

## 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 three years. The previous assessment 1002606-O was tabled in Parliament on 6 September 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1989
<b>Ombudsman ID</b>	1002606-O1
<b>Date of department's reports</b>	24 August 2017 and 22 February 2018
<b>Total days in detention</b>	1,094 (at date of department's latest report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Facility C	
May 2017	Placed in the community. <sup>1</sup>

### Recent visa applications/case progression

The Department of Home Affairs (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.	
May 2017	The Minister intervened under s 197AB of the <i>Migration Act 1958</i> to grant Mr X a community placement.
August 2017 and February 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.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to experience recurrent pain and was referred for investigative testing. Tests indicated normal results and Mr X was advised that the pain was likely related to anxiety. He was prescribed with medication for pain and referred to a psychologist.  IHMS further advised that in March 2017 he was reviewed by a psychiatrist and diagnosed with a mental health condition. He continued to be prescribed with medication and was awaiting an appointment for specialist counselling.	
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<sup>1</sup> Mr X was granted a placement in the community under s 197AB and remains in immigration detention.

## Other matters

March 2017	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman in relation to his transfer to Facility C and the loss of some of his property. In May 2017 the department provided a response and in October 2017 the complaint was finalised.
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## Ombudsman assessment

Mr X was detained in October 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 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 Ombudsman's previous assessment recommended that priority be given to resolving Mr X's immigration status while noting ongoing mental health concerns. The Ombudsman further recommended that the department prioritise a request to admit Mr X to a psychiatric hospital and that his case be referred to the Minister for urgent consideration of the grant of a community placement.

On 6 September 2017 the Minister advised that he had intervened under s 197AB to grant Mr X a community placement and that the department's health service provider had stated that admitting Mr X to a medical facility was no longer required. The Minister also advised that the department is supporting the Government of Papua New Guinea to finalise the Refugee Status Determination of Mr X while he remains in Australia.

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 mental health concerns.

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.