

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 more than 36 months (three years). The previous assessment 1002520-O was tabled in Parliament on 13 September 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1991
Ombudsman ID	1002520-O1
Date of department's report	6 October 2017
Total days in detention	1,094 (at date of department's report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Facility B.

Recent visa applications/case progression

3 May 2017	The Federal Court (FC) set aside the refusal of his Protection visa application under s 501 of the <i>Migration Act 1958</i> and remitted the matter to the Department of Home Affairs (the department) for reconsideration.
6 October 2017	The department advised that it had commenced reconsidering Mr X's Protection visa application and on 30 August 2017 Mr X was notified that the department was considering his application under s 501 and invited him to comment on information held by the department.

Health and welfare

International Health and Medical Services advised that Mr X has a history of depression, anxiety and self-harm, but did not receive treatment for any mental health concerns during this assessment period.

Ombudsman assessment/recommendation

Mr X was detained on 8 October 2014 following the cancellation of his visa under s 501 and has remained in an immigration detention facility for more than three years.

On 3 May 2017 the FC set aside the refusal of his Protection visa application under s 501 and remitted the matter to the department for reconsideration.

On 6 October 2017 the department advised that it had commenced reconsidering Mr X's Protection visa application and had notified Mr X that it was considering his application under s 501.

The Ombudsman's previous assessment recommended that consideration be given to transferring Mr X to a detention facility in City C to enable him to reside closer to his support network.

On 13 September 2017 the Minister advised that transferring Mr X to a detention facility in City C was not possible at that time due to capacity issues.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose.

The Ombudsman also notes information provided by Mr X on 21 June 2017 that his partner, son and three step-children reside in City C and he found it difficult to be separated from them.

In light of this advice, the Ombudsman again recommends that consideration be given to transferring Mr X to a detention facility in City C to enable him to reside closer to his support network while the department reconsiders his Protection visa application.