

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 remained in immigration detention for a cumulative period of more than 36 months (three years). The previous assessment 1002448-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	1972
Ombudsman ID	1002448-O1
Date of DIBP's report	14 July 2017
Total days in detention	1,094 (at date of DIBP's report)

Recent detention history

Mr X had remained in an immigration detention facility.	
19 April 2017	Placed in the community. ¹
28 August 2017	Granted a Final Departure Bridging visa and released from immigration 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.	
14 July 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.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to be monitored and receive treatment for a brain injury sustained during a riot at Manus Island RPC. In January 2017 Mr X was reviewed by a neuropsychologist who reported that he suffers from headaches, poor memory and an unsteady gait. He was referred to a neurologist and psychologist for review after he reported experiencing repetitive muscle contractions and leg tremors that were disturbing his sleep. Mr X also received dental treatment in January and February 2017 for periodontal disease and infections and was admitted to hospital in March 2017 for treatment of an injury sustained from a fall.

IHMS further advised that Mr X attended counselling and was prescribed with medication for the management of anxiety, sleep issues, depression and a history of torture and trauma. In April 2017 a treating psychiatrist noted that Mr X had a cognitive impairment and would require further diagnostic review. He was regularly reviewed by a psychiatrist and continued to engage with the mental health team.

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

29 March 2017	An Incident Report recorded that Mr X was admitted to hospital for treatment of an injury sustained from a fall.
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Ombudsman assessment/recommendation

Mr X was detained on 25 July 2013 after arriving in Australia by sea and remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than three years.

Mr X was transferred to an RPC and returned to Australia for medical treatment on two occasions. 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.

Mr X was granted a Final Departure Bridging visa on 28 August 2017 and was released from immigration detention.

The Ombudsman’s previous assessment recommended that Mr X’s case be referred to the Minister for consideration of a community placement and that priority be given to resolving his immigration status.

On 24 May 2017 the Minister advised that he had intervened under s 197AB of the *Migration Act 1958* to allow Mr X to reside in the community and that under current legislation and policy settings, Mr X remains subject to return to an RPC on completion of his treatment.

The Ombudsman notes with concern the advice from IHMS that Mr X requires ongoing monitoring and treatment for an acquired brain injury and mental health concerns.

In light of these concerns, the Ombudsman recommends that the department explore options to provide further access to support and medical services while Mr X remains in the community on a Final Departure Bridging visa to better manage his ongoing health concerns.