

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the fifth s 486O assessment on Mr X who has remained in immigration detention for more than 84 months (seven years). The previous assessments are:

1000489 tabled in Parliament on 11 December 2013

1001322 tabled in Parliament on 1 October 2014

1002014 tabled in Parliament on 9 September 2015

1000437-O tabled in Parliament on 23 November 2016.

This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1967
<b>Ombudsman ID</b>	1000437-O1
<b>Date of DIBP's reviews</b>	7 November 2016 and 8 May 2017
<b>Total days in detention</b>	2,550 (at date of DIBP's latest review)

### Recent detention history

Since the Ombudsman's previous assessment (1000437-O), Mr X has remained in community detention.

### Recent visa applications/case progression

The Department of Immigration and Border Protection (the department) advised that Mr X's case is protracted as he has repeatedly refused to lodge a temporary protection visa application. He is also considered ineligible for a bridging visa as he has refused to sign the Code of Behaviour. <sup>1</sup>	
14 October 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application. The department advised that Mr X has not indicated whether he will accept the offer.
8 March 2017	Found not to meet the guidelines for referral to the Minister under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa.
3 April 2017	The department advised that Mr X indicated that he wished to return to Country B, where his wife and daughters reside. This matter remained ongoing.

### Health and welfare

International Health and Medical Services advised that Mr X requested a referral to a psychologist in May 2016 after presenting with stress and anxiety related to situational factors and the uncertainty of his immigration pathway. He subsequently attended regular psychological counselling and was monitored by a general practitioner.

<sup>1</sup> Since 14 December 2013 all adult maritime arrivals must sign a Code of Behaviour before they can be considered for the grant of a bridging visa. The Code of Behaviour was introduced to help ensure that maritime arrivals living in the community on bridging visas are aware of community behavioural expectations and behave appropriately while in the Australian community.

**Case status**

Mr X has been found to be owed protection under the Refugee Convention and the complementary protection criterion and has remained in detention for more than seven years.

The department advised that Mr X's case is protracted as he has repeatedly refused to lodge a temporary protection visa application and is considered ineligible for a bridging visa as he has refused to sign the Code of Behaviour. The department further advised Mr X indicated that he wished to return to Country B and this matter remained ongoing.

The Ombudsman's previous assessment (1000437-O) recommended that should Mr X lodge an application for a temporary visa, processing be accorded priority, given that he has spent more than six years in detention.

On 23 November 2016 the Minister noted the recommendation and advised that the department had offered Mr X assistance to lodge a temporary protection visa application.