

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the second s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than 36 months (three years). The previous assessment 1002515-O was tabled in Parliament on 18 October 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1982
<b>Ombudsman ID</b>	1002515-O1
<b>Date of DIBP's report</b>	3 October 2017
<b>Total days in detention</b>	1,097 (at date of DIBP's report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Yongah Hill Immigration Detention Centre.

### Recent visa applications/case progression

16 November 2016	The Immigration Assessment Authority (IAA) remitted Mr X's case to the Department of Immigration and Border Protection (the department) for reconsideration with the direction that there are substantial grounds for believing that, as a necessary and foreseeable consequence of Mr X being removed from Australia, there is a real risk that he will suffer significant harm.
3 October 2017	The department advised that Mr X's Safe Haven Enterprise visa (SHEV) application, lodged on 9 May 2016, was being reconsidered.  The department further advised that Mr X has been identified as a person of interest to the department in relation to alleged offshore criminal matters.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was placed on Supportive Monitoring and Engagement observations following threats of self-harm. In July 2017 a psychiatrist diagnosed Mr X with an adjustment disorder with anxious mood and detention fatigue. The psychiatrist recommended that he continue to be monitored and that his symptoms of shortness of breath be investigated to determine whether they were associated with physical health concerns or with a possible panic disorder. His respiratory symptoms were reviewed by a general practitioner with no significant concerns recorded. Mr X was prescribed with anti-anxiety medication and continued to engage with the mental health team as required.

IHMS further advised that Mr X received treatment for knee pain and was referred for physiotherapy.

5 July 2017 – 28 August 2017	Incident Reports recorded that Mr X threatened self-harm on four occasions.
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## Other matters

28 November 2017	Mr X raised concerns regarding his welfare during an interview with Ombudsman staff and lodged a complaint with the Office of the Commonwealth Ombudsman in relation to concerns regarding mental health support. At the time of reporting Mr X's complaint remained ongoing.
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## Information provided by Mr X

During interviews with Ombudsman staff on 28 November 2017 and 5 December 2017 Mr X explained that he did not understand why he remained in detention after the IAA had decided in his favour and remitted his SHEV application back to the department. He advised that remaining in detention has been very distressing for him, and that he felt like he could not continue to live this way.

Mr X advised that he has constant pain in his head and neck, and that IHMS had concluded that the symptoms were psychological, not physical. He advised that he had been prescribed with medication for the pain for a period of four months and the psychiatrists had recommended that he be released into the community. However, he stated that he was currently only provided with aspirin to manage the pain. He explained that he had requested to be reviewed by a psychiatrist and to be provided with further mental health support, but he had received no response. Mr X stated that he felt like IHMS was not really helping him with his ongoing pain and distress. He stated that he felt like he was going mad, and sometimes thought about suicide because of how fed up he feels with his life. He stated that he does not think he can wait much longer for his case to be resolved.

He explained that his parents, wife and two children remain in Country A, and he calls them four or five times a week. He stated that his parents were quite unwell, and that his wife was struggling with her situation as she had to work at a plantation involving difficult physical labour to support the family. He further explained that he has a close relative that lives in Melbourne, and he has requested to be transferred to a facility in Melbourne so that his relative can visit and provide him with support.

### **Ombudsman assessment/recommendation**

Mr X was detained on 16 September 2012 after arriving in Australia by sea and has remained in an immigration detention facility for a cumulative period of more than three years.

On 3 October 2017 the department advised that Mr X's SHEV application was being reconsidered and that Mr X has been identified as a person of interest to the department in relation to alleged offshore criminal matters.

The Ombudsman's previous assessment recommended that Mr X be considered under s 195A for the grant of a bridging visa due to the significant length of time he has remained in detention and his ongoing mental health concerns.

On 18 October 2017 the Minister stated that Mr X would be assessed against the s 195A guidelines for a possible referral for the grant of a bridging visa.

The Ombudsman notes that on 16 November 2016 the IAA remitted Mr X's case to the department for reconsideration.

1. In light of the significant delay associated with the reconsideration of Mr X's SHEV application, the Ombudsman recommends that the Minister enquire about the status of Mr X's assessment as a person of interest and prioritise the resolution of his SHEV application.

The Ombudsman further notes that Mr X raised significant welfare and mental health concerns and complaints regarding the support provided by IHMS during interviews with Ombudsman staff.

2. In light of these concerns, the Ombudsman recommends that Mr X be transferred to a facility in Melbourne for the benefit of support from a close relative and be reviewed by IHMS to assess any further support that can be provided, such as review by an external psychologist, psychiatrist or specialist counsellor.