

ASSESSMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O assessment on Mr X who has remained in restricted immigration detention for a cumulative period of more than 48 months (four years).

The first assessment 1264/13 was tabled in Parliament on 26 June 2013 and the second assessment 1003457 was tabled in Parliament on 14 September 2016. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A, born in Country B
Year of birth	1984
Ombudsman ID	1000557-O
Date of DIBP's reviews	25 September 2016 and 26 March 2017
Total days in detention	1,458 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1003457), Mr X remained at Wickham Point Alternative Place of Detention.	
30 June 2016	Transferred to Yongah Hill Immigration Detention Centre.
26 August 2016	Transferred to Facility C.

Recent visa applications/case progression

25 September 2016	The Department of Immigration and Border Protection (the department) advised that Mr X was found to meet the guidelines for referral to the Minister under s 197AB of the <i>Migration Act 1958</i> for a community detention placement.
7 February 2017	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.
26 March 2017	The department advised that consideration of Mr X's case for referral to the Minister under s 197AB had been placed on hold until the Minister finalised consideration under s 195A.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to receive specialist treatment for chronic schizophrenia. On 26 November 2016 Mr X's medication was increased and on 16 February 2017 a treating psychiatrist noted improvements in his symptoms. His condition continued to be monitored by a psychiatrist and the mental health team. IHMS further advised that Mr X received treatment for wrist pain and attended regular testing for monitoring of hepatitis B.	
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Other matters

10 May 2017	A migration agent lodged a complaint with the Office of the Commonwealth Ombudsman on behalf of Mr X in relation to his medical treatment at Facility C and the progress of his removal from Australia. The complaint was finalised on 23 May 2017.
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Ombudsman assessment/recommendation

<p>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 four years. He has no matters before the department, the courts or tribunals and is on a removal pathway.</p> <p>The Ombudsman notes the department's advice that Mr X has been found to meet the guidelines under s 197AB, but that consideration of his case for referral on a ministerial submission had been placed on hold until the Minister finalised consideration under s 195A.</p> <p>The Ombudsman notes that Mr X's removal is likely to be protracted as involuntary removal to Country A is not possible at present. The Ombudsman also 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.</p> <p>In light of these concerns, the Ombudsman recommends that if Mr X was not granted a Bridging visa following the referral of his case to the Minister on 7 February 2017, his case be referred on a new ministerial submission under s 197AB for consideration of a community detention placement.</p>
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