

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the fifth s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than 60 months (five years). The previous assessment 1002368-O1 was tabled in Parliament on 18 October 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1993
<b>Ombudsman ID</b>	1002368-O2
<b>Date of department's report</b>	20 October 2017
<b>Total days in detention</b>	1,822 (at date of department's report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Villawood Immigration Detention Centre (IDC).

### Recent visa applications/case progression

26 July 2017	The Minister lifted the bar under s 46A of the <i>Migration Act 1958</i> to allow Mr X to lodge a temporary visa application.
22 September 2017	Lodged a Safe Haven Enterprise visa (SHEV) application.
10 October 2017	Identified for assessment against the guidelines under s 195A for possible referral to the Minister for consideration of the grant of a bridging visa.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X engaged with the mental health team and disclosed that he was experiencing stress after being transferred to Villawood IDC due to the separation from his wife and child.

IHMS further advised that Mr X continued to receive treatment for an eye condition and asthma.

### Other matters

Mr X's wife, child and sister-in-law continued to be placed in the community and are the subjects of Ombudsman assessment 1000790-O1.<sup>1</sup>

---

<sup>1</sup> The family was granted a placement in the community under s 197AB and remains in immigration detention.

### **Information provided by Mr X**

During an interview with Ombudsman staff on 5 September 2017 Mr X advised that he had last spoken to his case manager over one month ago and that he was in the process of lodging a SHEV application. He stated that he was being assisted by a migration agent and that he was unsure about how long it would take to be processed.

Mr X advised that he would like to be transferred back to City C so that he could live near his family. He said that his case manager had previously told him that the Minister would not transfer him to City C until the s 46A bar had been lifted. He stated that the conditions at Facility B were better than at Villawood IDC and that his wife and daughter had been able to visit him daily. He advised that now his wife and daughter were unable to visit him but that he was able to speak with them often over the telephone.

Mr X stated that he had an eye condition that required hospital treatment but his appointment had been delayed due to his transfer from Facility B.

### **Ombudsman assessment/recommendation**

Mr X was detained on 19 March 2011 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than five years.

On 26 July 2017 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 22 September 2017 Mr X lodged an application for a SHEV.

The Ombudsman's previous assessment recommended that in light of the impact of his ongoing separation from his wife and daughter on his mental health, the department expedite consideration of transferring Mr X to Facility B.

On 18 October 2017 the Minister advised that he had lifted the bar under s 46A and the department had invited Mr X to apply for a Temporary Protection visa or a SHEV.

In light of the significant length of time Mr X has remained in detention and the absence of any recent behavioural concerns, the Ombudsman again recommends that the department consider transferring Mr X to Facility B while he awaits the outcome of his SHEV application.