

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 more than 36 months (three years). The previous assessment 1002387-O was tabled in Parliament on 1 March 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	1984
Ombudsman ID	1002387-O1
Date of DIBP's report	3 May 2017
Total days in detention	1,094 (at date of DIBP's report)

Recent detention history

Since the Ombudsman's previous assessment (1002387-O), Mr X remained at Yongah Hill Immigration Detention Centre (IDC).	
7 December 2016	Transferred to Christmas Island IDC.

Recent visa applications/case progression

3 May 2017	The Department of Immigration and Border Protection (the department) advised that Mr X's case was being considered for possible referral to the Minister for consideration under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa.
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Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X requested a referral for specialist counselling for the management of a history of torture and trauma after reporting that his previous engagement with specialist counselling at Yongah Hill IDC had been beneficial for his mental health. He attended a counselling session in January 2017 and a follow-up session remained pending at the time of IHMS's latest report. Mr X also engaged in a health promotion group in relation to stress and self-esteem concerns.</p> <p>IHMS further advised that Mr X received treatment for the management of a foot condition that prevents his engagement in sport. IHMS noted that his condition requires more invasive treatment. Mr X was reviewed by a podiatrist in February 2017 and continued to be monitored by a general practitioner with podiatry referrals.</p>	
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Information provided by Mr X

During a telephone conversation with Ombudsman staff on 17 August 2017 Mr X advised that his mental health is deteriorating at Christmas Island IDC. He said he feels depressed, highly stressed, does not sleep well, and has been having flashbacks from trauma he experienced in his home country. He advised that he used to attend specialist counselling every week for the management of a history of torture and trauma, but stated that he has not seen a counsellor for nearly nine months. He said that being able to see a torture and trauma specialist counsellor again would help him deal with the flashbacks associated with his history of trauma.

Mr X further stated that his family lives in New South Wales and being so far away from them has a negative impact on his mental health, as he is unable to contact his family easily and have their support. He stated that he finds the environment at Christmas Island IDC very restrictive, and that his mental health would be better if he was placed at another facility, like Yongah Hill IDC, or ideally at Villawood IDC where he would be closer to his family.

He advised that he talks to his family over the internet every couple of days, but not being able to see them is very hard for him. He stated that whenever he talks with his family they are always asking him when they will be able to see him, or when he will be released, and it is very upsetting that he is unable to give them good news.

Mr X also stated that he requires further treatment for his foot condition which prevents him from engaging in any sporting activities. He stated that he attends art and English classes which he enjoys, but he would like to be able to engage in sports too.

He has a legal representative and stated that he thought they would be appealing his case to the Federal Court.

Ombudsman assessment/recommendation

Mr X has been found 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 three years. Mr X's Protection visa application was refused on character grounds under s 501.

The department advised that Mr X's case was being considered for possible referral to the Minister for consideration under s 195A for the grant of a bridging visa.

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.

1. In light of the length of time Mr X has remained in detention and the absence of any recent behavioural concerns, the Ombudsman recommends that the department expedite the consideration of Mr X's case under s 195A.

The Ombudsman notes that Mr X reported deterioration in his mental health associated with his placement at Christmas Island IDC and separation from his family.

2. The Ombudsman recommends that Mr X be considered for transfer to either Villawood IDC to enable him to be closer to his family or to Yongah Hill IDC to benefit his mental health.

The Ombudsman further notes that Mr X reported to IHMS that torture and trauma counselling had previously been beneficial for his mental health. The Ombudsman also notes the advice of IHMS that he has not had an appointment since January 2017 and a follow-up appointment was pending at the time of IHMS's latest report.

3. The Ombudsman recommends that IHMS reviews options to provide regular and frequent access to torture and trauma counselling for Mr X and expedite his pending appointment.