

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 than 54 months (four and a half years). The previous assessment 1003478 was tabled in Parliament on 20 October 2016. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1983
Ombudsman ID	1001148-O
Date of DIBP's reports	2 October 2016 and 2 April 2017
Total days in detention	1,640 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous assessment (1003478), Mr X remained at Yongah Hill Immigration Detention Centre (IDC).	
2 February 2017	Transferred to Villawood IDC.

Recent visa applications/case progression

2 October 2016	The Department of Immigration and Border Protection (the department) advised that Mr X's case had been identified for assessment against the guidelines under s 195A of the <i>Migration Act 1958</i> for referral to the Minister for his consideration to grant a bridging visa.
2 April 2017	The department advised that it continues to consider the resolution of Mr X's immigration status.

Health and welfare

International Health and Medical Services advised that Mr X received treatment for the management of anxiety, insomnia, agitation and a history of torture and trauma. Mr X attended supportive and specialist counselling and was prescribed with medication. He was referred for a psychiatric assessment in February 2017 and at the time of the department's latest report was awaiting an appointment.	
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Information provided by Mr X

During a telephone conversation with Ombudsman staff on 31 August 2017 Mr X advised that he believed that the Minister had declined to grant him a bridging visa in November 2016. He stated that he had a lawyer, and his understanding was that he had recently been invited to make a new application for temporary protection.

Mr X stated that his mental health has not been very good, that he feels hopeless and really run down. He explained that spending nearly five years in detention, having the possibility of a bridging visa refused, and the ongoing uncertainty of his future was very upsetting. He stated that everything is routine in detention and he feels like he is always being watched, so there is no sense of freedom. Mr X further advised that while he can go on excursions, he does not want to go, because the process of leaving and returning to an immigration detention facility is stressful.

Mr X stated that he had friends that he keeps in contact with in Sydney. He explained that his family are in Country A, and that he has not been in contact with them for about two years because it is too hard to explain his situation to them.

Ombudsman assessment/recommendation

Mr X has been found not 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 four and a half years.

The department advised that it is considering the resolution of Mr X's immigration status.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged restricted immigration detention may pose.

In light of the significant length of time Mr X has remained in detention and the absence of any recent behavioural or security concerns, the Ombudsman recommends that Mr X be considered under s 195A for the grant of a bridging visa while the department resolves his immigration status.