

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABELING 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 60 months (five years).

The first assessment 1001891 was tabled in Parliament on 17 June 2015 and the second assessment 1002411 was tabled in Parliament on 8 November 2016. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1981
Ombudsman ID	1001135-O
Date of DIBP's reviews	6 October 2016 and 6 April 2017
Total days in detention	1,822 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1002411), Mr X remained at Villawood Immigration Detention Centre.	
18 August 2016	Transferred to Facility B.

Recent visa applications/case progression

24 November 2016	The Federal Circuit Court (FCC) set aside Mr X's negative Protection Obligations Evaluation (POE) outcome on the basis that the report and recommendations were not made according to law.
28 February 2017	The Minister declined to intervene under s 195A of the <i>Migration Act 1958</i> to grant Mr X a bridging visa.
6 April 2017	The Department of Immigration and Border Protection (the department) advised that it was preparing a submission for the Minister on possible options for cases such as Mr X's.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment for drug seeking behaviour and severe cluster B personality disorder with complex post-traumatic stress disorder. He also received specialised counselling for a history of torture and trauma between March and July 2016. He was reviewed by a psychiatrist in September and November 2016 and his medication was noted to be effective. His condition and medication were monitored by the mental health team and a general practitioner. IHMS further advised that Mr X received treatment for multiple physical health concerns, including chronic shoulder, back and knee pain. He was reviewed by an orthopaedic specialist on 4 March 2016 and prescribed with medication and referred for physiotherapy.	
24 December 2016	An Incident Report recorded that Mr X refused food and fluid.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X has remained in restricted immigration detention for a cumulative period of more than five years.

On 24 November 2016 the FCC set aside Mr X's negative POE outcome. The department subsequently advised that it was preparing a submission for the Minister on possible options for cases such as Mr X's.

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. The Ombudsman further notes advice from IHMS that Mr X continued to receive treatment for multiple mental health conditions.

In light of the significant length of time Mr X has remained in restricted detention, 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.