

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the fourth s 486O assessment on Mr X who has remained in immigration detention for more than four and a half years. The previous assessment 1001675-01 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>	1975
<b>Ombudsman ID</b>	1001675-02
<b>Date of department's report</b>	27 October 2017
<b>Total days in detention</b>	1,640 (at date of department's report)

### Recent detention history

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

### Recent visa applications/case progression

August 2017	Found not to meet the guidelines for referral to the Minister under s 197AB of the <i>Migration Act 1958</i> for the grant of a community placement.
September 2017	The Federal Circuit Court (FCC) adjourned Mr X's application for judicial review of the Immigration Assessment Authority's (IAA) decision to affirm the refusal of his Safe Haven Enterprise visa (SHEV) application.
October 2017	The Department of Home Affairs (the department) advised that Mr X would not be considered under s 195A for the grant of a bridging visa until the conclusion of his matter before the FCC.  The department further advised that Mr X remains a person of interest to an external agency.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to be monitored for a number of physical health conditions.

IHMS further advised that Mr X was previously diagnosed with multiple mental health concerns. In July 2017 it was reported that Mr X's mental health had stabilised but that he continued to display symptoms of detention fatigue. IHMS noted the previous advice of an IHMS Medical Director that Mr X's mental health may be negatively affected by remaining in an immigration detention facility.

## Ombudsman assessment

Mr X was detained in May 2013 after arriving in Australia by sea and has remained in an immigration detention facility for more than four and a half years.

In September 2017 the FCC adjourned Mr X's application for judicial review of the IAA's decision to affirm the refusal of his SHEV application.

In October 2017 the department advised that Mr X would not be considered under s 195A for the grant of a bridging visa until the conclusion of his matter before the FCC.

The Ombudsman's previous assessment recommended that in light of Mr X's ongoing mental health concerns and the significant length of time he has remained in immigration detention, Mr X be considered under s 197AB for the grant of a community placement or for a transfer to a less restrictive detention facility.

On 13 September 2017 the Minister advised that Mr X had been found not to meet the guidelines under s 197AB. The Minister further advised that the department had reviewed Mr X's placement and determined that a transfer to a less restrictive detention facility was not possible due to capacity issues and Mr X's need for a high level of monitoring.

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.

An IHMS Medical Director previously advised that Mr X's mental health may be negatively affected by remaining in an immigration detention facility and in July 2017 it was noted that Mr X displayed symptoms of detention fatigue.