

## 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 restricted immigration detention for more than 48 months (four years).

The first assessment 1002895 was tabled in Parliament on 10 February 2016 and the second assessment 1001678-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>	1979
<b>Ombudsman ID</b>	1001678-O1
<b>Date of DIBP's reviews</b>	28 October 2016 and 28 April 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 (1001678-O), Mr X remained at Wickham Point Alternative Place of Detention.	
16 June 2016	Transferred to Facility B.

### Recent visa applications/case progression

11 July 2016	Safe Haven Enterprise visa (SHEV) application refused.
12 July 2016	Mr X's case was referred to the Immigration Assessment Authority (IAA) for review.
16 August 2016	The IAA affirmed the decision to refuse Mr X's SHEV application.
19 September 2016	Applied to the Federal Circuit Court for judicial review.
28 October 2016	The Department of Immigration and Border Protection (the department) advised that Mr X remained a person of interest to an external agency.
7 December 2016	Mr X attended an interview with an external agency.

## Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to be monitored for congenital heart disease and was scheduled to attend a review with a cardiologist in March 2018. Mr X also attended physiotherapy for knee pain and continued to be monitored by a general practitioner.

On 13 October 2016 Mr X collapsed and was transported to hospital where he presented with left-sided chest pain and was diagnosed with musculoskeletal pain that may be related to anxiety. He was provided with pain relief medication and returned to Facility B. IHMS advised that he was returned to hospital later that day after presenting with ongoing symptoms and underwent investigative testing. He was diagnosed with an inflammatory condition and provided with further pain relief medication.

IHMS further advised that Mr X was reviewed and monitored by the mental health team after presenting with feelings of hopelessness, depression, insomnia and nightmares related to his prolonged detention and immigration status. He was referred for specialist counselling and provided with psychological education.

## Information provided by Mr X

During an interview with Ombudsman staff at Facility B in June 2017 Mr X advised that his application for judicial review was currently in progress. He stated that he was able to speak with his case manager frequently and found them informative and helpful. Mr X advised that he was receiving professional assistance with his case.

Mr X advised that he was unsure whether or not he remained a person of interest to an external agency. He said that in his interview with the agency on 7 December 2016 he had only been asked general questions about his health and his family and was not told to expect a response afterwards.

Mr X reported that he had recently had an operation on his heart and was worried that his mental health concerns were impacting his heart condition. He said that he constantly worries and feels upset in the detention centre environment. He said he was no longer in contact with anyone outside of Facility B, including his family.

## Ombudsman assessment

Mr X was detained on 1 May 2013 after arriving in Australia by sea and has been held in restricted detention for more than four years.

Mr X's SHEV application was refused on 11 July 2016 and on 16 August 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. The Ombudsman further notes with concern the significant length of time Mr X has remained in restricted detention and advice that Mr X's physical health may be adversely affected by his mental health concerns. The Ombudsman makes no recommendations in this assessment.