

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 1002231-O was tabled in Parliament on 8 November 2016. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Mr X
Citizenship	Country A, born in Country B
Year of birth	1953
Ombudsman ID	1002231-O1
Date of DIBP's reviews	18 November 2016 and 19 May 2017
Total days in detention	1,276 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1002231-O), Mr X and his family¹ have remained in 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.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment for complex physical health conditions, including ischemic heart disease, cardiac concerns and type 2 diabetes with associated eye and vascular concerns. He was reviewed by a vascular specialist on 19 July 2016 and underwent investigative testing after an ultrasound identified blocked arteries in his legs. In June 2016 he received treatment for a foot infection and a podiatrist recommended that he be provided with protective footwear and orthotics. His condition continued to be monitored by a general practitioner (GP) and at the time of IHMS's latest report he was awaiting a cardiology appointment and review with an eye specialist.

IHMS further advised that Mr X continued to take prescribed medication for depression but declined a referral for psychological counselling. His mental health was monitored by a GP.

14 February 2017	Admitted to hospital for cataract surgery.
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¹ Mr X's wife, Ms Y, and their children, Ms Z, Mr P and Mr Q, are the subject of Ombudsman assessment 1002437-O1.

Ombudsman assessment/recommendation

Mr X was detained on 9 September 2013 after arriving in Australia by sea and has been held in 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 further notes advice from IHMS that Mr X has multiple physical health conditions that require ongoing specialist treatment.

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.