

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 42 months (three and a half years). The previous assessment 1002373-O1 was tabled in Parliament on 6 September 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	1986
Ombudsman ID	1002373-O2
Date of department's report	11 October 2017
Total days in detention	1,276 (at date of department's report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Christmas Island Immigration Detention Centre (IDC).	
10 August 2017	Transferred to Yongah Hill IDC.
5 September 2017	Transferred to Christmas Island IDC.

Recent visa applications/case progression

27 July 2017	Mr X's referral on a ministerial submission for consideration under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa was discontinued, pending the outcome of the Federal Circuit Court's (FCC) decision relating to his application for judicial review of the refusal of his Safe Haven Enterprise visa (SHEV) application.
16 August 2017	The FCC reserved judgment.
11 September 2017	Mr X's placement was reviewed and the Department of Home Affairs (the department) advised that his placement at Christmas Island IDC was considered appropriate.
11 October 2017	The department advised that Mr X's SHEV application was refused on the basis of not meeting the requirements for protection obligations under s 36 and providing a bogus document as evidence of his identity, nationality or citizenship under s 91WA. The department advised that as a result Mr X is excluded as a fast track review applicant and therefore does not have access to merits review.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was referred for physiotherapy after disclosing ongoing back pain. He was advised to increase his activity levels and a follow-up appointment was scheduled.

IHMS further advised that Mr X presented to a general practitioner with symptoms of depression and was referred to a psychologist. He reported experiencing headaches, reduced motivation and concentration, sleeping difficulties and loss of appetite. He was prescribed with medication and upon psychological review disclosed that his symptoms were getting worse. In June 2017 he declined to engage with further counsellor or psychological support.

Case status

Mr X was detained on 13 July 2013 following his arrival in Australia by sea and has remained in an immigration detention facility for a cumulative period of more than three and a half years.

On 16 January 2017 Mr X's SHEV application was refused and on 20 February 2017 he lodged an application for judicial review in the FCC.

The Ombudsman's previous assessment recommended that Mr X's case be referred to the Minister for consideration under s 195A for the grant of a bridging visa.

On 6 September 2017 the Minister advised that the department had considered Mr X's case and found that a change of placement was not appropriate at that time.

At the time of the department's report he was awaiting the outcome of judicial review.