

## 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 three years. The previous assessment 1002535-O was tabled in Parliament on 13 September 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>	1987
<b>Ombudsman ID</b>	1002535-O1
<b>Date of department's report</b>	23 October 2017
<b>Total days in detention</b>	1,096 (at date of department's report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Facility B.

### Recent visa applications/case progression

December 2016	Requested ministerial intervention under ss 417 and 48B of the <i>Migration Act 1958</i> for the Minister to substitute a more favourable decision and to lift the bar under s 48A to allow Mr X to lodge a temporary visa application.
March 2017	Found not to meet the guidelines to request ministerial intervention under s 48B.
June 2017	Found not to meet the guidelines to request ministerial intervention under s 417.
June 2017	The Department of Home Affairs (the department) sent Mr X a notification letter of the deadline to apply for a temporary visa. Mr X's migration agent was later advised that the letter was sent in error and that Mr X's subsequent lodgement of a Safe Haven Enterprise visa (SHEV) application would be taken to be a request for ministerial intervention under s 48B.
July 2017	Lodged a SHEV application that was found to be invalid.
July 2017	Found not to meet the guidelines to request ministerial intervention under s 48B.
September 2017	Found not to meet the guidelines under s 197AB for the grant of a community placement.
October 2017	The department advised that as Mr X has no matters before the department, the courts or tribunals, he is on a removal pathway.

## **Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X continued to be monitored for physical health concerns, including kidney concerns and headaches. He underwent routine pathology testing which identified abnormal kidney functioning. He underwent further investigative testing and was advised that no intervention was required at the time. Mr X was also referred to a gastroenterologist for review and was prescribed with medication for the management of tension headaches exacerbated by stress.

IHMS further advised that Mr X continued to engage with counselling and was prescribed with medication for the management of depression and a history of torture and trauma.

## **Other matters**

Mr X's former wife and her children reside in Australia.

## **Ombudsman assessment**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has remained in an immigration detention facility for a cumulative period of more than three years.

In June 2017 the department sent Mr X a notification letter of the deadline to apply for a temporary visa and Mr X's migration agent was later advised that the letter was sent in error.

The Ombudsman notes with concern the possible impact of the department's incorrect notification on Mr X's mental health and his understanding of his immigration pathway.

Mr X has no matters before the department, the courts or tribunals and is on a removal pathway.