

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 a cumulative period of more than 42 months (three and a half years). The previous assessment 1000098 was tabled in Parliament on 26 June 2013. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Mr X
Citizenship	Country A
Year of birth	1958
Ombudsman ID	1000080-O
Date of department's reports	10 May 2017 and 9 November 2017
Total days in detention	1,276 (at date of department's latest report)

Recent detention history

14 February 2017	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community. He was transferred to Villawood Immigration Detention Centre (IDC).
12 May 2017	Transferred to Yongah Hill IDC.

Recent visa applications/case progression

18 August 2014	The Department of Home Affairs (the department) advised that Mr X's case was affected by the Full Federal Court's decision of 20 March 2013 ¹ and that he would have his complementary protection claims reassessed as part of a new International Treaties Obligations Assessment (ITOA).
1 December 2014	The department notified Mr X of the commencement of an ITOA to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
25 May 2015	The department finalised the ITOA, determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
19 June 2015	Bridging visa ceased and Mr X remained unlawfully in the community.
30 June 2015	Requested ministerial intervention.
18 April 2016	Found not to meet the guidelines for referral to the Minister to lift the bar under s 46A.
16 February 2017	Referred for removal.
6 October 2017	Requested ministerial intervention under s 46A. On 19 October 2017 Mr X was found not to meet the guidelines.
13 October 2017	Lodged a bridging visa application that was deemed invalid on the same day.

¹ *Minister for Immigration and Citizenship v SZQRB* [2013] FCAFC 33.

9 November 2017	The department advised that Mr X has no matters before the department, the courts or tribunals and is on a removal pathway.
-----------------	---

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X had previously disclosed a history of torture and trauma and was prescribed with medication to manage an adjustment disorder with depressed mood. In March 2017 Mr X was reviewed by a general practitioner and reported that he was experiencing insomnia, low mood and lack of appetite. In May 2017 he attended specialist counselling and it was noted that his torture and trauma symptoms remained consistent and clinically significant and he presented as helpless and confused about why he had been re-detained. He attended further reviews in April and September 2017 and reported feeling tired, having a poor memory and experiencing nightmares. A mental state examination was undertaken in September 2017 to assess his cognitive abilities and IHMS reported that the results were yet to be determined. At the time of IHMS's latest report Mr X continued to attend scheduled mental health consultations and was reportedly non-compliant with his prescribed antidepressant medication.</p> <p>IHMS further advised that Mr X received treatment for physical health issues including gastrointestinal concerns and physiotherapy was recommended for the management of back pain.</p>	
30 June 2016	An Incident Report recorded that Mr X threatened self-harm.

Ombudsman assessment

<p>Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has remained in an immigration detention facility for a cumulative period of more than three and a half years. He has no matters before the department, the courts or tribunals and is on a removal pathway.</p> <p>The Ombudsman notes with concern Mr X's history of torture and trauma and the advice from a counsellor that his symptoms remained consistent and clinically significant. Additionally, the Ombudsman notes that Mr X undertook a mental state examination in September 2017 and that the results were yet to be determined.</p>	
--	--