

## 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).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A, born in Country B
<b>Year of birth</b>	1958
<b>Ombudsman ID</b>	1002607-O
<b>Date of DIBP's report</b>	24 February 2017
<b>Total days in detention</b>	730 (at date of DIBP's report)

### Detention history

11 May 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea. He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
13 May 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
2 June 2012	Transferred to Wickham Point IDC.
29 June 2012	Transferred to Curtin IDC.
13 September 2012	Granted a bridging visa and released from restricted detention.
30 June 2015	Re-detained under s 189(1) following the expiry of his fourth Bridging visa on 29 June 2015. He was transferred to Wickham Point APOD.
30 June 2016	Transferred to Melbourne Immigration Transit Accommodation.
August 2017	Mr X was released from an immigration detention facility when he was involuntarily removed from Australia.

### Visa applications/case progression

19 June 2012	The Minister lifted the bar under s 46A to allow Mr X to lodge a Protection visa application.
24 August 2012	Lodged a Protection visa application.
13 September 2012	Granted a bridging visa under s 195A.
19 November 2012	Protection visa application refused.
26 November 2012	Applied to the Refugee Review Tribunal (RRT) <sup>1</sup> for merits review.
3 April 2013	RRT affirmed original decision.
22 May 2013	Applied to the Federal Circuit Court (FCC) for judicial review.
30 July 2013	The Minister withdrew from the case and the matter was remitted to the RRT.
22 November 2013	RRT affirmed the original decision of 19 November 2012.

<sup>1</sup> On 1 July 2015 the Migration Review Tribunal and RRT were merged into the Administrative Appeals Tribunal.

29 November 2013	Found not to meet the guidelines for referral to the Minister under s 417 for the substitution of a decision more favourable to Mr X.
21 March 2016	Mr X was referred for involuntary removal from Australia to Country A.
19 August 2016	Applied to the FCC for judicial review of the RRT decision of 22 November 2013 and an extension of time to make the application.
7 October 2016	The FCC issued an injunction preventing the removal of Mr X until the matter was finalised.
31 January 2017	The FCC dismissed the matter and the injunction was discharged.
24 February 2017	The Department of Immigration and Border Protection (the department) advised that as Mr X had no matters before the department, the courts or tribunals, he was on a removal pathway.

### **Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X was reviewed by an IHMS psychologist after reporting stress and anxiety associated with the possibility of being forcibly returned to Country A. He was referred for further psychological support and was reviewed by a general practitioner.

IHMS further advised that Mr X received treatment for chest, leg and abdominal pain and was prescribed with pain relief medication.

### **Other matters**

Mr X arrived in Australia with his brother, Mr Y, who resides in the community on a bridging visa.

### **Ombudsman assessment/recommendation**

Mr X was involuntarily removed from Australia in August 2017.