

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TBLING 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 previous assessment 1002304-O was tabled in Parliament on 23 November 2016. 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	1002304-O1
Date of DIBP's reports	2 February 2017 and 3 August 2017
Total days in detention	1,276 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X has continued to be placed in the community.¹

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.	
3 August 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 receive treatment for multiple complex mental health conditions, including schizophrenia, an adjustment disorder, tremors and a history of torture and trauma. He attended psychological counselling and was prescribed with medication and fortnightly injections. IHMS reported that Mr X required extensive support and a psychiatrist had advised that Mr X was at high risk of relapse of psychosis if returned to a detention centre environment. A psychologist noted that while Mr X presented with symptoms of depression, his general wellbeing continued to improve. His condition continued to be regularly monitored by a general practitioner and psychiatrist.

IHMS further advised that Mr X received treatment for gastroesophageal reflux and a lung condition.

¹ Mr X was granted a placement in the community under s 197AB of the *Migration Act 1958* and remains in immigration detention.

Ombudsman assessment/recommendation

Mr X was detained on 7 September 2013 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than three and a half years.

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 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.

The Ombudsman's previous assessment recommended that priority be given to exploring options to enable the resolution of Mr X's immigration status.

On 23 November 2016 the Minister noted the recommendation and advised that under current legislation and policy settings, Mr X remains subject to return to an RPC on completion of his treatment.

The Ombudsman notes the advice from IHMS that Mr X has a medical condition that requires ongoing 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. IHMS has advised that a psychiatrist reported that Mr X was at high risk of relapse of psychosis if returned to a detention centre environment.

The Ombudsman notes that under current policy settings Mr X is not eligible to have his protection claims assessed by Australia and that without an assessment of Mr X's claims it appears likely he will remain in detention for a prolonged period.

The Ombudsman recommends that the department continue to prioritise the resolution of Mr X's immigration status.