

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O assessment on Mr X who has remained in immigration detention for more a cumulative period of than five years. The previous assessment 1001280-O was tabled in Parliament on 13 September 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	1990
Ombudsman ID	1001280-O1
Date of department's reports	12 August 2017 and 10 February 2018
Total days in detention	1,822 (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

April 2017	The ministerial submission for consideration of Mr X's case under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa was returned to the Department of Home Affairs (the department) un-actioned.
June 2017	The Federal Circuit Court dismissed Mr X's application for judicial review of the Immigration Assessment Authority's decision to affirm the refusal of his Safe Haven Enterprise visa.
June 2017	Applied to the Federal Court for judicial review. He was scheduled to attend a hearing in March 2018.
January 2018	The Minister declined to intervene under s 195A to grant Mr X a bridging visa.

Health and welfare

International Health and Medical Services advised that Mr X had previously received treatment for symptoms of anxiety and depression, but declined to attend routine mental health screenings and did not receive treatment for major mental health concerns during this assessment period.

November 2017 An Incident Report recorded that Mr X refused food and fluid.

Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the *Migration Act 1958* and has remained in an immigration detention facility for a cumulative period of more than five years.

The Ombudsman's previous assessment recommended that in light of the significant time Mr X has remained in an immigration detention facility, consideration be given to granting Mr X a bridging visa under s 195A while he awaits the resolution of his case.

On 13 September 2017 the Minister advised that the department was preparing a submission to refer Mr X's case for his consideration under s 195A for the grant of a bridging visa.

At the date of the department's latest report Mr X was awaiting the outcome of judicial review.

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 the significant length of time Mr X has remained in detention, the Ombudsman recommends that Mr X be considered under s 195A for the grant of a bridging visa.