

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 42 months (three and a half years).

The first assessment 1002274-O was tabled in Parliament on 1 March 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Mr X
Citizenship	Country A
Year of birth	1986
Ombudsman ID	1002274-O1
Date of DIBP's reviews	26 December 2016 and 26 June 2017
Total days in detention	1,276 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1002274-O), Mr X remained at Yongah Hill Immigration Detention Centre.	
18 October 2016	Transferred to community detention.

Recent visa applications/case progression

The Department of Immigration and Border Protection (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.	
7 October 2016	The Minister intervened under s 197AB of the <i>Migration Act 1958</i> to allow Mr X to reside in community detention.
26 June 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

International Health and Medical Services (IHMS) advised that Mr X was prescribed with medication and attended psychological counselling for depression related to detention fatigue. Before being transferred to community detention Mr X regularly attended specialist counselling and following his transfer he remains on a waiting list.	
IHMS further advised that Mr X received treatment for multiple physical health concerns, including a nasal condition, ongoing headaches and urology concerns. His condition continued to be monitored by a general practitioner and an ear, nose and throat specialist. He was awaiting a urology review at the time of IHMS's latest report.	

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 three and a half 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 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.

The Ombudsman's previous assessment (1002274-O) recommended that Mr X be considered for a community detention placement and that priority be given to resolving his immigration status.

On 1 March 2017 the Minister noted that he had intervened under s 197AB to allow Mr X to reside in community detention and advised that under current legislation and policy settings, Mr X remains subject to return to an RPC on completion of his treatment.

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

The Ombudsman notes that under current policy settings Mr X is not eligible to have his protection claims assessed by Australia and that without an assessment of Mr X's claims it appears likely he will remain in detention for a prolonged period.

The Ombudsman again recommends that priority is given to resolving Mr X's immigration status.