

**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 1002267-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	Stateless (claimed), born in Country A
Year of birth	1967
Ombudsman ID	1002267-O1
Date of DIBP's reviews	16 June 2016 and 15 December 2016
Total days in detention	1,094 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1002267-O), Mr X remained at Wickham Point Alternative Place of Detention.	
11 May 2016	Transferred to Yongah Hill Immigration Detention Centre (IDC).

Recent visa applications/case progression

The Department of Immigration and Border Protection (the department) has advised that it is exploring options to resolve Mr X's immigration status.	
15 June 2016	Requested voluntary removal from Australia. On 6 July 2016 the department lodged an application with the embassy of Country A for an emergency travel document for Mr X. He withdrew the removal request on 20 September 2016.
11 November 2016	Mr X's case was referred on a ministerial submission for consideration under s 197AB of the <i>Migration Act 1958</i> of a community detention placement. On 15 December 2016 the department advised the matter remained ongoing.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for physical health concerns including a gastric ulcer, gastritis, duodenitis, heel bone spurs, and a deviated nasal septum. His hepatitis C infection and likely liver cirrhosis continued to be monitored with six-monthly blood tests and ultrasounds and review by a specialist.

An IHMS general practitioner advised on 13 May 2016 that Mr X was awaiting approval for hepatitis C treatment from Detention Health.

IHMS's latest report of 7 November 2016 indicated that Mr X was on a waiting list for an appointment with a hospital liver clinic review and management of his hepatitis C infection and a stomach infection. He was also scheduled to see a podiatrist on 16 November 2016 and was awaiting an appointment with an ear, nose and throat specialist.

Other matters

Mr X's brother, Mr Y resides in New South Wales on a Bridging visa and has been invited to apply for a temporary visa. Mr X's sister, Ms Z, resides as a permanent resident in New South Wales with her husband and family.

Ombudsman assessment/recommendation

Mr X was detained on 27 November 2013 after arriving in Australia by sea and has been held in restricted detention for a cumulative period of more than three years with no processing of his protection claims.

Mr X was transferred to a Regional Processing Centre and returned to Australia for medical treatment. The department has advised that it is exploring options to resolve 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 without an assessment of Mr X's claims it appears likely he will remain in restricted detention indefinitely.

The Ombudsman recommends that the department expedite the resolution of Mr X's immigration status.

The Ombudsman notes that on 11 November 2016 Mr X's case was referred on a ministerial submission for consideration of a community detention placement. The Ombudsman recommends that this matter be expedited if it has not already be finalised.

Further, the Ombudsman notes with concern that at the date of IHMS's latest report Mr X had not yet been placed on the hepatitis C medication regime proposed more than two years ago. The Ombudsman recommends that any decisions and arrangements the department needs to make in relation to this matter be expedited if treatment is still clinically indicated and has not yet commenced.