

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABELING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O assessment on Mr X who has remained in restricted immigration detention for more than 48 months (four years).

The first assessment 1002407 was tabled in Parliament on 14 September 2015 and the second assessment 1003486 was tabled in Parliament on 16 September 2016. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1981
Ombudsman ID	1001306-O
Date of DIBP's reviews	6 October 2016 and 6 April 2017
Total days in detention	1,458 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1003486), Mr X remained at Wickham Point Alternative Place of Detention.	
16 June 2016	Transferred to Facility B.

Recent visa applications/case progression

20 May 2016 and 24 March 2017	Mr X's application for judicial review was heard by the Federal Circuit Court. The matter was adjourned and a hearing was scheduled for 29 August 2017.
6 April 2017	The Department of Immigration and Border Protection (the department) advised that Mr X remained a person of interest to an external agency.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X had expressed suicidal thoughts and presented with low mood and situational stress related to his prolonged detention. He attended specialist counselling and continued to be monitored by the mental health team. IHMS further advised that Mr X attended physiotherapy for ongoing back pain and continued to be monitored by a general practitioner and physiotherapist.	
---	--

Other matters

5 November 2016	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman in relation to the conduct of a Serco officer. The complaint was finalised on 15 November 2016.
-----------------	---

Information provided by Mr X

During an interview with Ombudsman staff at Facility B in June 2017 Mr X advised that he was unsure of the progress of his case and frustrated about the significant length of time he has remained in restricted detention. He advised that an external agency considered him security cleared for the grant of a Bridging visa, however his case manager had informed him that he would not be granted a Bridging visa while the external agency's investigation remained ongoing.

Mr X advised that he was unsatisfied with the lawyer who represented him in earlier matters relating to his immigration case. He said he was now receiving assistance from Legal Aid in preparation for his judicial review hearing.

Mr X advised that his time spent in detention had caused his mental health to deteriorate and that he constantly worried about his immigration status. He said that he attends regular counselling and found it helpful. He also advised that he enjoyed English classes and regularly practiced his English with visitors from the community.

Mr X stated that he had previously experienced issues with a Serco officer and had lodged a complaint with Serco and the Australian Human Rights Commission. He said he avoided the officer and there had been no concerns recently.

Mr X reported that following his transfer to Facility B he rarely went on excursions because the number of Serco officers present made him feel as though he was perceived to be a criminal.

Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in restricted detention for more than four years. At the time of the department's latest review Mr X was awaiting the outcome of judicial review.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to physical and mental health prolonged restricted immigration detention may pose. In light of the significant length of time Mr X has remained in restricted detention and the absence of any behavioural concerns, the Ombudsman recommends that if an external agency has no concerns with Mr X being granted a Bridging visa, his case be referred to the Minister for consideration under s 195A of the *Migration Act 1958* for the grant of a Bridging visa.