

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 36 months (three years). The previous assessment 1002406-O was tabled in Parliament on 31 May 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	1977
Ombudsman ID	1002406-O1
Date of DIBP's report	18 May 2017
Total days in detention	1,094 (at date of DIBP's report)

Recent detention history

Since the Ombudsman's previous assessment (1002406-O), Mr X has remained at Villawood Immigration Detention Centre (IDC).

Recent visa applications/case progression

15 March 2017	Mr X's case was referred on a ministerial submission for consideration under ss 195A and 197AB of the <i>Migration Act 1958</i> for the grant of a bridging visa or a community placement.
12 May 2017	The Minister declined to intervene under ss 195A and 197AB.
18 May 2017	The Department of Immigration and Border Protection (the department) advised that as Mr X has no matters before the department, the courts or tribunals, he is on a removal pathway. The department further advised the Mr X has refused to be voluntarily removed from Australia.

Health and welfare

International Health and Medical Services advised that there had been noted improvement in Mr X's mental health but that he continued to be carefully monitored for relapse while he remains in an immigration detention facility environment. He continued to be compliant with his medication, and his diagnoses of major depressive disorder and schizophrenia were noted to be in remission.

Information provided by Mr X

During an interview with Ombudsman staff in September 2017 Mr X advised that he was re-detained in November 2014 after his Protection visa application was refused. He explained that this was very distressing and his mental health had deteriorated upon being re-detained. He further stated that the uncertainty and worry associated with being sent back to Country A made his life very hard.

He advised that his sister and her husband came to Australia on skilled work visas and moved to Sydney so that they could be closer to him. They visit him every week, and this has really helped to support his mental health. However, he explained that he is worried about his sister, because he knows that his continued placement in immigration detention is taking a toll on her especially when she thinks about places and things she wishes she could share or experience with her brother. He stated that he also has an uncle and a cousin that visit him every few months.

Mr X explained that his role as the only son in his family is very important, and that he feels like his family has lost all hope while he remains in detention. He stated that he tries to Skype his family overseas every week, but they are not allowed to see him over the camera and they are very worried about him. He explained that when he was involuntarily admitted to a psychiatric hospital in 2015 his family was very concerned about him and his father had a heart attack.

He stated that he does not always feel safe at Villawood IDC, and is sometimes afraid to leave his room.

Mr X stated that he just wants to be able to make a new life for himself in Australia, get a job, pay tax, and make his family and the Australian government happy.

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 detention for more than three years. He has no matters before the department, the courts or tribunals and is on a removal pathway.

The Ombudsman's previous assessment (1002406-O) recommended that Mr X be considered for the grant of a community placement under s 197AB in light of his significant mental health concerns and multiple recommendations by treating psychiatrists.

On 31 May 2017 the Minister noted the recommendation and advised that Mr X's case had been referred for consideration under s 195A for the grant of a bridging visa.

The Ombudsman notes that on 12 May 2017 the Minister declined to intervene under ss 195A and 197AB.

The Ombudsman further notes that Mr X's removal is likely to be protracted as involuntary removal is not possible at present.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose. The Ombudsman notes that while Mr X's mental health has improved and his condition is noted to be in remission, he has a significant history of serious mental health concerns, and requires careful monitoring for relapse while he remains in an immigration detention facility.

In light of the protracted nature of Mr X's removal, the fragility of his mental health, and the absence of any recent behavioural or security concerns, the Ombudsman recommends that Mr X be re-considered under s 195A for the grant of a bridging visa.