

**RESPONSE TO OMBUDSMAN'S ASSESSMENT No.18 MADE UNDER
SECTION 486O OF THE *MIGRATION ACT 1958***

STATEMENT TO PARLIAMENT - No. 18 / 2019

General Comments

I refer to the Commonwealth Ombudsman's assessment tabled in Parliament today. This assessment refers to 24 people who have been in immigration detention for two or more years. This assessment contains recommendations relating to nine cases.

Response to the Commonwealth Ombudsman's assessment

1. Tabling statement for case: 1000880-O3

I note the Ombudsman's recommendation. I recently considered this person's case under sections 195A and 197AB of the *Migration Act 1958* (the Act) for the grant of a bridging visa or a possible placement in the community under a residence determination and declined to intervene. This person is regularly reviewed by an International Health and Medical Services (IHMS) psychiatrist and receives scheduled specialised health services to provide the best level of support to meet their mental health needs. The Department will continue to review this person's case regularly. In the event their circumstances change, the Department will establish alternative arrangements to ensure their health and welfare needs continue to be met.

2. and 3. Tabling statement for cases: 1001645-O2 and 1001646-O2

I note the Ombudsman's recommendations. The Department recently referred these persons for my consideration to intervene under section 195A of the Act to grant a bridging visa.

4. Tabling statement for case: 1002294-O3

I note the Ombudsman's recommendation. I am mindful of the circumstances of this person, as this person is a transitory person who has been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, this person remains subject to return to a regional processing country (RPC) on completion of their medical treatment.

This person is currently residing in the community under a residence determination made under section 197AB of the Act, which provides the best level of support while they are undergoing medical treatment.

The Department will continue to review the cases of transitory persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the Act for the consideration of the grant of a bridging visa.

5. and 6. Tabling statement for cases: 1002394-O3 and 1002708-O1

I note the Ombudsman's recommendations. I am mindful of the circumstances of these families, as they are transitory people who have been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, these families remain subject to return to an RPC on completion of their medical treatment

These families are currently residing in the community under a residence determination made under section 197AB of the Act, which provides the best level of support to the families while their children remain under school age

The Department will continue to review the cases of transitory persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the Act for the consideration of the grant of a bridging visa.

7. Tabling statement for case: 1002834-O1

I note the Ombudsman's recommendations. This person's case and their circumstances have been carefully reviewed. The Department decided to progress the case under the statutory visa process rather than via an International Treaties Obligations Assessment (ITOA). The statutory process is governed by a robust code of procedure and enables the Department to undertake a protection obligations assessment as well as determine whether the applicant meets health, character and security requirements.

This person's case was recently referred for my consideration to lift the bar under section 46A of the Act, to allow the assessment of this person's protection claims through a statutory protection visa process rather than an ITOA.

The Department is assessing this person against my section 195A guidelines. If they meet the requirements, they will be referred for my consideration under section 195A of the Act for the grant of a bridging visa.

8. Tabling statement for case: 1002913-O

I note the Ombudsman's recommendation. I am mindful of the circumstances of this person, as this person is a transitory person who has been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, this person remains subject to return to an RPC on completion of their medical treatment.

This person is currently residing in the community under a residence determination made under section 197AB of the Act, which provides the best level of support while they are undergoing medical treatment.

The Department will continue to review the cases of transitory persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the Act for the consideration of the grant of a bridging visa.

9. Tabling statement for case: 1003022-O

I note the Ombudsman's recommendation. The Department has made arrangements to transfer this person to the relevant facility where they are located closer to their support network.

10. Tabling statement for cases: 1001301-O, 1002629-O2, 1002726-O2, 1002837-O1, 1002839-O1, 1002896-O1, 1003043-O, 1003045-O, 1003046-O 1003059-O.

I note that the Ombudsman made no recommendations in relation to these cases.

(Original signed by David Coleman)

THE HON DAVID COLEMAN MP
Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

09/09 /2019