

ASSESSMENT BY THE COMMONWEALTH 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 more than 48 months (four years).

The first assessment 1002341 was tabled in Parliament on 14 September 2015 and the second assessment 1003389 was tabled in Parliament on 20 October 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	1979
Ombudsman ID	1001272-O
Date of DIBP's reviews	27 August 2016 and 27 February 2017
Total days in detention	1,460 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1003389), Mr X remained at Wickham Point Alternative Place of Detention.	
16 June 2016	Transferred to Facility B.

Recent visa applications/case progression

13 July 2016	Found not to meet the guidelines for referral to the Minister under s 195A of the <i>Migration Act 1958</i> .
13 February 2017	The Minister declined to consider intervening under s 195A to grant Mr X a Bridging visa.
27 February 2017	The Department of Immigration and Border Protection (the department) advised that Mr X's application to the Federal Circuit Court for judicial review of the Administrative Appeals Tribunal's decision to affirm the decision to refuse his Temporary Protection visa application was listed for hearing on 24 March 2017.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X received treatment for mental health conditions including adjustment disorder with depressed mood and insomnia. On 8 November 2016 after reporting low mood and poor sleep he was referred for specialist counselling. This had not yet commenced at the date of IHMS's latest report. On 10 November 2016 the IHMS general practitioner prescribed him with medication for insomnia.</p> <p>On 25 November 2016 Mr X saw a psychiatrist and stated that he did not like leaving his room as he found it 'mentally stressful'. The psychiatrist assessed him as having a degree of depression but not as being acute risk to himself or others. His medication was adjusted with follow up expected in January 2017. IHMS advised that the mental health team would continue to provide support and care as required.</p> <p>Mr X also received treatment for physical health concerns including osteoarthritis of the toes, ongoing headaches and dental pain.</p>

Recent detention incidents

26 March 2016	An Incident Report recorded that Mr X and a number of other detainees were allegedly involved in an incident of unrest which was classified as a major disturbance.
---------------	---

Other matters

9 September 2016	The department was notified that Mr X lodged a complaint with the Australian Human Rights Commission alleging a breach of his human rights. On 28 October 2016 the department provided a response. The matter remained ongoing at the time of the department's latest review.
------------------	---

Information provided by Mr X

Mr X was offered the opportunity to discuss his detention circumstances with Ombudsman staff but declined to do so.

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 more than four years. At the time of the department's latest review Mr X was awaiting the outcome of judicial review.</p> <p>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 has continued to receive treatment for mental health conditions.</p> <p>In light of the significant length of time Mr X has remained in detention and the absence of any recent behavioural or security concerns, the Ombudsman recommends that Mr X be considered under s 195A for the grant of a Bridging visa.</p>
--