

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the first s 486O assessment on Mr X who remained in immigration detention for a cumulative period of more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1975
Ombudsman ID	1002713-O
Date of DIBP's report	14 July 2017
Total days in detention	730 (at date of DIBP's report)

Detention history

27 July 2014	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea.
1 August 2014 – 2 February 2015 and 25 September 2015 – 11 March 2016	Transferred to Nauru Regional Processing Centre (RPC) and subsequently returned to Australia and re-detained under s 189(1) on two occasions.
24 August 2017	The Department of Immigration and Border Protection (the department) advised that he had been placed in the community. ¹
28 August 2017	Granted a Final Departure Bridging visa and released from immigration detention.

Visa applications/case progression

<p>Mr X arrived in Australia by sea after 19 July 2013 and was transferred to an RPC. The department has advised that Mr X is barred under ss 46A and 46B from lodging a valid protection visa application in Australia as a result of his method of arrival and transfer to an RPC.</p> <p>Mr X was returned to Australia from an RPC for medical treatment on 2 February 2015 and 11 March 2016.</p> <p>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 an RPC on completion of his treatment.</p>	
31 August 2016	Mr X applied to the High Court seeking an injunction preventing his removal from Australia. The department advised at the time of its latest report that the matter had not yet been listed for hearing.

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

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was admitted to a rehabilitation hospital in February 2015 for treatment of a leg injury sustained in his home country. His condition continued to be monitored by a general practitioner and physiotherapist.

Mr X was reviewed by a neurologist in December 2015 after presenting with headaches. He was referred for a computed tomography scan and was prescribed with pain relief medication. IHMS advised that Mr X also received treatment for chronic shoulder pain and high cholesterol.

IHMS further advised that Mr X attended counselling and was prescribed with medication for the management of depression and a history of torture and trauma. In October 2016 a psychologist recommended that he attend ongoing counselling and advised that he required a safe environment to alleviate his traumatic memories.

19 February 2015 –
24 June 2015

Admitted to a rehabilitation hospital for treatment of a leg injury.

Ombudsman assessment/recommendation

Mr X was detained on 27 July 2014 after arriving in Australia by sea and remained in detention for a cumulative period of more than two years with no processing of his protection claims.

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.

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

The Ombudsman notes with concern advice from IHMS that Mr X requires ongoing treatment for his mental and physical 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.