

**RESPONSE TO OMBUDSMAN'S ASSESSMENT No. 19 / 2019 MADE UNDER  
SECTION 486O OF THE *MIGRATION ACT 1958***

**STATEMENT TO PARLIAMENT – No. 19 / 2019**

*General Comments*

I refer to the Commonwealth Ombudsman's assessment tabled in Parliament today. This assessment refers to 36 people who have been in immigration detention for two or more years. This assessment contains recommendations relating to 11 cases.

*Response to the Commonwealth Ombudsman's assessment*

**1. Tabling statement for case: 1000881-O2**

I note the Ombudsman's Recommendation. This person was previously found not to be owed protection under the *Migration Act 1958* (the Act). The section 46A bar was subsequently lifted to allow this person to lodge a Temporary Protection visa or a Safe Haven Enterprise visa application. I recently used my discretion under section 501 of the Act and refused to grant this person a Safe Haven Enterprise visa on character grounds.

**2. Tabling statement for case: 1001592-O2**

I note the Ombudsman's recommendations. This person is currently being assessed against the section 195A guidelines for a possible referral to me for consideration of the grant of a bridging visa.

This person's Temporary Protection visa has recently been refused by the Minister for Home Affairs under section 501 of the Act on character grounds.

**3. Tabling statement for cases: 1002353-O3, 1002453-O2, 1002457-O2,  
1002496-O2, 1002596-O2 and 1002841-O**

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 a regional processing country 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.

**4. Tabling statement for case: 1002470-O2**

I note the Ombudsman's recommendation. This person has been assessed as meeting the section 195A guidelines for a referral to me for consideration of the grant of a bridging visa. The Department is preparing a submission for my consideration under section 195A of the Act.

**5. Tabling statement for case: 1002667-O1**

I note the Ombudsman's recommendation. This person was previously located at the proposed facility. During this time, the person was involved in a significant disturbance and was transferred to ensure the safety of other persons and to maintain the good order of that facility. This person's placement has been carefully reviewed taking in to account their family and support networks, their behavioural concerns and capacity issues across the detention network. The Department has determined a transfer is not appropriate at this time.

This person is able to communicate with family via emails, letters, phone calls and skype.

**6. Tabling statement for case: 1002670-O1**

I note the Ombudsman's recommendation. The Department has reviewed this person's case. Due to capacity issues across the national network, a transfer is not possible at this time.

This person is able to communicate with family via emails, letters, phone calls and skype.

**7. Tabling statement for case: 1002758-O1**

I note the concerns raised by the Ombudsman in relation to this case. This person has no ongoing matters before the Department, tribunals or the courts and is not cooperating with arrangements to be removed from Australia.

The Department is working with the relevant Government to verify this person's identity and progress the issuance of a travel document to facilitate their removal from Australia.

**16. Tabling statement for cases: 1002128-O2, 1002356-O3, 1002858-O1, 1002965-O1, 1002970-O, 1003038-O, 1003056-O and 1003057-O**

I note that the Ombudsman has 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