

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 42 months (three and a half years). The previous assessment 1002459-O was tabled in Parliament on 6 September 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	1972
Ombudsman ID	1002459-O1
Date of department's reports	22 July 2017 and 22 January 2018
Total days in detention	1,278 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X has continued to be placed in the community. ¹	
22 July 2017	<p>The Department of Home Affairs (the department) advised that International Health and Medical Services (IHMS) recommended that Mr X be transferred to an alternative community placement. IHMS advised that Mr X's mental health was being adversely affected by sharing accommodation with someone with different religious beliefs as this triggered Mr X's post-traumatic stress disorder (PTSD) related to events in his home country.</p> <p>The IHMS Mental Health Director supported this request and on 11 July 2017 Mr X was transferred to an alternative community placement in South Australia on a temporary basis. On 12 January 2018 Mr X's case was referred to the Minister under s 197AD of the <i>Migration Act 1958</i> to formalise his current community placement.</p>

Recent visa applications/case progression

The department has advised that under current policy settings Mr X is not eligible to have his protection claims assessed in Australia and remains liable for transfer back to a Regional Processing Centre (RPC) on completion of his treatment.	
22 July 2017 and 22 January 2018	The department advised that it is supporting the government of Papua New Guinea to finalise the Refugee Status Determination of Mr X while he remains temporarily in Australia for medical treatment.

¹ Mr X was granted a placement in the community under s 197AB and remains in immigration detention.

Health and welfare

IHMS advised that Mr X attended psychological counselling and was prescribed with antidepressant medication for the management of PTSD, a history of torture and trauma and a personality disorder. In April 2017 a treating psychologist reported that Mr X's mental health was being adversely affected by sharing accommodation with someone with different religious beliefs, as this triggered Mr X's symptoms of PTSD related to events in his home country. The IHMS Mental Health Director supported the request to transfer Mr X to an alternative community placement where he could reside on his own. The psychologist further recommended that Mr X be transferred to a community placement in Victoria to enable him to reside closer to his support networks.

IHMS further advised that Mr X received treatment for multiple physical health concerns, including a knee condition, hearing and gastric issues, and respiratory concerns. He was referred to an orthopaedic specialist and physiotherapist in January 2017 for ongoing knee pain. He was also referred to a surgeon in February 2017 for review of a condition sustained from torture and trauma in his home country. At the time of IHMS's latest review, Mr X was awaiting appointments with a respiratory specialist, an ear, nose and throat specialist, and a cardiologist for an irregular heart beat and chest pain.

22 February 2017 and
22 July 2017

Incident Reports recorded that Mr X threatened self-harm on two occasions.

Ombudsman assessment/recommendation

Mr X was detained on 18 August 2013 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than three and a half years.

Mr X was transferred to an RPC and returned to Australia for medical treatment. The department advised that because Mr X arrived after 19 July 2013 he remains liable for transfer back to an RPC on completion of his treatment.

The department further advised that it is supporting the government of Papua New Guinea to finalise the Refugee Status Determination of Mr X while he remains temporarily in Australia for medical treatment.

The Ombudsman's previous assessment recommended that priority be given to resolving Mr X's immigration status.

On 6 September 2017 the Minister advised that under current legislation and policy settings, Mr X remains subject to return to an RPC on completion of his treatment. The Minister advised that the department is supporting the relevant offshore government to finalise Mr X's Refugee Status Determination while he remains in Australia.

The Ombudsman notes that Mr X's return to an RPC is likely to be protracted due to his ongoing mental and physical health concerns.

IHMS has advised that Mr X continued to receive treatment for PTSD, a history of torture and trauma and a personality disorder. On 11 July 2017 Mr X was transferred to an alternative community placement in South Australia following IHMS's advice that his mental health was being adversely affected by sharing accommodation with someone with different religious beliefs, as this triggered his symptoms of PTSD related to events in his home country.

A treating psychologist recommended in April 2017 that Mr X be transferred to a community placement in Victoria to enable him to reside closer to his support networks.

The Ombudsman notes with concern that it appears likely that Mr X will remain in detention for a prolonged and uncertain period while he receives medical treatment, posing a serious risk to his mental and physical health.

The Ombudsman recommends that the department consider transferring Mr X to a community placement in Victoria to enable him to reside closer to his support networks.