

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 1002467-O was tabled in Parliament on 24 May 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Mr X
Citizenship	Country A
Year of birth	1985
Ombudsman ID	1002467-O1
Date of department's reports	4 August 2017 and 31 January 2018
Total days in detention	1,276 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Yongah Hill Immigration Detention Centre.	
1 March 2017	Placed in the community. ¹

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.	
13 February 2017	The Minister intervened under s 197AB of the <i>Migration Act 1958</i> to grant Mr X a community placement.
4 August 2017 and 31 January 2018	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.

¹ Mr X was granted a placement in the community under s 197AB and remains in immigration detention.

Health and welfare

International Health and Medical Services (IHMS) advised that following his placement in the community Mr X continued to engage with a psychologist and psychiatrist for the management of anxiety and post-traumatic stress disorder (PTSD). He was prescribed with antidepressant medication in May 2017 after presenting with low mood and sleep disturbance. Mr X's mental condition further deteriorated following news that extended family members had died in Country A. IHMS advised that Mr X continues to struggle due to the uncertainty of his immigration status and his placement in separate living quarters from his Australian citizen wife. The psychiatrist strongly recommended that Mr X be able to live with his wife on a permanent basis for additional support. IHMS advised that there was notable improvement in his mental health following a trial period of living together for two weeks.

IHMS further advised that Mr X was unable to attend a scheduled orthopaedic review of his knee injuries in March 2017 due to his placement in the community. He has since been placed on a waiting list, has attended physiotherapy and underwent investigative testing.

15 December 2017

An Incident Report recorded that Mr X was transported to hospital by ambulance following a panic attack.

Ombudsman assessment/recommendation

Mr X was detained on 24 July 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 in August 2014 and November 2014. 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 strongly recommended that Mr X be referred to the Minister for consideration of a community placement to reside with his wife and that priority be given to resolving Mr X's immigration status.

On 24 May 2017 the Minister advised that he had intervened under s 197AB to grant Mr X a community placement and 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 advised that Mr X continued to present with symptoms of anxiety and PTSD and that his mental health notably improved when he was placed in living quarters with his wife. A psychiatrist strongly recommended that Mr X be able to live with his wife on a permanent basis for additional support. IHMS further advised that Mr X continued to await orthopaedic review of his knee injuries.

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.

In light of IHMS's advice, the Ombudsman recommends that the Minister vary Mr X's community placement under s 197AD to ensure that he is able to live with his wife on a permanent basis to provide additional support and prevent further deterioration in his mental and physical health.