

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABELING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth 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 1001678-O1 was tabled in Parliament on 13 September 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	1979
Ombudsman ID	1001678-O2
Date of department's report	27 October 2017
Total days in detention	1,640 (at date of department's report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Melbourne Immigration Transit Accommodation.

Recent visa applications/case progression

6 July 2017	The Federal Circuit Court (FCC) quashed the Immigration Assessment Authority's (IAA) decision and remitted the matter to be re-determined according to law.
27 July 2017	The Minister applied to the Full Federal Court (FFC) for judicial review of the FCC's decision.
27 October 2017	The Department of Home Affairs (the department) advised that Mr X was no longer a person of interest to an external agency. The department further advised that Mr X had been identified for possible referral to the Minister under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa.
14 December 2017	The FFC dismissed the Minister's application for judicial review.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X attended psychiatric review in July 2017 and was diagnosed with post-traumatic stress disorder (PTSD). In September 2017 Mr X was prescribed with medication for the management of insomnia associated with stress. He engaged in supportive therapy with a counsellor and was monitored by the mental health team.

IHMS further advised that Mr X continued to be monitored for congenital heart disease with symptoms exacerbated by stress. He also attended physiotherapy for ongoing knee pain and was placed on a waiting list for review by an orthopaedic surgeon.

Ombudsman assessment/recommendation

Mr X was detained on 1 May 2013 after arriving in Australia by sea and has remained in an immigration detention facility for more than four and a half years.

Mr X's Safe Haven Enterprise visa application was refused on 11 July 2016 and on 16 August 2016 the IAA affirmed the refusal.

On 6 July 2017 the FCC quashed the IAA's decision and remitted the matter to be re-determined according to law. On 14 December 2017 the FCC dismissed the Minister's application for judicial review of the FCC's decision.

On 27 October 2017 the department advised that Mr X was no longer a person of interest to an external agency.

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. IHMS advised that Mr X was diagnosed with PTSD in July 2017 and was prescribed with medication for the management of insomnia associated with stress.

In light of the significant length of time Mr X has remained in an immigration detention facility and the absence of any recent behavioural or security concerns, the Ombudsman recommends that Mr X's case be referred to the Minister for consideration under s 195A for the grant of a bridging visa.