p> <p>In 2014 the Department advised that it agreed that an immigration detention facility was not conducive to Mr X's ongoing mental health, and an alternative setting would be more appropriate.</p> <p>In 2016 Mr X was determined to be unable to access the Housing and Accommodation Support Initiative (HASI) program as Facility Y as a location was not considered suitable.</p> <p>In May 2017 a neuropsychologist strongly recommended that Mr X be placed in a supported placement in the community. In August 2018 Mr X was noted to be experiencing detention fatigue and frustration.</p> <p>In light of this medical advice, the Ombudsman is of the opinion that Mr X's continued placement in an immigration detention facility is inappropriate for his mental health needs.</p> <p>In September 2018 the Department advised that Mr X would remain in held detention while the Department processes his TPV application.</p> <p>The Ombudsman notes with concern the impact of long-term and seemingly indefinite detention on detainees' mental and physical health.</p> <p><b>Recommendation</b></p> <p>The Ombudsman recommends that the Department:</p> <ol style="list-style-type: none"><li>1. Urgently expedite consideration of Mr X's TPV application, noting that the application was lodged in December 2015, nearly three years ago.</li><li>2. Explore options to place Mr X in a less restrictive detention placement in the community which allows him to access appropriate assistance for his mental health needs, such as supported accommodation facilitated through the HASI program, noting that the program was not considered suitable at Facility Y.</li></ol>	



Attachment B

<b>Name</b>	Mr X
<b>Ombudsman ID</b>	1000785-O2
<p>Mr X was detained in July 2010 after arriving in Australia by sea and has remained in an immigration detention facility for a cumulative period of more than seven and a half years.</p> <p>Mr X was granted a Protection visa in April 2011, however his visa was subsequently cancelled under s 501 of the <i>Migration Act 1958</i> when he was issued an adverse security assessment in November 2011.</p> <p>Mr X remains subject to a qualified security assessment which was issued in June 2017, superseding his previous adverse security assessment.</p> <p>In March 2018 Mr X lodged a Safe Haven Enterprise visa (SHEV) application that continues to be assessed at the date of the Department of Home Affairs' (the Department) latest report.</p> <p>The Ombudsman's previous assessment noted that due to the likely lengthy time before Mr X's immigration status is resolved and his individual circumstances, his detention placement was inappropriate.</p> <p>The Ombudsman's previous assessment recommended that:</p> <ul style="list-style-type: none"><li>• The Minister urgently consider Mr X's case under s 195A and grant him a bridging visa or transfer him to a lower security placement, such as a designated alternative place of detention in the community.</li><li>• If not placed in an alternative place of detention, that Mr X be transferred to Facility Y to be closer to his family and support network.</li><li>• The Department brief the Minister on management options for the cohort of long-term detainees with qualified security assessments.</li><li>• The Minister prioritise finding a solution for this cohort that meets Australia's <i>non-refoulement</i> obligations without detaining individuals indefinitely.</li></ul> <p>On 21 March 2018 the Minister advised that the Department would prepare a submission requesting his consideration to intervene under s 195A and that if he declined to consider intervention the Department would review Mr X's detention placement. The Minister advised that the Department was unable to transfer Mr X to Facility Y due to capacity issues. The Minister further advised that the Department would also prepare a submission outlining management options for long-term detainees with qualified security assessments.</p> <p>In April 2018 the Minister indicated that he was not inclined to consider Mr X's case under s 195A.</p> <p>International Health and Medical Services advised that Mr X received treatment for multiple complex mental health concerns.</p> <p>In January 2018 a specialist counsellor noted that Mr X was at high risk of deterioration in the context of ongoing detention and advised that placement in the community would provide Mr X with the best chance of improving his physical and mental health in a safe and supportive environment.</p> <p>In light of this medical advice, the Ombudsman is of the opinion that Mr X's current placement in an immigration detention facility remains inappropriate.</p>	

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<b>Name</b>	Mr X (continued)
<b>Ombudsman ID</b>	1000785-02
<b>Recommendation</b>	
The Ombudsman recommends that:	
<ol style="list-style-type: none"><li>1. The Department urgently expedite consideration of Mr X's SHEV application.</li><li>2. The Minister consider Mr X's case under s 195A for the grant of a bridging visa.</li><li>3. If not granted a bridging visa, the Department explore options to place Mr X in a less-restrictive placement in the community near his support network which would allow him to access appropriate mental and physical health support.</li><li>4. If Mr X is not granted a bridging visa or lower-security placement, he be transferred to Facility Y to be closer to his family and support network.</li></ol>	

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<b>Name</b>	Mr X (and family)
<b>Ombudsman ID</b>	1000967-02
<p>Mr X, Ms X and their children were detained in May 2012 after arriving in Australia by sea. Mr X has remained in an immigration detention facility for more than six years, separated from his family since April 2013. The family have remained in immigration detention for over six years and are currently placed in the community.</p> <p>Mr X remains the subject of an adverse security assessment which was issued in July 2014. In February 2018 it was advised that Mr X was no longer subject to an Interpol Red Notice. His adverse security assessment was under review by an external agency at the time of the Department of Home Affairs' (the Department) latest report.</p> <p>The Ombudsman's previous assessment recommended that the government prioritise finding a durable solution for individuals with adverse security assessments as soon as possible. The Ombudsman further recommended that the resolution of the family's Temporary Protection visa (TPV) application be expedited.</p> <p>In August 2017 the family requested that the Department delay processing of their TPV application, pending review of Mr X's adverse security assessment. The Department agreed to this request and at the time of its latest report, processing of the family's TPV application continued to be delayed.</p> <p>On 21 March 2018 the Minister advised that Mr X's adverse security assessment was being reviewed and that he will remain in immigration detention, rather than reside in the community, until such time that a durable solution for individuals with adverse security assessments is found.</p> <p>The Ombudsman notes that Mr X has been subject to an adverse security assessment for over four years and has remained separated from his family in the community for over five years raising concerns about the length of time that Mr X continues to await a durable solution.</p> <p>The Ombudsman notes with concern that without changes to current policy and practice relating to individuals who are the subject of adverse security assessments, Mr X will remain in an immigration detention facility for an indefinite period.</p> <p>The Ombudsman remains concerned about the risk posed by indefinite detention and prolonged family separation on Mr X and his family's mental and physical health.</p> <p><b>Recommendation</b></p> <p>The Ombudsman recommends that:</p> <ol style="list-style-type: none"><li>1. The Department urgently engage with the external agency to expedite, if possible, the review of Mr X's adverse security assessment.</li><li>2. The government urgently prioritise finding a durable solution for individuals with adverse security assessments that is consistent with Australia's international obligations and addresses the risk of indefinite detention and the negative impact of family separation, noting that the Department has been engaged in finding a solution for such cases since 2011.</li><li>3. The Department regularly review the appropriateness of Mr X's placement in an immigration detention facility, in light of particular vulnerabilities associated with his apparently indefinite detention and separation from his family.</li></ol>	

Attachment B

<b>Name</b>	Mr X
<b>Ombudsman ID</b>	1001613-02
<p>Mr X was detained in June 2013 following the cancellation of his Partner visa under s 116 of the <i>Migration Act 1958</i> and has remained in an immigration detention facility for more than five years.</p> <p>Mr X remains subject to an adverse security assessment which was issued in June 2013.</p> <p>The Department of Home Affairs (the Department) advised that Mr X has been found not to engage Australia's protection obligations under the <i>Migration Act 1958</i>. The Department refused to grant him a Protection visa and the Administrative Appeals Tribunal affirmed the decision. The Federal Circuit Court and the Federal Court dismissed Mr X's respective applications for judicial review.</p> <p>In February 2018 Mr X was found not to meet the guidelines under s 197AB for referral to the Minister for the grant of a community placement.</p> <p>The Ombudsman's previous assessment noted the advice of International Health and Medical Services (IHMS) that Mr X's mental health was likely to be adversely affected by his detention placement, as a treating psychiatrist reported that his mental health had deteriorated due to his prolonged detention and uncertain future. Mr X also expressed mental health concerns related to his detention circumstances and presented with further symptoms related to an incident that occurred at Facility Y.</p> <p>In light of these concerns, the Ombudsman recommended that:</p> <ul style="list-style-type: none"><li>• The Department explore options to transfer Mr X to a lower security placement that is more appropriately tailored to accommodating vulnerable individuals.</li><li>• The Department consult with IHMS to ensure that Mr X receives the necessary treatment for his mental and physical health concerns as recommended by treating medical professionals.</li><li>• The government prioritise finding a durable solution for individuals with adverse security assessments.</li></ul> <p>On 18 June 2018 the Minister advised that Mr X, having been found not to be owed protection and being subject to an adverse security assessment, will remain in immigration detention, rather than reside in the community, until such time that a durable solution is found that is consistent with Australia's international obligations.</p> <p>The Ombudsman notes with concern that without changes to current policy and practice relating to individuals who are the subject of adverse security assessments, Mr X will remain in an immigration detention facility for a prolonged period.</p> <p>The Minister further stated that Mr X had not presented with vulnerabilities that would suggest a need for an alternative placement. The Minister advised that Mr X was engaged with psychological counselling and that his health continued to be appropriately managed by IHMS.</p> <p>IHMS advised that Mr X continued to receive treatment for ongoing complex mental health concerns.</p> <p>The Ombudsman remains concerned about the risk posed by prolonged detention to Mr X's mental and physical health.</p>	

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<b>Name</b>	Mr X (continued)
<b>Ombudsman ID</b>	1001613-O2
<b>Recommendation</b>	
The Ombudsman recommends that:	
<ol style="list-style-type: none"><li>1. In consultation with relevant law enforcement or national security agencies, the Department engage with the authorities of Afghanistan or another third country to explore the prospect of repatriating Mr X, in the light of the determination by the courts, tribunal and Department that he does not engage Australia's protection obligations.</li><li>2. The government urgently prioritise finding a durable solution for individuals with adverse security assessments that is consistent with Australia's international obligations, noting that the Department has been engaged in finding a solution for such cases since 2011.</li><li>3. The Department regularly review the appropriateness of Mr X's detention placement in light of his vulnerability as a long-term detainee with ongoing health and welfare concerns.</li></ol>	

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<b>Name</b>	Mr X
<b>Ombudsman ID</b>	1001818-O2
<p>Mr X was detained in July 2013 after arriving in Australia by sea and has remained in an immigration detention facility for more than five years.</p> <p>Mr X was previously of interest to an external agency and in July 2017 he was issued a qualified security assessment.</p> <p>Mr X's Temporary Protection visa application was refused in May 2018. The Immigration Assessment Authority (IAA) commenced review of the refusal decision in May 2018 and on the following day Mr X lodged an application for judicial review of the refusal decision in the Federal Circuit Court (FCC).</p> <p>Mr X's matters with the IAA and FCC remained ongoing at the time of the Department of Home Affairs' (the Department) latest report.</p> <p>International Health and Medical Services (IHMS) advised that Mr X received specialist treatment for complex mental health concerns.</p> <p>IHMS advised that Mr X has required an increased level of supervision following frequent threats of self-harm.</p> <p>In January 2018 a treating psychologist reported that Mr X's mental health condition was being exacerbated by the uncertainty and helplessness of his situation as well as his placement in an immigration detention facility. It was recommended that Mr X be placed in the community or be allowed community activity access and excursions.</p> <p>Mr X was voluntarily admitted to a care facility and was identified as being at a chronic risk of deterioration. In May 2018 IHMS advised that Mr X's current detention placement was adversely affecting his health and that this finding was supported by his treating psychologist and the IHMS Area Medical Director.</p> <p>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.</p> <p><b>Recommendation</b></p> <p>The Ombudsman recommends that:</p> <ol style="list-style-type: none"><li>1. Mr X's case be referred to the Minister for consideration under s 197AB of the <i>Migration Act 1958</i> for the grant of a community placement, given the significant length of time he has remained in detention and the adverse impact of an immigration detention facility environment on his mental health.</li><li>2. If a community placement is not considered appropriate, Mr X be placed in a lower security detention placement that is appropriately tailored to accommodating vulnerable individuals facing prolonged immigration detention, such as a designated alternative place of detention in the community.</li></ol>	

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<b>Name</b>	Mr X
<b>Ombudsman ID</b>	1001929-O2
<p>Mr X was detained in July 2013 after arriving in Australia by sea and has remained in an immigration detention facility for more than five years.</p> <p>Mr X was previously of interest to an external agency and in March 2018 he was issued a qualified security assessment.</p> <p>Mr X's family members were appointed as his legal guardians and in April 2017 they lodged a Temporary Protection visa (TPV) on Mr X's behalf. At the date of the Department of Home Affairs' (the Department) latest report Mr X's TPV application continued to be assessed.</p> <p>In May 2018 and July 2018 respectively Mr X was identified for assessment against the ss 195A and 197AB of the <i>Migration Act 1958</i> guidelines for possible referral to the Minister for consideration to grant him a bridging visa or a community placement.</p> <p>International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment for complex mental health concerns with diagnostic uncertainty. In November 2017 IHMS noted that Mr X presented with signs of mental health concerns associated with his prolonged detention. In January 2018 an IHMS counsellor noted that Mr X presented with further symptoms.</p> <p>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.</p> <p><b>Recommendation</b></p> <p>The Ombudsman recommends that:</p> <ol style="list-style-type: none"><li>1. Mr X's case be referred to the Minister for consideration under s 197AB for the grant of a community placement with appropriate assistance and support, given the significant length of time he has remained in detention and his ongoing mental health concerns.</li><li>2. If a community placement is not appropriate, the Department consider placing Mr X in a less restrictive facility which appropriately meets his medical needs, such as Facility Y, while he awaits consideration of his TPV application.</li></ol>	

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<b>Name</b>	Mr X
<b>Ombudsman ID</b>	1002118-O2
<p>Mr X was detained in August 2013 after arriving in Australia by sea and has remained in an immigration detention facility for more than five years.</p> <p>Mr X remains subject to a qualified security assessment which was issued in February 2016.</p> <p>Mr X's mother, Ms Y, lodged a Safe Haven Enterprise visa (SHEV) application which included Mr X in March 2016. The SHEV application was refused in June 2016 and in July 2016 the Immigration Assessment Authority remitted the matter to the Department of Home Affairs (the Department) with the direction that Ms Y and Mr X are refugees within the meaning of s 5H of the <i>Migration Act 1958</i>.</p> <p>In December 2016 Ms Y was granted a SHEV and continues to reside in the community with her other son, Mr X's brother.</p> <p>In April 2017 Mr X was issued with a Notice of Intention to Consider Refusal of his SHEV application under s 501. At the date of the Department's latest report it continued to assess his SHEV application under s 501.</p> <p>In July 2018 Mr X lodged an application in the Federal Circuit Court (FCC) seeking a declaration that the Minister failed to make a decision under s 501 within a reasonable time and that the Minister denied natural justice by virtue of an unreasonable delay in making a s 501 decision. Mr X also sought an order that the Minister make a decision under s 501. In September 2018 the FCC dismissed the application.</p> <p>The Ombudsman's previous assessment recommended that:</p> <ul style="list-style-type: none"><li>• The Department explore options to transfer Mr X to a lower security detention placement that is more appropriately tailored to accommodating vulnerable individuals, such as a designated alternative place of detention in the community.</li><li>• The Department continue to prioritise the resolution of Mr X's immigration status.</li><li>• The Department explore options to provide Mr X with access to adult education appropriate to his needs.</li></ul> <p>On 7 February 2018 the Minister advised that the Department continued to assess Mr X's case under s 501 and that community placement considerations are not appropriate until the assessment is finalised. The Minister further advised that Mr X's welfare and education needs are currently met within the existing programs and activities available to all detainees.</p> <p>Mr X has continued to receive treatment for multiple complex mental health concerns.</p> <p>In August, September and December 2017 an International Health and Medical Services psychiatrist advised that Mr X needs to be in the community to have access to support for education and skill development. The psychiatrist further noted that ongoing detention is detrimental to Mr X's mental health.</p> <p>In October 2017 a forensic psychiatrist reported that Mr X is most likely to benefit from community placement with specialised assistance. In May 2018 a specialist counsellor recommended that Mr X be reunited with his mother and brother in the community for recovery and healing.</p>	



Attachment B

<b>Name</b>	Mr X (continued)
<b>Ombudsman ID</b>	1002118-O2
<p>In light of this medical advice, the Ombudsman is of the opinion that Mr X's current placement in an immigration detention facility is inappropriate.</p> <p><b>Recommendation</b></p> <p>The Ombudsman recommends that the Department:</p> <ol style="list-style-type: none"><li>1. Urgently resolve consideration of Mr X's SHEV application under s 501.</li><li>2. Explore options to place Mr X in a less restrictive detention placement in the community which allows him to access appropriate support and training.</li></ol>	

Attachment B

<b>Name</b>	Mr X
<b>Ombudsman ID</b>	1002151-O2

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

Mr X was issued a qualified security assessment in October 2013 and subsequently an adverse security assessment in September 2014. Following the Full Federal Court's decision to quash that assessment he was subsequently issued an adverse security assessment in November 2017.

Mr X lodged a Safe Haven Enterprise visa (SHEV) application in September 2015. The Department of Home Affairs' (the Department) latest report, dated September 2018, advised that Mr X's SHEV application continued to be processed.

The Ombudsman notes the importance of expediting the consideration of Mr X's SHEV application. If Mr X is ultimately determined not to engage Australia's protection obligations, the process of engaging with the authorities of Country A to explore the prospect of repatriation may pose a further risk of prolonged detention.

Mr X previously stated that he had an uncle residing in City B and the Ombudsman recommended that Mr X be transferred to Facility Y.

The Department advised that Mr X will remain in an immigration detention facility due to his adverse security assessment and that a transfer to Facility Y was not possible at the time of its report due to operational requirements.

International Health and Medical Services advised that Mr X did not receive treatment for any major mental or physical health concerns during this assessment period.

The Ombudsman notes with concern that without changes to current policy and practice relating to individuals who are the subject of adverse security assessments, Mr X will remain in an immigration detention facility for a prolonged period.

The Ombudsman notes with concern the serious risk posed by prolonged detention on detainees' mental and physical health.

**Recommendation**

The Ombudsman recommends that:

1. The Department urgently expedite consideration of Mr X's SHEV application, noting that the application was lodged in September 2015, over three years ago.
2. The government urgently prioritise finding a durable solution for individuals with adverse security assessments that is consistent with Australia's international obligations and addresses the risk of indefinite detention, noting that the Department has been engaged in finding a solution for such cases since 2011.
3. Mr X be transferred to a facility in City B, closer to his uncle, to ensure that he has greater access to his support networks.

Attachment B

<b>Name</b>	Mr X
<b>Ombudsman ID</b>	1002248-O2
<p>Mr X was detained in November 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.</p> <p>Mr X remains subject to a qualified security assessment which was issued in July 2016.</p> <p>Mr X lodged a Temporary Protection visa (TPV) application in June 2016 and in April 2017 the Department of Home Affairs (the Department) notified Mr X that his application was being considered for refusal under s 501 of the <i>Migration Act 1958</i>.</p> <p>Mr X was issued a Notice of Intention to Consider Refusal under s 501 in August 2017 and in September 2017 he provided a response. At the date of the Department's latest report Mr X's response remained under consideration.</p> <p>The Ombudsman's previous assessment recommended that Mr X be considered for the grant of a bridging visa or a community placement under ss 195A and 197AB.</p> <p>On 29 November 2017 the Minister advised that as Mr X's case was being considered under s 501, consideration of his case for the grant of a bridging visa or a community placement was not appropriate at that time.</p> <p>International Health and Medical Services advised that Mr X continues to be monitored and that his mental health has remained stable during this reporting period. A psychiatrist advised in March 2018 that Mr X reported increasing demoralisation and frustration associated with his ongoing detention and immigration status.</p> <p>The Ombudsman notes with concern the impact of prolonged detention on detainees' mental and physical health.</p> <p><b>Recommendation</b></p> <p>The Ombudsman recommends that the Department:</p> <ol style="list-style-type: none"><li>1. Urgently resolve consideration of Mr X's TPV application under s 501.</li><li>2. Consider placing Mr X in a less restrictive facility which appropriately meets his medical needs, such as Facility Y.</li></ol>	