

486N-1001302-O2

28 September 2018

The Hon David Coleman MP
Minister for Immigration, Citizenship and Multicultural Affairs
Parliament House
CANBERRA ACT 2600

Dear Minister

Assessments under s 486O of the *Migration Act 1958*

In accordance with s 486O of the *Migration Act 1958* (the Act) I am forwarding my assessment concerning 20 cases on the schedule at Attachment A regarding 20 individuals who fall within the reporting and assessment obligation imposed by Part 8C of the Act.

My office has assessed the appropriateness of the immigration detention arrangements of the 20 cases on the schedule and for 17 of them has made no recommendations. My office has made five recommendations for three cases which are at Attachment B.

The Act also requires that I prepare this de-identified statement for tabling in the Parliament.

As part of this assessment my office reviewed information relating to each individual's case progression, detention placement, legal matters and health and welfare. When required, further information was requested under s 486Q or s 8 of the *Ombudsman Act 1976*. For the purposes of further assessment, my office conducted interviews with Mr X (1001805-O2) and Mr X (1002544-O1).

Yours sincerely



Jaala Hinchcliffe
A/g Commonwealth Ombudsman

Influencing systemic improvement in public administration

SCHEDULE
Assessments of people placed in immigration detention for more than two years

When coming to this assessment, the Office reviewed information relating to each individual's case progression, detention placement, legal matters and health and welfare. Additionally, when required, further information was requested under s 486Q of the Act or s 8 of the *Ombudsman Act 1976*.

No	Ombudsman ID	Recommendations	Name	No. of People	Year of birth	Days in detention ¹	Detention Status ²	Date of 486N report	Date last assessment tabled
1	1001302-O2	0	Mr X	1	1986	1,822	IDF	4 April 2018	21 March 2018
2	1001675-O3	0	Mr X	1	1975	1,822	IDF	27 April 2018	18 June 2018
3	1001712-O1	0	Mr X	1	1991	1,822	IDF	30 March 2018	21 March 2018
4	1001728-O2	0	Mr X	1	1974	1,822	IDF	18 April 2018	21 March 2018
5	1001736-O2	0	Mr X	1	1976	1,822	IDF	18 April 2018	18 June 2018
6	1001784-O3	0	Mr X	1	1985	1,822	Removed	13 March 2018	9 May 2018
7	1001805-O2	2	Mr X	1	1981	2,009	IDF	21 February 2018 and 27 August 2018	7 February 2018
8	1001842-O2	2	Mr X	1	1983	1,822	IDF	21 March 2018	21 March 2018
9	1001847-O2	0	Mr X	1	1969	1,828	IDF	16 April 2018	21 March 2018
10	1002177-O2	0	Mr X	1	1989	1,640	CF	27 March 2018	21 March 2018
11	1002515-O2	0	Mr X	1	1982	1,279	IDF	3 April 2018	21 March 2018
12	1002544-O1	1	Mr X	1	1990	1,276	IDF	8 November 2017 and 9 May 2018	13 September 2017
13	1002621-O1	0	Mr X	1	1989	912	IDF	3 April 2018	21 March 2018
14	1002642-O1	0	Mr X	1	1992	1,094	IDF	20 March 2018	21 March 2018
15	1002776-O1	0	Mr X	1	1990	912	IDF	4 April 2018	9 May 2018
16	1002800-O	0	Mr X	1	1996	730	Removed	10 November 2017	First Assessment
17	1002832-O	0	Mr X	1	1981	1,115	Removed	23 January 2018 and 7 June 2018	First Assessment
18	1002837-O	0	Mr X	1	1987	912	IDF	9 February 2018 and 10 August 2018	First Assessment
19	1002864-O	0	Mr X	1	1997	730	BV	24 March 2018	First Assessment
20	1002881-O	0	Mr X	1	1987	730	BV	17 April 2018	First assessment

¹ At date of the department's latest report.

² Immigration Detention Facility (IDF).

**RECOMMENDATIONS BY THE COMMONWEALTH OMBUDSMAN TO
THE MINISTER FOR HOME AFFAIRS**
Under s 486O of the Migration Act 1958

Name	Mr X
Ombudsman ID	1001805-O2
<p>Mr X was detained in February 2013 after arriving in Australia by sea and has remained in an immigration detention facility for more than five and a half years.</p> <p>The Ombudsman notes that at the time of the Department of Home Affairs' (the Department) report, Mr X remained on a waitlist to see a specialist he was first referred to in September 2014. This referral was postponed due to transfer to different facilities. The International Health and Medical Services' (IHMS) latest report, dated June 2018, advised that the waiting period for an appointment was likely to be between one to two years.</p> <p>In August 2018 Mr X advised that he continued to await a specialist appointment and as a result had ongoing symptoms which affected his daily life.</p> <p>The Ombudsman remains concerned about the treatment of detainees' mental and physical health conditions in instances where pending medical appointments and referrals have been cancelled as a result of the detainee being transferred to a different facility.</p> <p>Recommendation</p> <p>The Ombudsman recommends that the Department:</p> <ol style="list-style-type: none">1. Ensure that Mr X continues to be placed in such a way which allows for him to progress on the waitlist for a specialist appointment to treat his medical condition.2. Consider granting Mr X a bridging visa given the length of time he has remained in detention.	

Attachment B

Name	Mr X
Ombudsman ID	1001842-O2
<p>Mr X was detained in March 2013 after arriving in Australia by sea and has remained in an immigration detention facility for more than five years.</p> <p>In February 2018 Mr X's case was referred on a first-stage ministerial submission for consideration under s 195A of the Act for the possible grant of a Final Departure Bridging visa.</p> <p>In April 2018 the Federal Court set aside the Immigration Assessment Authority's (IAA) decision to affirm the refusal of Mr X's Safe Haven Enterprise visa application and remitted the matter to the IAA for reconsideration in accordance with the law.</p> <p>IHMS advised that Mr X was referred to specialist counselling and in November 2017 a psychologist recommended that Mr X be released into the community to prevent further deterioration in his psychological health.</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 immigration detention may pose.</p> <p>Recommendation</p> <p>The Ombudsman recommends that:</p> <ol style="list-style-type: none">1. The Department expedite the consideration of Mr X's case under s 195A, given the significant length of time Mr X has remained in detention and the absence of any recent security concerns.2. If not deemed suitable for a bridging visa, Mr X's case be considered under s 197AB for the grant of a community placement.	

Name	Mr X
Ombudsman ID	1002544-O1
<p>Mr X has been found not to be owed protection under the <i>Migration Act 1958</i> and has remained in an immigration detention facility for more than three and a half years.</p> <p>IHMS advised that Mr X required treatment and support for mental health concerns associated with ongoing worry about his family.</p> <p>Recommendation</p> <p>The Ombudsman recommends that:</p> <ol style="list-style-type: none">1. The Department transfer Mr X to a facility in City A to be closer to his family support networks and to prevent further deterioration in his mental health.	