

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the first s 486O assessment on Mr X who remained in immigration detention for a cumulative period of more than 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1982
<b>Ombudsman ID</b>	1002688-O
<b>Date of DIBP's report</b>	31 May 2017
<b>Total days in detention</b>	730 (at date of DIBP's report)

### Detention history

17 October 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea.
21 October 2013	Transferred to Manus Island Regional Processing Centre (RPC) and on 5 June 2015 returned to Australia and re-detained under s 189(1).
23 June 2017	The Department of Immigration and Border Protection (the department) advised that Mr X had been placed in the community. <sup>1</sup>
28 August 2017	Granted a Final Departure Bridging visa and released from immigration detention.

### Visa applications/case progression

<p>Mr X arrived in Australia by sea after 19 July 2013 and was transferred to an RPC. The department has advised that Mr X is barred under ss 46A and 46B from lodging a valid protection visa application in Australia as a result of his method of arrival and transfer to an RPC.</p> <p>Mr X was returned to Australia from an RPC for medical treatment on 5 June 2015.</p> <p>The department has advised that under current policy settings Mr X is not eligible to have his protection claims assessed in Australia and remains liable for transfer back to an RPC on completion of his treatment.</p>	
28 May 2017	The Minister intervened under s 197AB to grant Mr X a community placement.
31 May 2017	The department advised that it is supporting the government of Papua New Guinea to finalise the Refugee Status Determination of Mr X while he remains temporarily in Australia for medical treatment.

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<sup>1</sup> Mr X was granted a placement in the community under s 197AB and remained in immigration detention.

## **Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X was reviewed, prescribed with medication and underwent surgery for the treatment of sinus concerns and back pain. Following review in July 2016 Mr X was determined to have residual spinal concerns causing stenosis. Mr X was advised that the injury to the disc in his back might be permanent and that while further surgery was not currently advisable a spinal fusion may be required in the future. He was prescribed with medication and advised to engage in exercise.

IHMS reported that Mr X engaged with psychiatrists and specialist counselling for the management of post-traumatic stress disorder with co-morbid depression and a history of torture and trauma. Following psychiatric review in June 2014 Mr X reported experiencing low mood, low energy and a lack of interest. He stated that he only slept for three to four hours before being woken by nightmares. He was prescribed with medication and referred to specialist counselling.

## **Ombudsman assessment/recommendation**

Mr X was detained on 17 October 2013 after arriving in Australia by sea and remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than two years.

Mr X was transferred to an RPC and returned to Australia for medical treatment. The department advised that because Mr X arrived after 19 July 2013 he remains liable for transfer back to an RPC on completion of his treatment.

The department further advised that it is supporting the government of Papua New Guinea to finalise the Refugee Status Determination of Mr X while he remains temporarily in Australia for medical treatment.

Mr X was granted a Final Departure Bridging visa on 28 August 2017 and was released from immigration detention.

The Ombudsman notes with concern Mr X's history of back pain and mental health concerns and his need for ongoing management.

In light of these concerns, the Ombudsman recommends that the department explore options to provide further access to support and medical services while Mr X remains in the community on a Final Departure Bridging visa to better manage his ongoing health concerns.