

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 42 months (three and a half years).

The first assessment 1002222-O was tabled in Parliament on 23 November 2016. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Mr X
Citizenship	Country A
Year of birth	1990
Ombudsman ID	1002222-O1
Date of DIBP's reviews	9 November 2016 and 10 May 2017
Total days in detention	1,276 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1002222-O), Mr X remained at Brisbane Immigration Transit Accommodation.	
23 February 2017	Transferred to community detention.

Recent visa applications/case progression

The Department of Immigration and Border Protection (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 a Regional Processing Centre (RPC) on completion of his treatment.	
13 February 2017	The Minister intervened under s 197AB of the <i>Migration Act 1958</i> to allow Mr X to reside in community detention.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment for multiple complex mental health concerns, including major depression with psychotic features and post-traumatic stress disorder. He attended specialist counselling and was regularly reviewed by a psychiatrist.	
IHMS further advised that Mr X continued to take prescribed medication for chronic gastritis and his condition was monitored by a general practitioner.	

Ombudsman assessment/recommendation

Mr X was detained on 11 November 2013 after arriving in Australia by sea and has been held in restricted detention for a cumulative period of more than three and a half years with no processing of his protection claims.

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 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 under current policy settings Mr X is not eligible to have his protection claims assessed in Australia and that without an assessment of Mr X's claims it appears likely he will remain in detention indefinitely.

The Ombudsman again recommends that priority is given to resolving Mr X's immigration status.