

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 has remained in immigration detention for a cumulative period of more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1993
Ombudsman ID	1002641-O
Date of department's reports	18 April 2017 and 16 October 2017
Total days in detention	912 (at date of department's latest 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 – 25 May 2012	Transferred three times between an APOD, Christmas Island, and Christmas Island Immigration Detention Centre.
2 June 2012	Transferred to Facility B.
29 June 2012	Transferred to Facility C.
27 September 2012	Granted a bridging visa.
4 September 2015	Re-detained under s 189(1) after being arrested and charged with a criminal offence. He was transferred to Facility D.
12 October 2015	Transferred to Facility E.
2 November 2016	Transferred to a correctional facility. ¹

Visa applications/case progression

12 June 2012	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
24 August 2012	Lodged a Protection visa application.
11 October 2012	Protection visa application refused.
27 September 2012	Granted a bridging visa.
19 October 2012	Applied to the Refugee Review Tribunal (RRT) ² for merits review of the Department of Home Affairs' (the department) refusal of his Protection visa application.
17 April 2013	The RRT remitted Mr X's case to the department for reconsideration.

¹ On 18 April 2017 the department advised that Mr X continued to be detained under s 189(1) while he was placed in a correctional facility serving a custodial sentence.

² On 1 July 2015 the Migration Review Tribunal and RRT were merged into the Administrative Appeals Tribunal.

5 February 2014	Protection visa application refused.
5 March 2014	Applied to the RRT for merits review.
24 July 2014	The RRT remitted Mr X's case to the department for reconsideration with the direction that he is owed protection.
16 December 2014	Following legislative amendment, Mr X's Protection visa application was converted into a Temporary Protection visa (TPV) application.
4 September 2015	Issued with a Notice of Intention to Consider Cancellation of his bridging visa under s 501 following criminal convictions. Mr X's bridging visa was cancelled on the same day.
16 October 2017	The department advised that processing of Mr X's remitted TPV application remained ongoing.

Criminal history

23 December 2016	Convicted of one count of aggravated sexual assault and sentenced to five years imprisonment. Mr X's earliest estimated date of release is late 2018.
------------------	---

Health and welfare

<p>The department advised that following his placement at a correctional facility, Mr X's health and welfare continued to be managed by a corrective services department.</p> <p>On 18 April 2017 the department advised that it had requested International Health and Medical Services (IHMS) to provide the department with reports on Mr X's health and welfare for the periods that he was placed in an immigration detention facility, specifically from 11 May 2012 to 27 September 2012 and 4 September 2015 to 2 November 2016.</p>	
24 – 25 September 2015	An Incident Report recorded that Mr X was transported to hospital by ambulance on two occasions after presenting with severe back pain.

Ombudsman assessment

<p>Mr X was detained on 11 May 2012 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and a correctional facility, for a cumulative period of more than two and a half years.</p> <p>On 12 June 2012 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa. On 24 August 2012 Mr X lodged an application for a Protection visa that was subsequently converted into a TPV application.</p> <p>Mr X's TPV application was refused on 11 October 2012 and 5 February 2014. The RRT reviewed the decisions and on 24 July 2014 the application was remitted to the department with the direction that Mr X is owed protection.</p> <p>Mr X is serving a custodial sentence at a correctional facility and remains in immigration detention. His earliest estimated date of release is 3 September 2018.</p> <p>The department advised that it had requested IHMS to provide the department with reports on Mr X's health and welfare for the periods that he was placed in an immigration detention facility.</p> <p>The Ombudsman notes with concern that in the absence of any health and welfare information provided by the department, the Ombudsman is unable to assess the adequacy of healthcare provided to Mr X during this assessment period.</p>	
--	--

