

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 42 months (three and a half years).

The first assessment 1003165 was tabled in Parliament on 6 May 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	1990
Ombudsman ID	1001921-O
Date of DIBP's reviews	26 August 2016 and 23 January 2017
Total days in detention	1,278 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1003165), Mr X has remained at Facility B
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Recent visa applications/case progression

7 April 2016	Found to meet the guidelines for referral to the Minister under s 195A of the <i>Migration Act 1958</i> for the grant of a Bridging visa.
22 April 2016	Mr X's name was removed from a ministerial submission under s 195A following behavioural incidents.
13 September 2016	The Minister declined to intervene under s 195A.
19 December 2016	The Department of Immigration and Border Protection (the department) requested further information from Mr X in relation his Temporary Protection visa (TPV) application. He provided a response the following day.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X received specialist treatment for active tuberculosis. On 22 November 2016 he was admitted to hospital for pathology testing and attended follow-up reviews at a specialist clinic. His treatment continued to be monitored by a tuberculosis specialist and a general practitioner.</p> <p>IHMS further advised that Mr X presented with headaches associated with stress and was provided with medication. He was advised to self-refer to the mental health team as required.</p>
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Information provided by Mr X

During a telephone conversation with Ombudsman staff on 14 June 2017 Mr X advised that his TPV application had been finalised and he was found to be a refugee. He said the department was now conducting character checks and that his case manager advised that his visa may be refused on character grounds.

Mr X said he was re-detained following an incident in the community. He advised that he was arrested and charged by police following a misunderstanding with a friend. He said the judge gave him a light sentence and that his friend repeatedly informed the court that the incident was not serious. He stated that he regrets what happened but does not believe this incident should mean his visa is refused.

Mr X reported that he contracted tuberculosis while in restricted detention and now requires a six-month course of medication. He said his eyesight had weakened as a side-effect of the medication and he is worried about his physical health. He also advised that he feels sad in restricted detention and stays in his room most of the time. He said he is stressed and worried about being transferred to Facility C and finds it difficult to sleep on days when transfers are expected. He said he does not engage with IHMS as the counselling is not helpful.

Mr X also advised that his aunt resides in City D and he has friends in City E. He said he would prefer to be detained at a facility in City D or City E so that he is closer to his support network and able to have visitors.

Ombudsman assessment/recommendation

Mr X was detained on 8 June 2012 after arriving in Australia by sea and has been held in restricted detention for a cumulative period of more than three and a half years.

The department has advised that the Refugee Review Tribunal remitted Mr X's Protection visa application, now deemed to be a TPV application, to the department for reconsideration and the matter remains ongoing.

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 or security concerns, the Ombudsman recommends that Mr X's case be referred to the Minister for consideration under s 195A for the grant of a Bridging visa.

The Ombudsman further recommends that consideration be given to transferring Mr X to a detention facility in either City D or City E to enable him to reside closer to his support network.