

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 1002443-O was tabled in Parliament on 14 June 2017. 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	1002443-O1
Date of department's reports	5 July 2017 and 4 January 2018
Total days in detention	1,276 (at date of department'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 Home Affairs (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.

5 July 2017 and
4 January 2018

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 major depression and post-traumatic stress disorder (PTSD). In April 2017 a treating counsellor reported that Mr X's mental health would significantly deteriorate and his risk of suicidal behaviour would increase if he were to be transferred back to an immigration detention facility or to an RPC. Mr X's mental health continued to be monitored by a general practitioner and a specialist counselling service.

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

Mr X was detained on 24 July 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 resolving Mr X's immigration status while noting ongoing mental health concerns.

On 14 June 2017 the Minister 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 that Mr X's return to an RPC is likely to be protracted due to his ongoing mental and physical health concerns.

IHMS has advised that Mr X required ongoing treatment for major depression and PTSD. A treating counsellor reported that Mr X's mental health would significantly deteriorate and his risk of suicidal behaviour would increase if he were to be transferred back to an immigration detention facility or to an RPC.

The Ombudsman notes with concern that it appears likely that Mr X will remain in detention for a prolonged and uncertain period while he receives medical treatment, posing a serious risk to his mental and physical health.