

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	Stateless, born in Country A
Year of birth	1984
Ombudsman ID	1002614-O
Date of DIBP's reports	3 March 2017 and 1 September 2017
Total days in detention	912 (at date of DIBP's latest report)

Detention history

23 July 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 (APOD), Christmas Island.
25 July 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
5 August 2013	Transferred to Manus Island Regional Processing Centre (RPC). ¹
13 March 2015	Returned to Australia and re-detained under s 189(1). He was transferred to Wickham Point APOD.
14 March 2015	Transferred to Brisbane Immigration Transit Accommodation.
13 July 2015	Transferred to Maribyrnong IDC.
20 October 2015	Transferred to Wickham Point APOD.
31 March 2016	Placed in the community. ²

Visa applications/case progression

<p>Mr X arrived in Australia by sea after 19 July 2013 and was transferred to an RPC. The Department of Immigration and Border Protection (the department) has advised that Mr X is barred under ss 46A and 46B from lodging a valid protection visa application in Australia as a result of his method of arrival and transfer to an RPC.</p> <p>Mr X was returned to Australia from an RPC for medical treatment on 13 March 2015.</p> <p>The department has advised that under current policy settings Mr X is not eligible to have his protection claims assessed in Australia and remains liable for transfer back to an RPC on completion of his treatment.</p>	
17 March 2016	The Minister intervened under s 197AB to grant Mr X a community placement.

¹ Time spent at an RPC is not counted towards time spent in immigration detention in Australia for the purposes of reporting under s 486N.

² Mr X was granted a placement in the community under s 197AB and remains in immigration detention.

1 September 2017	The department advised that it is supporting the government of Papua New Guinea to finalise the Refugee Status Determination of Mr X while he remains temporarily in Australia for medical treatment.
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Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X engaged with the mental health team and attended specialist counselling for the management of major depressive disorder, post-traumatic stress disorder and anxiety. In February 2015 Mr X was reviewed by a psychiatrist, was prescribed with antidepressant medication and it was recommended that he be admitted to a psychiatric hospital. Following his admission in March 2015 it was noted that his condition had not improved despite significant mental health support.</p> <p>After being placed in the community, a specialist counselling service reported that Mr X experiences severe hypervigilance regarding the possibility of being transferred back to an immigration detention facility. He also frequently has nightmares about traumatic events experienced at Manus Island RPC and in Country A. In January 2017 he was assessed as being at an extremely high risk of suicide and in March 2017 it was reported that he had symptoms of insomnia, appetite loss, low motivation and irritability.</p> <p>IHMS further advised that Mr X was referred to physiotherapy for shoulder pain.</p>	
15 March 2015 – 13 July 2015	Admitted to a psychiatric hospital.
13 July 2015 – 26 October 2016	Incident Reports recorded that Mr X threatened self-harm on seven occasions.

Ombudsman assessment/recommendation

<p>Mr X was detained on 23 July 2013 after arriving in Australia by sea and has been held in detention, both in a detention facility and the community, for a cumulative period of more than two and a half years.</p> <p>Mr X was transferred to an RPC and returned to Australia for medical treatment. The department advised that because Mr X arrived after 19 July 2013 he remains liable for transfer back to an RPC on completion of his treatment.</p> <p>The department further advised that it is supporting the government of Papua New Guinea to finalise the Refugee Status Determination of Mr X while he remains temporarily in Australia for medical treatment.</p> <p>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. IHMS has advised that Mr X has significant ongoing mental health concerns and in January 2017 he was assessed as being at an extremely high risk of suicide.</p> <p>The Ombudsman notes that under current policy settings Mr X is not eligible to have his protection claims assessed by Australia and that without an assessment of Mr X’s claims it appears likely he will remain in detention for a prolonged period.</p> <p>The Ombudsman recommends that priority is given to resolving Mr X’s immigration status.</p>
