

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O assessment on Mr X who has remained in immigration detention for more than 42 months (three and a half years). The previous assessment 1002387-O1 was tabled in Parliament on 29 November 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1984
Ombudsman ID	1002387-O2
Date of department's report	30 October 2017
Total days in detention	1,278 (at date of department's report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Christmas Island Immigration Detention Centre (IDC).

Recent visa applications/case progression

24 October 2017	The Department of Home Affairs (the department) commenced an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of Mr X's case continue to engage Australia's <i>non-refoulement</i> obligations. Found not 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.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X attended a routine mental health assessment in July 2017 and no acute mental health concerns were identified. Mr X continued to take prescribed antidepressant medication and attended health promotion sessions.

Mr X attended physiotherapy and received electrical nerve stimulation treatment for back and knee pain.

Other matters

15 September 2017	The department was notified that Mr X lodged a complaint with the Australian Human Rights Commission. The matter remained ongoing at the time of the department's latest report.
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Ombudsman assessment/recommendation

Mr X has been found to be owed protection under the Refugee Convention and the complementary protection criterion and has remained in an immigration detention facility for more than three and a half years.

On 24 October 2017 the department commenced an ITOA to assess whether the circumstances of Mr X's case continue to engage Australia's *non-refoulement* obligations.

The Ombudsman's previous assessment recommended that the department expedite the consideration of Mr X's case under s 195A, that he be considered for transfer to either Villawood IDC to enable him to be closer to his family or to Yongah Hill IDC to benefit his mental health, and that IHMS review options to provide regular and frequent access to torture and trauma counselling for Mr X and expedite his pending appointment.

On 29 November 2017 the Minister advised that Mr X was found not to meet the guidelines against s 195A. The department reviewed Mr X's placement and found that a transfer to Villawood IDC was not possible due to capacity issues and that his current placement was appropriate. The Minister further advised that Mr X had attended multiple torture and trauma counselling sessions since being referred and the frequency of counselling sessions is determined by the department's torture and trauma service provider.

The Ombudsman notes that IHMS reported on 10 March 2017 that Mr X had requested referral to torture and trauma services and after attending a counselling session in January 2017 a further appointment for torture and trauma counselling remained pending. During an interview with Ombudsman staff in August 2017 Mr X advised that he had not attended torture and trauma counselling for nearly nine months.

The Ombudsman further notes that IHMS did not provide any further update on Mr X's pending appointment or attendance with torture and trauma services in its subsequent report dated 6 September 2017. However, on 29 November 2017 the Minister advised that Mr X had attended multiple torture and trauma counselling sessions since being referred.

1. In light of the inconsistencies present in the IHMS reports provided to the Office of the Commonwealth Ombudsman, the Ombudsman recommends that the department have IHMS review its processes to ensure that its reports are consistent and comprehensively cover the services that have been provided to individuals in immigration detention including attendance with torture and trauma services.
2. The Ombudsman further recommends that if Mr X's appointment with torture and trauma services remains pending, that the department ensure that its torture and trauma service provider expedite appointments within reasonable and appropriate time periods so that the service remains responsive to mental health concerns.

During an interview with Ombudsman staff in August 2017 Mr X advised that his family lives in New South Wales and that being unable to see them has a negative impact on his mental health.

3. The Ombudsman again recommends that Mr X be considered for transfer to Villawood IDC.

At the time of the department's report Mr X was awaiting the outcome of an ITOA.