

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 1002892 was tabled in Parliament on 21 October 2015 and the second assessment 1001675-O was tabled in Parliament on 8 November 2016. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1975
Ombudsman ID	1001675-O1
Date of DIBP's reviews	28 October 2016 and 28 April 2017
Total days in detention	1,458 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1001675-O), Mr X remained at Facility B.	
1 November 2016	Transferred to Facility C.
13 January 2017	Transferred to Christmas Island Immigration Detention Centre.

Recent visa applications/case progression

13 July 2016	Safe Haven Enterprise visa (SHEV) application refused.
15 July 2016	Mr X's case was referred to the Immigration Assessment Authority (IAA) for review.
1 September 2016	The IAA affirmed the decision to refuse Mr X's SHEV application.
28 September 2016	Applied to the Federal Circuit Court for judicial review. Mr X was scheduled to attend a final hearing on 14 July 2017.
28 April 2017	The Department of Immigration and Border Protection (the department) advised that Mr X continued to be a person of interest to an external agency.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X was placed on Supportive Monitoring and Engagement observations and admitted to hospital on 3 November 2016 after he self-harmed and refused food and fluids. The treating psychiatric team advised that Mr X was experiencing significant distress at Facility C and reported that his mental health would improve if he was transferred to an alternative detention facility.</p> <p>On 9 November 2016 Mr X was diagnosed with an adjustment disorder and on 24 January 2017 an IHMS mental health nurse advised that he was experiencing detention fatigue and associated low mood, hopelessness, poor sleep and frustration. On 8 March 2017 an IHMS medical director advised that Mr X's mental health may be negatively affected by the detention centre environment and the prolonged length of time he had spent in detention. His condition continued to be monitored by the mental health team and he attended counselling as required.</p> <p>IHMS further advised that Mr X received treatment for multiple physical health concerns, including sciatic back pain, liver cirrhosis and an enlarged spleen.</p>	
31 October 2016	An Incident Report recorded that Mr X was closely monitored by detention centre staff after threatening self-harm during a protest at Facility B. He was subsequently transferred to Facility C.
3 – 4 November 2016	Admitted to a hospital for psychiatric treatment.
5 January 2017	An incident Report recorded that Mr X was allegedly assaulted by another detainee. He was reviewed by a general practitioner and no further treatment was required.
9 February 2017	Incident Reports recorded that Mr X threatened self-harm after he was verbally abused by another detainee and responded by allegedly assaulting that detainee. He was transferred to a support unit and monitored by detention centre staff.

Ombudsman assessment/recommendation

<p>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.</p> <p>Mr X's SHEV application was refused on 13 July 2016 and on 1 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.</p> <p>The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged restricted immigration detention may pose. The Ombudsman notes with serious concern advice from an IHMS medical director that Mr X's mental health may be negatively affected by the detention centre environment and the prolonged length of time he has spent in detention.</p> <p>In light of the significant length of time Mr X has remained in restricted detention and his ongoing mental health concerns, the Ombudsman recommends that his case be considered under s 197AB of the <i>Migration Act 1958</i> for a community detention placement or that he be transferred to a less restrictive detention centre.</p>
