

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the first s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1985
Ombudsman ID	1002541-O
Date of DIBP's reviews	3 November 2016 and 5 May 2017
Total days in detention	912 (at date of DIBP's latest review)

Detention history

4 May 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea. He was transferred to an Alternative Place of Detention, Christmas Island. On the same day he was transferred to Christmas Island Immigration Detention Centre (IDC).
25 May 2013	Transferred to Curtin IDC.
25 June 2013	Granted a bridging visa and released from detention.
26 December 2014	Re-detained under s 189(1) after living unlawfully in the community. He was transferred to Facility B.
29 June 2015	Transferred to Christmas Island IDC.
1 October 2015	Transferred to Yongah Hill IDC.

Visa applications/case progression

25 June 2013 and 4 September 2014	The Minister intervened under s 195A to grant Mr X a bridging visa.
24 September 2014	The Department of Immigration and Border Protection (the department) advised that Mr X was identified as a person of interest to the department in relation to criminal charges.
24 November 2014	The Minister cancelled Mr X's bridging visa following criminal charges.
23 November 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
25 November 2015	Lodged a Temporary Protection visa (TPV) application.
24 February 2016	Mr X accepted the offer of the Primary Application Information Service to assist him with providing supporting information for his existing application. On the same day the Minister declined to intervene under s 195A.
8 August 2016	TPV application refused.
23 June 2016	The Minister declined to intervene under s 195A.
12 August 2016	Mr X's case was referred to the Immigration Assessment Authority (IAA).

17 November 2016	IAA affirmed original decision.
8 March 2017	Applied to the Federal Circuit Court for judicial review.
31 March 2017	Mr X's case was referred on a ministerial submission for consideration under s 195A.

Other legal matters

June 2015	Mr X appeared before a magistrates court in relation to drug and weapon offences. He received a fine and no conviction was recorded.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for the management of a history of substance abuse and was referred to an addiction specialist in December 2014. In July 2015 a general practitioner noted that Mr X was making an effort to manage his addiction and no longer reported symptoms of substance abuse.

IHMS further advised that Mr X was diagnosed with hepatitis C and a benign liver tumour. He underwent investigative testing and was referred to a hepatology specialist for review in October 2016. At the time of the department's latest review he was placed on a public waitlist and was awaiting an appointment. IHMS advised that Mr X was also identified as a tuberculosis contact in September 2013 and was monitored as per state policy with no further review required.

Information provided by Mr X

During an interview with Ombudsman staff at Yongah Hill IDC in May 2017 Mr X advised that he continued to await the outcome of his application for judicial review and was scheduled to appear in court the next day. He stated that he had not found his case manager helpful and had now been assigned a new one.

Mr X said that he had struggled after he was granted a bridging visa because he did not have work rights and was re-detained after experiencing problems in the community. He reported that he had previously undergone treatment for addiction and no longer experienced any drug dependency concerns.

Mr X stated that he often had to wait a long time to see an IHMS medical practitioner and felt they were often not very helpful.

He advised that he participates in a number of activities in detention including English classes and regularly speaks with his family in Country A.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in an immigration detention facility for a cumulative period of more than two and a half years. At the time of the department's latest review Mr X was awaiting the outcome of judicial review.