

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	1986
Ombudsman ID	1002516-O
Date of DIBP's reports	4 October 2016 and 4 April 2017
Total days in detention	912 (at date of DIBP's latest report)

Detention history

6 August 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. Later that day he was transferred to Christmas Island Immigration Detention Centre (IDC).
28 March 2014	Transferred to Nauru Regional Processing Centre (RPC). ¹
27 May 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Wickham Point APOD.
11 May 2016	Transferred to Yongah Hill IDC.
3 February 2017	Transferred to Melbourne Immigration Transit Accommodation (ITA).
24 August 2017	The Department of Immigration and Border Protection (the department) advised that Mr X resided in community detention.
28 August 2017	Granted a bridging visa and released from community detention.

Visa applications/case progression

Mr X arrived in Australia by sea after 19 July 2013 and was transferred to an RPC. 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.

Mr X was returned to Australia from an RPC for medical treatment on 27 May 2014.

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.

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.

12 March 2014	The department notified Mr X of the unintentional release of personal information. ²
14 June 2016	Found not to meet the guidelines for referral to the Minister under s 197AB for a community detention placement.
4 April 2017	The department advised that Mr X had been identified for assessment against the guidelines under s 197AB.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X received treatment and underwent a number of investigations for chronic headaches with associated nausea, vomiting, loss in sensation, visual disturbance, loss of appetite and physical weakness. In May 2015 a specialist advised that Mr X either had a slowly evolving brain tumour or a chronic tension headache disorder. In July 2016 Mr X attended a neurological review and the neurologist advised that Mr X was experiencing muscle contraction headaches as a result of depression. He was referred to a psychiatrist to investigate the possibility of a mental health component to his headaches. He was reviewed by the neurologist again in November 2016 and at the time of IHMS's latest report was awaiting a follow-up review.</p> <p>Upon review with a psychiatrist in January 2017 Mr X was diagnosed with reactive depression and was prescribed with medication. The psychiatrist recommended that Mr X be transferred to Melbourne and this subsequently occurred in February 2017.</p>	
12 January 2014	An Incident Report recorded that Mr X refused food and fluid.

Other matters

Mr X's cousin, Ms Y, and her family, reside in community detention and are the subjects of Ombudsman assessment 1002479-O.
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Information provided by Mr X

<p>During an interview with Ombudsman staff at Melbourne ITA on 21 June 2017 Mr X advised that he had family residing in the community in Melbourne that visited him once a month.</p> <p>Mr X reported that he found IHMS mental health counselling useful. However, he further stated that being in an immigration detention facility had made his mental health worse, and that if he was not released into the community he did not think he would be able to get better.</p>

Case status

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

² In a media release dated 19 February 2014 the Minister advised that an immigration detention statistics report was released on the department's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as the department became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by the department.