

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 36 months (three years).

The first assessment 1002373-O was tabled in Parliament on 8 November 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	1986
Ombudsman ID	1002373-O1
Date of DIBP's reviews	12 October 2016 and 12 April 2017
Total days in detention	1,094 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1002373-O), Mr X remained at Yongah Hill Immigration Detention Centre (IDC).	
6 October 2016	Transferred to Christmas Island IDC.

Recent visa applications/case progression

28 April 2016	Mr X's Temporary Protection visa application was withdrawn.
23 May 2016	The Minister declined to intervene under s 195A of the <i>Migration Act 1958</i> to grant Mr X a Bridging visa.
22 September 2016	Mr X's case was referred on a ministerial submission for consideration under s 195A. On 12 December 2016 the Minister agreed to consider his case on a further ministerial submission.
16 January 2017	Safe Haven Enterprise visa application refused.
20 February 2017	Applied for judicial review by the Federal Circuit Court. Mr X was scheduled to attend a hearing on 28 April 2017.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for back pain and was awaiting an appointment for a spinal x-ray. IHMS further advised that Mr X was awaiting a psychological review.	
24 June 2016	An Incident Report recorded that Mr X threatened self-harm. He was closely monitored by Serco officers and referred to the IHMS mental health team for review.

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 a cumulative period of more than three years. At the time of the Department of Immigration and Border Protection's latest review Mr X was awaiting the outcome of judicial review.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to physical and mental health prolonged restricted immigration detention may pose. In light of the significant length of time Mr X has remained in detention and the absence of any recent behavioural and security concerns, the Ombudsman again recommends that Mr X's case be referred to the Minister for consideration under s 195A for the grant of a Bridging visa.