

## ASSESSMENT BY THE COMMONWEALTH AND IMMIGRATION 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 restricted immigration detention for more than 48 months (four years).

The first assessment 1002907 was tabled in Parliament on 11 November 2015 and the second assessment 1001688-O was tabled in Parliament on 14 September 2016. 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>	1988
<b>Ombudsman ID</b>	1001688-O1
<b>Date of DIBP's reviews</b>	29 July 2016 and 27 January 2017
<b>Total days in detention</b>	1,458 (at date of DIBP's latest review)

### Recent detention history

Since the Ombudsman's previous assessment (1001688-O), Mr X remained at Wickham Point Alternative Place of Detention.	
21 June 2016	Transferred to Yongah Hill Immigration Detention Centre (IDC).

### Recent visa applications/case progression

27 January 2016	Mr X's case was referred on a ministerial submission for consideration under s 195A of the <i>Migration Act 1958</i> for the grant of a Bridging visa.
22 February 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a new temporary visa application or providing supporting information for his existing application. He accepted the offer on 29 February 2016 and was assigned a provider.
2 March 2016	The Minister declined to intervene under s 195A.
20 April 2016	Mr X withdrew his existing Safe Haven Enterprise visa (SHEV) application and lodged a new application.
20 July 2016	SHEV application refused.
20 July 2016	Mr X's case was referred to the Immigration Assessment Authority (IAA) for review.
29 September 2016	The IAA affirmed the decision to refuse Mr X's SHEV application
3 October 2016	Mr X's case was identified for possible inclusion on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.
18 October 2016	Requested judicial review by the Federal Circuit Court (FCC).

7 December 2016	The FCC adjourned the case for final hearing and requested relevant documentation from the Department of Immigration and Border Protection (the department) and Mr X.
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**Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X attended counselling for low mood, insomnia, anxiety and symptoms of depression associated with unresolved grief and situational stress. On 9 June 2016 Mr X was placed on Supportive Monitoring and Engagement observations after reporting feelings of anger and frustration related to his ongoing detention and disclosing thoughts of self-harm. In August 2016 he disclosed a history of torture and trauma and was referred for specialist counselling.

IHMS further advised that Mr X was referred for an x-ray following complaints of back pain. He was prescribed with pain relief medication and continued to be monitored by a general practitioner.

**Information provided by Mr X**

During an interview with Ombudsman staff at Yongah Hill IDC on 25 May 2017 Mr X advised that he was scheduled to appear before the FCC on 1 June 2017 and was receiving pro bono legal support.

Mr X advised that he experiences back pain and had been waiting for a specialist consultation for six months. He also stated that he had attended specialist counselling, which he found relatively helpful.

**Ombudsman assessment/recommendation**

Mr X was detained on 30 January 2013 after arriving in Australia by sea and has been held in restricted detention for more than four years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 5 December 2015 Mr X lodged an application for a SHEV.

Mr X’s SHEV application was refused on 20 July 2016 and on 29 September 2016 the IAA affirmed the refusal. At the time of the department’s latest review Mr X was awaiting the outcome of judicial review.

The Ombudsman notes with concern the Government’s duty of care to detainees and the serious risk to mental and physical health prolonged detention may pose. Given the length of time Mr X has remained in restricted detention and his ongoing mental health concerns, the Ombudsman recommends that he be considered for a community detention placement.