

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 remained in immigration detention for a cumulative period of more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1988
Ombudsman ID	1002584-O
Date of DIBP's reports	30 January 2017 and 27 July 2017
Total days in detention	912 (at date of DIBP's latest report)

Detention history

13 September 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea. He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
15 September 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
9 October 2013	Transferred to Manus Island Regional Processing Centre (RPC). ¹
15 June 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Brisbane Immigration Transit Accommodation (ITA).
25 July 2014	Transferred to Wickham Point IDC.
10 August 2014	Transferred to Manus Island RPC.
17 April 2015	Returned to Australia and re-detained under s 189(1). He was transferred to Wickham Point APOD.
18 April 2015	Transferred to Melbourne ITA.
10 June 2016	Transferred to Maribyrnong IDC.
26 July 2016	Transferred to Christmas Island IDC.
25 November 2016	Transferred to Yongah Hill IDC.
20 January 2017	Transferred to community detention.
28 August 2017	Granted a bridging visa and released from community detention.

¹ Time spent at an RPC is not counted towards time spent in immigration detention in Australia for the purposes of reporting under s 486N.

Visa applications/case progression

<p>Mr X arrived in Australia by sea after 19 July 2013 and was transferred to an RPC. The Department of Immigration and Border Protection (the department) has advised that Mr X is barred under ss 46A and 46B from lodging a valid protection visa application in Australia as a result of his method of arrival and transfer to an RPC.</p> <p>Mr X was returned to Australia from an RPC for medical treatment on 15 June 2014 and 17 April 2015. 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 an RPC on completion of his treatment.</p>	
29 December 2016	The Minister intervened under s 197AB to allow Mr X to reside in community detention.
27 July 2017	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

<p>International Health and Medical Services (IHMS) advised that Mr X received treatment for multiple complex mental health concerns including a history of torture and trauma, depression and anxiety.</p> <p>In November 2016 Mr X presented to the mental health team following an incident of self-harm and was placed under Supportive Monitoring and Engagement (SME) observations. In November and December 2016 Mr X was admitted to hospital and was diagnosed with acute stress disorder and adjustment disorder with depressive features and a chronic risk of self-harm. He was placed under SME observations and was supported by the IHMS mental health team. A psychiatrist recommended that Mr X be placed in community detention for the benefit of his mental health.</p> <p>Following his placement in community detention Mr X continued to be monitored by a general practitioner and psychologist. Upon review in March and April 2017 Mr X reported that he was experiencing flashbacks, had difficulty sleeping, was anxious regarding his immigration status, and was fearful of being returned to an immigration detention facility.</p> <p>IHMS further advised that Mr X was provided with treatment for chronic back pain. In August 2015 Mr X underwent surgery, however following little improvement in his condition he subsequently commenced physiotherapy. A scan in March 2016 indicated persistent narrowing of the spinal canal with some nerve root impingement, however Mr X was advised that further surgical intervention was not required and was prescribed with medication to manage his symptoms.</p> <p>IHMS advised that Mr X reported experiencing chest pain on multiple occasions and underwent extensive testing with no heart issues identified. IHMS reported that anxiety was determined to be a contributing factor.</p>	
3 August 2015	An Incident Report recorded that Mr X required an ambulance.
9 June 2016	An Incident Report indicated that an ambulance was requested for Mr X after he reported chest pain and collapsed.
12 July 2016	An Incident Report recorded that Mr X was escorted to hospital.
17 July 2016 – 10 December 2016	Incident Reports indicated that Mr X self-harmed on six occasions.
13 August 2016 – 2 January 2017	Incident Reports recorded that Mr X threatened self-harm on five occasions.
14 August 2016	An Incident Report recorded that Mr X refused food and fluid.

24 November 2016 – 1 December 2016 and 10 December 2016 – 18 December 2016	IHMS Health Report indicated that Mr X was admitted to hospital for psychiatric assessment on two occasions.
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Detention incidents

13 August 2015 – 2 October 2016	Incident Reports indicated that Mr X displayed abusive and aggressive behaviour towards detention staff and detainees on multiple occasions.
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Ombudsman assessment/recommendation

Mr X was detained on 13 September 2013 after arriving in Australia by sea and has been held in detention for a cumulative period of more than two and a half years.

Mr X was transferred to an RPC and returned to Australia for medical treatment on two occasions. 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.

Mr X was granted a Final Departure Bridging visa on 28 August 2017 and was released from immigration detention.

The Ombudsman notes with concern Mr X’s history of serious mental health concerns and self-harm. In light of these concerns, the Ombudsman recommends that the department explore options to provide further access to support and medical services while Mr X remains in the community on a Final Departure Bridging visa for better management of his health concerns and capacity to support himself.