

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the second s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than 48 months (four years). The previous assessment 1002399-O was tabled in Parliament on 10 May 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

<b>Name</b>	Mr X
<b>Citizenship</b>	Stateless, born in Country A
<b>Year of birth</b>	1968
<b>Ombudsman ID</b>	1002399-O1
<b>Date of DIBP's reports</b>	8 May 2017 and 6 November 2017
<b>Total days in detention</b>	1,458 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Yongah Hill Immigration Detention Centre.	
2 November 2017	Placed in the community. <sup>1</sup>

### Recent visa applications/case progression

The Department of Immigration and Border Protection (the department) has advised that it is exploring options to resolve Mr X's immigration status.	
23 February 2017	Found not to meet the guidelines for referral to the Minister under s 197AB of the <i>Migration Act 1958</i> .
23 March 2017	Identified for assessment against the guidelines under s 197AB for referral to the Minister.
26 October 2017	The Minister intervened under s 197AB to grant Mr X a community placement.

### Health and welfare

International Health and Medical Services advised that Mr X continued to be monitored regularly by a liver specialist following his previous diagnosis of hepatitis B which was resolved in November 2015. IHMS further advised that a routine mental health assessment identified that Mr X was experiencing detention fatigue, worry about his family and frustration regarding his immigration pathway but continued to self-manage his stress.	
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<sup>1</sup> Mr X was granted a placement in the community under s 197AB and remains in immigration detention.

### **Information provided by Mr X**

During an interview with Ombudsman staff on 23 May 2017 Mr X stated that when he was returned to Australia from Manus Island Regional Processing Centre (RPC) he was told that he had been returned for medical treatment. He expressed confusion and distress regarding his hepatitis B and stated that he was not receiving regular treatment, just blood tests.

Mr X stated that he had regular contact with the mental health team and had found the support to be valuable. He stated that he felt worried about his life and thought his mental health would benefit from being placed in the community, but he had been told by his case manager that he would have to wait for his placement to be assessed by the Minister.

He explained that he has no family in Australia, and his wife, children, siblings and mother are all in Country A. He stated that he tries to talk to his family every day but that it is often very upsetting.

### **Ombudsman assessment/recommendation**

Mr X was detained on 20 October 2013 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than four years with no processing of his protection claims.

Mr X was transferred to an RPC and returned to Australia. On 6 November 2017 the department advised that it is exploring options to resolve Mr X's immigration status.

The Ombudsman's previous assessment recommended that the department expedite the resolution of Mr X's immigration status and that he be referred to the Minister for consideration of a community placement.

On 10 May 2017 the Minister advised that the department continued to identify options to manage Mr X's immigration status and that Mr X was found not to meet the guidelines under s 197AB.

On 26 October 2017 the Minister intervened under s 197AB to grant Mr X a community placement.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to mental and physical health prolonged and apparently indefinite detention may pose.

The Ombudsman notes that without an assessment of Mr X's claims it appears likely he will remain in detention indefinitely.

The Ombudsman recommends that the department make arrangements for the processing of Mr X's protection claims and expedite the resolution of his immigration status.