

## 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 previous assessment 1002439-O was tabled in Parliament on 14 June 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1981
<b>Ombudsman ID</b>	1002439-O1
<b>Date of department's reports</b>	30 June 2017 and 29 December 2017
<b>Total days in detention</b>	1,276 (at date of department's latest report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X has continued to be placed in the community.<sup>1</sup>

### Recent visa applications/case progression

The Department of Home Affairs (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.

June 2017 and December 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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### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for multiple physical health issues including a severe skin condition. Mr X required ongoing management of his skin condition as he awaited review by a plastic surgeon. He was monitored by a general practitioner (GP) who provided him with pain relief medication. He remained on a waitlist to be reviewed by a plastic surgeon and IHMS advised that an appointment had not yet been scheduled at the date of its latest report.

IHMS further advised that Mr X presented to a GP in December 2016 with chronic anxiety and was prescribed with medication and referred to a psychologist. He re-presented to a treating GP in October 2017 reporting that he was experiencing heightened anxiety and difficulty sleeping and his medication was adjusted accordingly.

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<sup>1</sup> Mr X was granted a placement in the community under s 197AB of the *Migration Act 1958* and remains in immigration detention.

## Ombudsman assessment

Mr X was detained in August 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 three and a half 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.

The Ombudsman's previous assessment recommended that priority be given to resolving Mr X's immigration status while noting that Mr X has a skin condition and mental health concerns that require ongoing treatment and are likely to deteriorate if he is returned to an RPC.

On 14 June 2017 the Minister advised that under current legislation and policy settings, Mr X remains subject to return to an RPC on completion of his treatment.

The Ombudsman notes that Mr X's return to an RPC is likely to be protracted due to his ongoing mental and physical health concerns.

IHMS has advised that Mr X continued to await review by a plastic surgeon for treatment of his skin condition. IHMS previously advised in its report in May 2016 that a counsellor had stated that Mr X would likely experience a rapid decline in his mental health if he was returned to an RPC. Additionally, IHMS previously advised in its report in November 2016 that a GP had recommended that Mr X should not be returned to an RPC because his skin condition would likely deteriorate due to the climate.

The Ombudsman notes with concern that it appears likely that Mr X will remain in detention for a prolonged and uncertain period while he receives medical treatment, posing a serious risk to his mental and physical health.