

# RESPONSE TO OMBUDSMAN'S ASSESSMENTS MADE UNDER SECTION 486O OF THE *MIGRATION ACT 1958*

## STATEMENT TO PARLIAMENT - No. 1 / 2018

### *General Comments*

I refer to the Commonwealth Ombudsman's assessments tabled in Parliament today. The 100 assessments refer to 135 people who have been in immigration detention for two or more years. Of these, 41 assessments pertaining to 62 detainees contained recommendations.

### *Response to the Commonwealth Ombudsman's assessments*

#### **1. Tabling statement for assessment: 1001080-O1.**

I note the Ombudsman's recommendation. These people have been granted Bridging E visas and are residing lawfully in the community. These people are able to seek appropriate support and medical services in the community.

#### **2. Tabling statement for assessment: 1001257-O.**

I note the Ombudsman's recommendation. This person has been identified for assessment against the section 197AB guidelines, for possible referral to me for my consideration to allow this person to be placed in community detention.

#### **3. Tabling statement for assessment: 1001613-O.**

I note the Ombudsman's recommendations. This person's placement was recently reviewed, taking into account a number of factors including this person's vulnerabilities. The department advises that this person's current placement remains appropriate. The department's medical service provider has advised that this person has been referred for appropriate specialist treatment early in 2018, for an injury sustained in an assault. This person has also been referred for a specialist psychological counselling. It is long standing policy that individuals who are the subject of an Adverse Security Assessment will remain in held immigration detention until such time that a durable solution is found, that is consistent with Australia's international obligations.

#### **4. Tabling statement for assessment: 1001406-O1**

I note the Ombudsman's recommendation. This person has been found not to engage Australia's protection obligations under the *Migration Act 1958* (the Act), which has been affirmed by the Immigration Assessment Authority. This person has sought further judicial review with the Federal Circuit Court.

#### **5. Tabling statement for assessment: 1001775-O1**

I note the Ombudsman's recommendation. This person is currently undergoing assessment in relation to their Safe Haven Enterprise visa application. This person will not be considered under section 195A of the Act for the grant of a Bridging E visa until finalisation of the assessment.

**6. Tabling statement for assessment: 1001805-O1.**

I note the Ombudsman's recommendation. The department is considering this person's case for referral to me under section 195A of the Act for the possible grant of a Bridging E visa.

**7. Tabling statement for assessment: 1002406-O1.**

I note the Ombudsman's recommendation. This person has been granted a Bridging E visa and is residing lawfully in the community.

**8. Tabling statement for assessment: 1002558-O.**

I note the Ombudsman's recommendation. The department's medical service provider continues to review this person's medical needs. This person has been informed of their medical test results and has received their medical records.

**9. Tabling statement for assessment: 1002580-O.**

I note the Ombudsman's recommendations. This person has no ongoing matters before the department or the courts and is on a removal pathway. As such, it is not appropriate to consider this person's case under section 195A of the Act, for the grant of a Bridging E visa at this time. A transfer to a Sydney facility is not possible at this time due to capacity issues.

**10. Tabling statement for assessment: 1002700-O**

I note the Ombudsman's recommendation. This person has no ongoing matters before the department or the courts and is on a removal pathway. As such, it is not appropriate to consider this person's case under section 195A of the Act, for the grant of a Bridging E visa at this time.

**11. Tabling statement for assessment: 1002721-O.**

I note the Ombudsman's recommendations. This person has been identified for assessment against the s197AB guidelines, for possible referral to me for a community detention placement. This person's family member is currently engaged with a specialist psychological counselling service and is attending regular appointments. This person's family member, has been discharged from the hospital. Whilst this family member was in hospital the department facilitated visits between all of the family members. These family members have been advised the department will facilitate visits in the immigration detention centre at any time, through the visitor application process. To date, these people have not submitted visitor applications. This option continues to remain available. These people arrived after 19 July 2013 and were transferred to a regional processing centre (RPC). These people have since been temporarily transferred to Australia for medical treatment. The department is supporting the relevant offshore government to finalise these people's refugee status determination while they remain in Australia. These people are plaintiffs in ongoing court proceedings.

## **12. Tabling statement for assessment: 2000015-O.**

I note the Ombudsman's recommendations. This person has been granted a Bridging E visa and is residing lawfully in the community. This person is able to seek appropriate support and medical services in the community. This person arrived in Australia after 19 July 2013 and was transferred to an RPC. This person has since been temporarily transferred to Australia for medical treatment. This person is a plaintiff in ongoing court proceedings.

## **13. Tabling statement for assessments: 1002598-O and 1002632-O.**

I note the Ombudsman's recommendations. I have intervened under section 197AB of the Act to allow these people to reside in community detention. These people arrived after 19 July 2013 and were transferred to an RPC. These people have since been temporarily transferred to Australia for medical treatment. The department is supporting the relevant offshore government to finalise these people's refugee status determination while they remain in Australia. These people are plaintiffs in ongoing court proceedings.

## **14. Tabling statement for assessment: 1002683-O, 1002711-O and 1002712-O.**

I note the Ombudsman's recommendations. These people were born onshore following their family's temporary transfer from an RPC for medical treatment. The department is supporting the relevant offshore government to finalise these people's refugee status determination while they remain in Australia. These people are plaintiffs in ongoing court proceedings.

## **15. Tabling statement for assessments: 1002287-O1, 1002589-O, 1002597-O, 1002604-O, 1002611-O and 1002332-O2.**

I note the Ombudsman's recommendations. These detainees arrived after 19 July 2013 and were transferred to an RPC. They have since been temporarily transferred to Australia for medical treatment. The department is supporting the relevant offshore government to finalise the refugee status determination of these detainees while they remain temporarily in Australia. These people are plaintiffs in ongoing court proceedings.

## **16. Tabling statement for assessments: 1002421-O1, 1002523-O1, 1002532-O1, 1002414-O1, 1002446-O1, 1002448-O1, 1002466-O1, 1002475-O1 and 1002713-O.**

I note the Ombudsman's recommendations. These people are currently residing lawfully in the community on Bridging E visas and are able to seek appropriate support and medical services within the community. These people are plaintiffs in ongoing court proceedings.

## **17. Tabling statement for assessments: 1002216-O1, 1002268-O1, 1002303-O1, 1002213-O2, 1002214-O2, 1002241-O2, 1002242-O2, 1002265-O2, and 1002320-O2.**

I note the Ombudsman's recommendations. These people arrived after 19 July 2013 and were transferred to a regional processing centre. They have since been temporarily transferred to Australia. The department continues to identify options to manage these people's immigration status. These people are residing lawfully in the community on Final Departure Bridging E Visas.

**18. Tabling statement for assessment: 000513-O1, 1000142-O1, 1000560-O, 1000741-O1, 1000742-O1, 1000864-O1, 1000934-O1, 1001029-O1, 1001068-O1, 1001231-O, 1001252-O, 1001332-O1, 1001519-O1, 1001523-O1, 1001525-O1, 1001618-O1, 1001666-O1, 1001776-O1, 1001818-O1, 1001834-O1, 1001917-O1, 1001925-O1, 1001932-O1, 1001946-O1, 1001955-O1, 1001957-O1, 1001965-O1, 1002250-O1, 1002252-O1, 1002279-O1, 1002280-O1, 1002311-O1, 1002348-O1, 1002363-O1, 1002365-O1, 1002385-O1, 1002447-O1, 1002468-O1, 1002469-O1, 1002476-O1, 1002524-O1, 1002525-O1, 1002551-O, 1002569-O, 1002573-O, 1002574-O, 1002577-O, 1002579-O, 1002585-O, 1002592-O, 1002593-O, 1002601-O, 1002619-O, 1002627-O, 1002635-O, 1002664-O, 1002675-O, 1002680-O and 2000006-O.**

**General Comment**

The Statement to Parliament No. 20 / 2017, tabled on 6 December 2017, omitted one digit in paragraph 8. The assessment number:

**1001667-O1** was incorrectly stated as **1001667-O**.

Please omit paragraph 8 of No. 20 / 2017 and substitute the following:

**8. Tabling statement for assessment: 1000151-O1, 1000499-O1, 1001033-O1, 1001211-O, 1001414-O1, 1001513-O1, 1001522-O1, 1001611-O1, 1001667-O1, 1001695-O1, 1002198-O2, 1002402-O1, 1002556-O, 1002562-O, 1002578-O, and 1002600-O.**

I note that the Ombudsman has made no recommendations in relation to these cases.

(Original signed by Peter Dutton)

THE HON PETER DUTTON MP  
Minister for Immigration and Border Protection  
05 / 02 / 2018