

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O assessment on Mr X who remained in immigration detention for a cumulative period of more than 42 months (three and a half years). The previous assessment 1002420-O1 was tabled in Parliament on 7 February 2018. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1988
Ombudsman ID	1002420-O2
Date of department's report	24 November 2017
Total days in detention	1,276 (at date of department's report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X remained in an immigration detention facility.	
24 November 2017	Granted a Final Departure Bridging visa (FDBV) and released from immigration detention.

Recent visa applications/case progression

The Department of Home Affairs (the department) advised that Mr X was found not to be owed protection under the Refugee Convention and complementary protection criterion. He had no outstanding matters before the department, courts or tribunals and remained on a removal pathway.	
14 June 2017	Found not to meet the guidelines for referral to the Minister under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa.
24 July 2017	Found not to meet the guidelines for referral to the Minister under s 197AB for the grant of a community placement.
10 October 2017	Mr X's case was referred on a ministerial submission for consideration under s 195A. On 17 November 2017 the submission was returned to the department for redrafting.
24 November 2017	Granted an FDBV.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment for a degenerative medical condition. He underwent a surgical procedure and was advised by a treating surgeon that the procedure would be of limited benefit as Mr X's condition was untreatable. In a follow-up review in July 2017 the surgeon advised that although there was no available treatment for his condition, Mr X required ongoing monitoring and assessment. IHMS advised that in September 2017 Mr X was provided with a medical aid to assist with his condition. Mr X also underwent a magnetic resonance imaging scan after presenting with ongoing back pain following a fall. He attended physiotherapy and was prescribed with pain relief medication.

IHMS further advised that Mr X continued to engage with the mental health team and attend specialist counselling for the management of a history of torture and trauma. In April 2017 a treating psychologist reported that Mr X's symptoms would improve with appropriate care and support outside the immigration detention facility in the community. In May, June and August 2017 specialist counsellors recommended that Mr X receive ongoing psychological treatment.

12 June 2017

Mr X attended hospital for treatment of a respiratory infection.

Other matters

The department advised that Mr X is divorced from his former wife.

Ombudsman assessment

Mr X was found not to be owed protection under the Refugee Convention and complementary protection criterion and remained in an immigration detention facility for a cumulative period of more than three and a half years.

On 24 November 2017 Mr X was granted an FDBV and released from immigration detention.

The Ombudsman's previous assessment recommended that in light of the length of time Mr X had remained in detention, the absence of any recent behavioural or security concerns, and the vulnerability associated with the serious nature of his condition, Mr X's case be referred to the Minister for consideration under s 197AB for the grant of a community placement.

The Ombudsman further recommended that should Mr X not be granted a community placement, the department engage with service providers and IHMS to provide Mr X with opportunities to actively participate in programs and activities that accommodate his medical condition.

On 7 February 2018 the Minister advised that Mr X had been granted an FDBV and that Mr X was able to seek appropriate support and medical services in the community. The Minister further advised that Mr X was a plaintiff in ongoing court proceedings.

The Ombudsman notes with concern advice from IHMS that Mr X has a degenerative medical condition and that a surgeon advised that although there was no available treatment for his condition, Mr X required ongoing monitoring and assessment. Specialist counsellors also recommended that Mr X receive ongoing psychological support for his mental health concerns.