

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 42 months (three and a half years).

The first assessment 1002197-O was tabled in Parliament on 14 September 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	1976
Ombudsman ID	1002197-O1
Date of DIBP's reviews	17 October 2016 and 18 April 2017
Total days in detention	1,277 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1002197-O), Mr X remained at Wickham Point Alternative Place of Detention.	
11 May 2016	Transferred to Yongah Hill Immigration Detention Centre (IDC).
2 February 2017	Transferred to Villawood IDC.

Recent visa applications/case progression

The Department of Immigration and Border Protection (the department) has advised that under current policy settings Mr X is not eligible to have his protection claims assessed in Australia and remains liable for transfer back to a Regional Processing Centre (RPC).	
28 July 2016	Mr X requested voluntary removal from Australia. On 3 August 2016, Mr X withdrew his request.
30 August 2016	International Health and Medical Services (IHMS) met with Mr X to provide him with information regarding his health condition.
23 February 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 detention placement.
8 March 2017	The department commenced a review of Mr X's case for possible referral to the Minister under s 197AB.

Health and welfare

IHMS advised that Mr X received treatment and was prescribed with antidepressant medication for the management of ongoing depression and a somatoform disorder. Mr X's medication was ceased at his request in August 2016. Following psychiatric review in October 2016 his medication was recommenced due to reported concerns of low mood and anxiety. Mr X continued to be monitored by the mental health team.	
IHMS further advised that Mr X was treated for ongoing neck pain and headaches. He was referred for physiotherapy and prescribed with pain relief medication. At the time of the department's latest review, Mr X was awaiting a referral to a neurologist.	

Ombudsman assessment/recommendation

Mr X was detained on 13 September 2013 after arriving in Australia by sea and has been held in an immigration detention facility for a cumulative period of more than three and a half years with no processing of his protection claims.

The department advised that because Mr X arrived after 19 July 2013 he remains liable for transfer back to an RPC.

The Ombudsman's previous report (1002197-O) recommended that priority be given to resolving Mr X's immigration status and that Mr X be provided with further information regarding his physical health, specifically the status of his previously recorded hepatitis B condition.

On 14 September 2016 the Minister advised that the department had arranged for IHMS to meet with Mr X and provide him with information regarding his health. The Minister further advised that the department continued to identify options to manage Mr X's immigration status.

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

The Ombudsman notes that under current policy settings Mr X is not eligible to have his protection claims assessed in Australia and that without an assessment of Mr X's claims it appears likely he will remain in detention indefinitely.

The Ombudsman again recommends that priority is given to resolving Mr X's immigration status.