

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the fifth s 486O assessment on Mr X who has remained in immigration detention for more than five years. The previous assessment 1001148-O was tabled in Parliament on 29 November 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>	1983
<b>Ombudsman ID</b>	1001148-O1
<b>Date of department's report</b>	5 October 2017
<b>Total days in detention</b>	1,826 (at date of department's report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Facility B.	
May 2017	Transferred to Facility C.

### Recent visa applications/case progression

September 2017	The Minister lifted the bar under s 48B of the <i>Migration Act 1958</i> to allow Mr X to lodge a temporary visa application.
September 2017	Lodged a Safe Haven Enterprise visa (SHEV) application.

### Other legal matters

May 2017	During the entry screening process into Facility C Mr X was allegedly found in possession of contraband material. The matter was referred to the Australian Federal Police and was subject to further investigation at the time of the Department of Home Affairs' (the department) report.
----------	---

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment for the management of anxiety and a history of torture and trauma. In March 2017 Mr X was reviewed by a psychiatrist who recommended that Mr X be placed in the community due to his vulnerability and his inability to cope in the detention environment. Mr X attended psychological counselling and was prescribed with medication. He also attended specialist torture and trauma counselling and following his transfer to Facility C he continued to await an appointment for further counselling.	
--	--

## Ombudsman assessment

Mr X was detained in October 2012 following the cancellation of his visa under s 116 and has remained in an immigration detention facility for more than five years.

Mr X was previously found not to be owed protection under the Refugee Convention and complementary protection criterion. His case was affected by a Full Federal Court decision which reviewed an International Treaties Obligations Assessment undertaken by the department to assess the implications of a data breach.

In September 2017 the Minister lifted the bar under s 48B to allow Mr X to apply for a temporary visa and in September 2017 Mr X lodged an application for a SHEV.

The Ombudsman's previous assessment recommended that Mr X be considered for a bridging visa while the department resolves his immigration status in light of the significant length of time he has remained in detention.

On 29 November 2017 the Minister advised that Mr X had been identified for assessment against the guidelines for possible referral for the grant of a bridging visa under s 195A.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose.

IHMS advised that a psychiatrist reviewed Mr X in March 2017 and recommended that he be placed in the community due to his vulnerability and his inability to cope in the detention environment.