

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than 54 months (four and a half years). The previous assessment 1001921-O 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	1990
Ombudsman ID	1001921-O1
Date of department's reports	23 July 2017 and 22 January 2018
Total days in detention	1,642 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Facility B.	
27 July 2017	Transferred to Facility C.
12 October 2017	Transferred to Facility B.
1 November 2017	Transferred to Facility C.

Recent visa applications/case progression

28 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.
4 April 2017	Issued with a Notice of Intention to Consider Refusal of his Temporary Protection visa (TPV) application under s 501. Mr X provided a response on 22 April 2017.
3 August 2017	TPV application refused under s 501.
27 October 2017	The Administrative Appeals Tribunal affirmed the original decision.
11 December 2017	Applied to the Federal Circuit Court for judicial review.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment for tuberculosis. In October 2017 he was discharged from a specialist clinic with no further treatment required.	
IHMS further advised that Mr X continued to receive treatment for stress related headaches.	
22 November 2017	An Incident Report recorded that Mr X refused food and fluid.

Ombudsman assessment/recommendation

Mr X was detained on 8 June 2012 after arriving in Australia by sea and has remained in an immigration detention facility for a cumulative period of more than four and a half years.

The Ombudsman's previous assessment recommended that in light of the significant length of time Mr X had remained in detention and the absence of any recent behavioural or security concerns his case be referred to the Minister for consideration under s 195A for the grant of a bridging visa.

The Ombudsman further recommended that consideration be given to transferring Mr X to an immigration detention facility in City D or City E to enable him to reside close to his support network.

On 13 September 2017 the Minister noted the recommendation and advised that Mr X had been found not to meet the guidelines under s 195A. The Minister further advised that a placement for Mr X was sought at a mainland facility; however, a transfer was not possible due to capacity issues.

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 has advised that Mr X continued to receive treatment for stress related headaches.

The Ombudsman also notes information provided by Mr X on 14 June 2017 that he has support networks in City E and City D.

In light of the significant length of time Mr X has remained in detention and the absence of any recent behavioural or security concerns, the Ombudsman again recommends that consideration be given to transferring Mr X to an immigration detention facility in City D or City E if appropriate.