

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 three and a half years. The previous assessment 1002499-O was tabled in Parliament on 18 October 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	1991
Ombudsman ID	1002499-O1
Date of department's reports	6 September 2017 and 7 March 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 has remained at Facility C.

Recent visa applications/case progression

June 2016	The Federal Circuit Court (FCC) reserved judgment in relation to the review of the Refugee Review Tribunal's (RRT) decision to affirm the refusal of Mr X's Protection visa. ¹ The matter remained ongoing at the time of the Department of Home Affairs (the department) latest report.
December 2017	Found to meet the guidelines for referral to the Minister under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa.
January 2018	Mr X's case was referred on a ministerial submission for consideration under s 195A.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was reviewed by a psychiatrist in July and November 2017 for the management of mental health concerns and was prescribed with medication. The psychiatrist noted that Mr X reflected a desire to improve his mental condition and was willing to engage frequently with the mental health team and group sessions. In December 2017 Mr X attended specialist torture and trauma counselling.

IHMS further advised that Mr X continued to be provided with treatment for ongoing pain and was transported to hospital for treatment of an infection.

¹ The Ombudsman's previous assessment (1002499-O) incorrectly recorded the date of the FCC's reservation of judgment as 24 June 2015.

Ombudsman assessment

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in an immigration detention facility for more than three and a half years.

In October 2014 Mr X lodged an application for a Protection visa which was refused in December 2014. In April 2015 the RRT affirmed the refusal and in June 2016 the FCC reserved judgment.

At the date of the department's latest report Mr X continued to await the outcome of judicial review with the FCC.

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. IHMS advised that Mr X has been prescribed with medication and has engaged with a psychiatrist for the management of mental health concerns. He has also attended specialist torture and trauma counselling.

The department advised that in January 2018 Mr X's case was referred on a ministerial submission for consideration under s 195A.