

## 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 48 months (four years). The previous assessment 1002177-O was tabled in Parliament on 13 September 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>	1989
<b>Ombudsman ID</b>	1002177-O1
<b>Date of DIBP's report</b>	29 September 2017
<b>Total days in detention</b>	1,458 (at date of DIBP's report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X has continued to be placed in the community. <sup>1</sup>	
24 May 2017	Mr X was placed in alternative community accommodation after his housemates raised concerns regarding their personal safety in relation to his significant mental health concerns.

### Recent visa applications/case progression

13 September 2017	Mr X's case was referred to the Minister under s 197AD of the <i>Migration Act 1958</i> to formally vary his community placement address.
29 September 2017	<p>The Department of Immigration and Border Protection (the department) advised that as Mr X has no matters before the department, the courts or tribunals, he is on a removal pathway. The department is unable to obtain travel documents for Mr X as he is unwilling to return to Country A voluntarily.</p> <p>The department further advised that Mr X was not being considered for a bridging visa as his chronic, complex mental health needs are better managed in immigration detention.</p>

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment for schizophrenia with features of psychosis. He was involuntarily admitted to a psychiatric hospital from 5 April 2017 to 31 May 2017 as he had limited insight and was assessed as being a risk to himself. IHMS reported that he had disordered thoughts and appeared to be confused during his admission and was transferred to an intensive care unit after displaying aggressive and disordered behaviour. His medications were subsequently altered and his condition was stable when he was discharged.

Mr X remains under the care of a community mental health team and requires medication and monthly injections to manage his condition.

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

## Other matters

Mid 2017	The Australian Human Rights Commission (AHRC) tabled a report in Parliament regarding a complaint Mr X lodged with the AHRC.
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## Information provided by Mr X

During an interview with Ombudsman staff on 27 November 2017 Mr X stated that the department had previously offered him an interview in relation to his Safe Haven Enterprise visa (SHEV) application, but he was unable to attend because he was in hospital. He said that he wanted another opportunity to be interviewed by the department.

Mr X advised that he has been in detention for more than five years and feels annoyed and distressed. He said he is unable to work while he is placed in the community and wished to be granted a visa that enables him to work. He explained that every day is the same and he has nothing to do.

## Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than four years. He has no matters before the department, the courts or tribunals and is on a removal pathway.

The Ombudsman notes that Mr X's removal is likely to be protracted as involuntary removal to Country A is not possible at present.

The Ombudsman notes the department's advice that Mr X was not being considered for a bridging visa as his chronic, complex mental health needs are better managed in immigration detention. IHMS advised that Mr X continued to receive treatment for chronic schizophrenia with features of psychosis and was involuntarily admitted to a psychiatric hospital after he appeared to be confused with disordered thoughts. He also remains under the care of a community mental health team.

The Ombudsman further notes Mr X's advice that he had been offered an interview in relation to his SHEV application, but was unable to attend because he was in hospital. Mr X also appeared to be confused about the progress of his immigration pathway.

In light of Mr X's significant mental health concerns, the Ombudsman recommends that the department consider providing Mr X with an update on his immigration case if appropriate.