

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

Name	Mr X
Citizenship	Country A
Year of birth	1986
Ombudsman ID	1002661-O
Date of DIBP's reports	29 April 2017 and 27 October 2017
Total days in detention	912 (at date of DIBP's latest report)

Detention history

30 April 2015	Detained under s 189(1) of the <i>Migration Act 1958</i> following his release from a correctional facility. He was transferred to Facility B.
14 May 2015	Transferred to Facility C.
16 October 2015	Transferred to Facility D.

Visa applications/case progression

7 January 2010	Lodged a Partner visa application.
29 May 2011	Granted a Temporary Partner visa and arrived in Australia on 4 July 2011.
5 November 2012	The Department of Immigration and Border Protection (the department) refused to grant Mr X a Permanent Partner visa. He was granted a bridging visa that ceased on 14 August 2014.
16 November 2012	Applied to the Migration Review Tribunal (MRT) for merits review.
16 July 2014	MRT affirmed original decision.
18 August 2014	Granted a bridging visa.
28 August 2014	Applied to the Federal Circuit Court (FCC) for judicial review.
19 November 2014	Issued with a Notice of Intention to Consider Cancellation of his bridging visa under s 116. The visa was cancelled on 19 December 2014.
13 October 2015	The FCC remitted the matter to the MRT. On 11 January 2016 the Administrative Appeals Tribunal (AAT) ¹ affirmed the refusal of his Permanent Partner visa application.
18 May 2016	Lodged a Protection visa application that was refused on 12 October 2016.
17 November 2016	Applied to the AAT for merits review. The AAT affirmed the decision on 3 February 2017.

¹ On 1 July 2015 the MRT and Refugee Review Tribunal were merged into the AAT.

25 January 2017	Found not to meet the guidelines for referral to the Minister under s 195A.
2 March 2017	Applied to the Federal Circuit Court (FCC) for judicial review. The matter was adjourned on multiple occasions and dismissed on 9 October 2017.

Criminal history

19 November 2014	Mr X was charged with multiple sex offences and on 28 April 2015 he was convicted and remanded in custody.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X engaged with specialist counselling and the mental health team for the management of multiple mental health concerns including a history of torture and trauma, depression, anxiety, post-traumatic stress disorder and an adjustment disorder. He attended a mental health review in November 2016 and reported that he was experiencing sleeping difficulties, nightmares and irritability in the context of his situational circumstances. He was prescribed with medication and engaged with the mental health team in May 2017 for stress-related symptoms, detention fatigue and feelings of frustration and hopelessness.

Ombudsman assessment

Mr X was detained on 30 April 2015 following his release from a correctional facility and has remained in an immigration detention facility for more than two and a half years.

Mr X's Protection visa application was refused on 12 October 2016 and on 3 February 2017 the AAT affirmed the refusal.

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. IHMS has advised that Mr X expressed frustration with his situational circumstances and in a review in May 2017 he demonstrated symptoms of detention fatigue.

The FCC dismissed Mr X's application for judicial review on 9 October 2017. At the date of the department's latest report, Mr X was still within the timeframe to apply for judicial review of the FCC's decision.