

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O assessment on Mr X who has remained in immigration detention for more than five years. The previous assessment 1001247-O was tabled in Parliament on 18 October 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

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| Name | Mr X |
| Citizenship | Country A |
| Year of birth | 1961 |
| Ombudsman ID | 1001247-O1 |
| Date of department's reports | 14 August 2017 and 12 February 2018 |
| Total days in detention | 1,823 (at date of department's latest report) |

Recent detention history

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| Since the Ombudsman's previous assessment, Mr X remained at Facility E. | |
| January 2018 | Transferred to Facility D. |
| February 2018 | Transferred to Facility B. |

Recent visa applications/case progression

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| March 2017 | Lodged a bridging visa application that was deemed invalid under s 501 of the <i>Migration Act 1958</i> on the same day. |
| May 2017 | The Administrative Appeals Tribunal (AAT) affirmed the decision to refuse Mr X's Protection visa application. |
| June 2017 | Applied to the Federal Circuit Court (FCC) for judicial review. A hearing was scheduled for May 2018. |
| August 2017 | The AAT affirmed the decision to refuse Mr X's Conferral of Citizenship application of January 2005. |
| September 2017 | Applied to the FCC for judicial review of the AAT's decision to affirm the refusal of his Conferral of Citizenship application. The matter was discontinued in November 2017 at Mr X's request. |
| October 2017 | Found not to meet the guidelines for referral to the Minister under s 417 for the Minister to substitute a more favourable decision. |

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for multiple complex mental health concerns and threatened self-harm and self-harmed on multiple occasions. Following his transfer to Facility E, Mr X advised that he was distressed and anxious about his separation from his family and in May and October 2017 the treating psychiatrist recommended that Mr X be transferred to Facility B as his continued separation would likely lead to a deterioration in his mental health.

IHMS further advised that Mr X received treatment for multiple physical health concerns. He was prescribed with medication, however he continued to be non-compliant with his prescriptions. At the time of IHMS's latest report he continued to await the outcome of investigative testing.

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| February 2017 – January 2018 | Incident Reports recorded that Mr X threatened self-harm on multiple occasions. |
| February 2017 – December 2017 | Incident Reports recorded that Mr X refused food and fluid on multiple occasions. |
| April 2017 – January 2018 | Incident Reports recorded that Mr X self-harmed on multiple occasions. |
| May 2017 – November 2017 | Incident Reports recorded that Mr X was taken to hospital by ambulance on multiple occasions. |

Recent detention incidents

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| March 2017 – January 2018 | Incident Reports recorded that Mr X was allegedly involved in multiple instances of abusive and aggressive behaviour. |
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Ombudsman assessment/recommendation

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 more than five years. At the time of the Department of Home Affairs' (the department) latest report, Mr X was awaiting the outcome of judicial review.

The Ombudsman's previous assessment recommended that in light of the significant length of time Mr X has remained in detention, his continued separation from his family and his deteriorating mental health that consideration be given to transferring him to a facility near his family and that alternative placement options be investigated.

On 18 October 2017 the Minister advised that Mr X's placement was reviewed and the department found that a transfer to a different facility was not appropriate at the time. The Minister further advised that Mr X was found not to meet the guidelines for referral to the Minister for the grant of a community placement.

Mr X was subsequently transferred to Facility B to be closer to his family in February 2018.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged restricted immigration detention may pose.

IHMS advised that Mr X continued to receive treatment for multiple complex mental health concerns and had self-harmed and threatened self-harm on multiple occasions.

1. In light of Mr X's significant mental health concerns, the Ombudsman recommends that the department consider his case for a Tier 4 specialised detention placement to prevent further deterioration in his condition.