

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 immigration detention for more than 54 months (four and a half years). The previous assessment 1001856-O was tabled in Parliament on 1 March 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1990
Ombudsman ID	1001856-O1
Date of DIBP's reports	11 April 2017 and 10 October 2017
Total days in detention	1,640 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Yongah Hill Immigration Detention Centre (IDC).

Recent visa applications/case progression

18 October 2016	Applied to the Federal Circuit Court (FCC) for judicial review of the Immigration Assessment Authority's decision to affirm the refusal of Mr X's Safe Haven Enterprise visa application.
8 November 2016	Mr X's case was referred on a ministerial submission for consideration under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa.
12 December 2016	The Minister declined to intervene under s 195A.
23 February 2017	The FCC dismissed Mr X's application for judicial review.
13 March 2017	Applied to the Full Federal Court (FFC) for judicial review. He was scheduled to attend a hearing on 14 December 2017.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X had been diagnosed with a genetic blood disorder that does not cause him any major physical health issues but could affect children he may have in the future. IHMS reported that Mr X had been educated on his condition and that he will continue to be monitored by a general practitioner as required.

Information provided by Mr X

During an interview with Ombudsman staff on 22 May 2017 Mr X advised that the FCC had refused his application for judicial review and he had now applied to the FFC. He said that he had tried to obtain legal assistance but had been unsuccessful.

Mr X advised that his case manager had spoken to him about the possibility of being granted a bridging visa or community placement but he was told that it is ultimately the Minister's decision. He said that ministerial submissions had been made but all were refused.

Mr X stated that he feels like Yongah Hill IDC is a poor facility and claimed that detention centre staff were rude and do not treat him with respect or dignity.

Mr X advised that he had no major physical health problems but that his mental health was damaged after being in detention for so long. He said that he could not sleep and was suffering from anxiety due to the threat of being removed. He also said that he engages with the IHMS mental health team but does not find them helpful. He explained that his mental health would improve if he was placed in the community or granted a bridging visa.

Mr X also advised that his parents and siblings remain in his home country and he spoke to them monthly. He said that he has some friends in the community.

Ombudsman assessment/recommendation

Mr X was detained on 14 April 2013 and has remained in an immigration detention facility for more than four and a half years.

At the time of the Department of Immigration and Border Protection's latest report Mr X was awaiting the outcome of judicial review.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged 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 be considered under s 195A for the grant of a bridging visa.