

## 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 more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1974
<b>Ombudsman ID</b>	1002553-O
<b>Date of DIBP's reviews</b>	8 December 2016 and 9 June 2017
<b>Total days in detention</b>	912 (at date of DIBP's latest review)

### Detention history

9 December 2014	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community. He was transferred to Villawood Immigration Detention Centre.
3 March 2015	Transferred to Facility B.

### Visa applications/case progression

8 July 2000	Arrived in Australia on a student visa.
31 August 2002	Student visa cancelled due to non-compliance with visa conditions.
9 December 2014	Mr X resided in the community as unlawful non-citizen until he was located by authorities and detained under s 189(1).
24 December 2014	Lodged a Protection visa application with an associated bridging visa application.
30 December 2014	Bridging visa application refused.
6 January 2015	Found to be ineligible to receive the Primary Application Information Service to assist him with his protection visa application.
5 February 2015	Protection visa application refused.
11 February 2015	Applied to the Refugee Review Tribunal (RRT) for merits review.
18 March 2015	RRT affirmed original decision.
15 April 2015	Applied to the Federal Circuit Court (FCC) for judicial review.
2 September 2015	The FCC ordered the Minister and Mr X to provide further information.
21 March 2016	The FCC adjourned with judgment reserved.
14 February 2017	Lodged a bridging visa application.
16 February 2017	The Department of Immigration and Border Protection (the department) declined to grant Mr X a bridging visa after finding that he was not likely to comply with bridging visa conditions.

20 February 2017	Applied to the Administrative Appeals Tribunal (AAT) <sup>1</sup> for merits review of the department's decision to refuse his bridging visa application.
27 February 2017	AAT affirmed original decision.
16 March 2017	Lodged a bridging visa application. On 17 March 2017 the department found that Mr X's bridging visa application was invalid.
30 March 2017	Lodged a bridging visa application. On 31 March 2017 the department refused to grant Mr X a bridging visa.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was previously diagnosed with an adjustment disorder and presented with nightmares and anxiety. He was trialled on medication, however it was ceased after he reported side-effects. During a psychiatric review in June 2016, Mr X advised that he did not wish to trial further medication and declined to attend psychological counselling as he found it repetitive. Mr X disclosed a history of torture and trauma in September 2016 and accepted a referral for specialist counselling. He continued to attend regular reviews with the mental health team and improvements in his condition were noted in April 2017. IHMS further advised that Mr X was provided with treatment for gout, hearing loss and reflux and was monitored by a general practitioner.

### Information provided by Mr X

During an interview with Ombudsman staff at Facility B in May 2017 Mr X advised that he attended the final hearing at the FCC more than a year ago and did not know when the judgment would be handed down.

Mr X said that he experiences discrimination from some Serco officers and management at Facility B. He reported that he had represented himself at the FCC and had encountered issues preparing his case while in detention. He advised that he had limited access to computers and even though he had been granted additional access, the Serco officers forced him to leave the computer area before his session expired. He stated that he had made complaints about the conduct of Serco officers but he claimed they were not adequately investigated.

Mr X advised that his mental health had deteriorated recently and he felt as though his mind was in hibernation. He said he had lost feeling in his fingers, was suffering from nightmares and had ceased prescribed medication after experiencing side-effects, such as agitation. He said he saw a psychiatrist who he trusted.

Mr X reported that since being in detention he has become antisocial and prefers to remain alone in his room. He said that other detainees from his home country asked him why he is in Australia and he found this threatening.

### Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in an immigration detention facility for more than two and a half years. At the time of the department's latest review Mr X was awaiting the outcome of judicial review.

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