

ASSESSMENT BY THE COMMONWEALTH AND IMMIGRATION 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 restricted immigration detention for a cumulative period of more than 42 months (three and a half years).

The first assessment 1003225 was tabled in Parliament on 31 August 2016. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Mr X
Citizenship	Country A
Year of birth	1980
Ombudsman ID	1001975-O
Date of DIBP's reviews	18 July 2016 and 20 January 2017
Total days in detention	1,281 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1003225), Mr X remained at Wickham Point Alternative Place of Detention (APOD).	
21 June 2016	Transferred to Melbourne Immigration Transit Accommodation.

Recent visa applications/case progression

7 April 2016	The Federal Circuit Court (FCC) affirmed the International Treaties Obligations Assessment (ITOA) conducted by the Department of Immigration and Border Protection (the department).
24 August 2016	Following Mr X's refusal to depart Australia voluntarily the department requested assistance from Country A to obtain a travel document to enable his return.

Health and welfare

International Health and Medical Services advised that Mr X has reported improvement in his mental health after receiving treatment for insomnia and anxiety and no longer requires medication. He joined a support group and can access mental health counselling if required.	
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Other matters

9 December 2015	Mr X lodged a complaint with the Ombudsman's office regarding stolen property while he was located at Wickham Point APOD. The complaint was finalised on 19 January 2016.
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Information provided by Mr X

During an interview with Ombudsman staff at Wickham Point APOD on 18 April 2016 Mr X advised that he intended to appeal the FCC decision but had difficulty accessing legal advice regarding his ITOA as he was ineligible for Legal Aid and could no longer afford a private lawyer.

He further advised that he felt worried and unhappy in restricted detention and expressed further concerns regarding property that had allegedly been stolen. He stated that he remained in contact with his father and a sibling who reside in Country B, and that friends used to visit him when he was located at Perth Immigration Detention Centre, but since his transfer he has no visitors.

Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in restricted detention for more than three and a half years. He has no matters before the department, the courts or tribunals and is on a removal pathway.

In light of Mr X's length of time in detention and the absence of behavioural incidents the Ombudsman recommends that he be considered for the grant of a Bridging visa under s 195A of the *Migration Act 1958* while he awaits the resolution of his immigration pathway.