

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 has remained in immigration detention for more than four and a half years. The previous assessment 1002051-O was tabled in Parliament on 21 June 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1989
Ombudsman ID	1002051-O1
Date of department's reports	16 August 2017 and 14 February 2018
Total days in detention	1,640 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Facility B.

Recent visa applications/case progression

February 2017	The Minister declined to intervene under s 195A of the <i>Migration Act 1958</i> to grant Mr X a bridging visa.
June 2017	Found not to meet the guidelines for referral to the Minister under s 197AB for the grant of a community placement.
October 2017	Found not to meet the guidelines for referral to the Minister under s 195A for the grant of a bridging visa.
November 2017	Issued with a Notice of Intention to Consider Refusal (NOICR) of his Temporary Protection visa (TPV) application under s 501. Mr X provided a response in December 2017.

Other legal matters

July 2017	Mr X's outstanding criminal charges were discharged without conviction. He was ordered to pay a good-behaviour bond.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X had previously disclosed a history of torture and trauma and had a history of self-harm. He was placed on high Supportive Monitoring and Engagement observations following incidences of self-harm and a mental health nurse noted that Mr X presented with a stable mood at the time but was prone to emotional dysregulation. An improvement was noted in his mood as he remained future focused. IHMS reported that Mr X's mental health was being adversely affected by his placement at an immigration detention facility and referred to previous advice from an IHMS Mental Health Director that his self-harming behaviour and mental health concerns had developed from, and been exacerbated by, the detention centre environment. He continued to be monitored by the mental health team as required.

April 2017	Incident Reports recorded that Mr X self-harmed on two occasions.
November 2017	An Incident Report recorded that Mr X threatened self-harm.
November 2017	An Incident Report recorded that Mr X refused food and fluid.

Ombudsman assessment/recommendation

Mr X was detained in August 2013 after arriving in Australia by sea and has remained in an immigration detention facility for more than four and a half years.

In June 2016 Mr X lodged an application for a TPV and in November 2017 he was issued with a NOICR of his application under s 501. At the date of the Department of Home Affairs' (the department) latest report consideration of the matter remained ongoing.

In July 2017 Mr X's outstanding criminal charges were discharged without conviction.

The Ombudsman's previous assessment noted with concern the number of self-harm incidents involving Mr X and the advice from IHMS that Mr X's mental health is adversely affected by his ongoing placement in an immigration detention facility. IHMS further advised that Mr X was likely to continue to self-harm while in a detention centre environment when he perceived that his needs were not being met.

The Ombudsman's previous assessment recommended that the department expedite referral of his case to the Minister for consideration under s 195A for the grant of a bridging visa. The Ombudsman further recommended that the department refer Mr X's case to the Minister for consideration under s 197AB for the grant of a community placement.

On 21 June 2017 the Minister advised that he had recently considered Mr X's case under s 195A and declined to intervene. The Minister further advised that Mr X had been identified for assessment against the guidelines for a possible referral for consideration under s 197AB for the grant of a community placement.

In June 2017 Mr X was found not to meet the guidelines for referral to the Minister under s 197AB for the grant of a community placement.

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.

In light of Mr X's significant and ongoing mental health concerns, and the advice from IHMS that Mr X's mental health is being adversely affected by the detention centre environment, the Ombudsman recommends that Mr X be considered under s 197AB for the grant of a community placement.