

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABELING 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 1001285-O was tabled in Parliament on 21 June 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1974
<b>Ombudsman ID</b>	1001285-O1
<b>Date of department's report</b>	18 September 2017
<b>Total days in detention</b>	1,640 (at date of department's report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Melbourne Immigration Transit Accommodation (ITA).

### Recent visa applications/case progression

26 July 2017	The Minister lifted the bar under s 48B of the <i>Migration Act 1958</i> to allow Mr X to lodge a temporary visa application.
7 September 2017	Lodged a Temporary Protection visa (TPV) application.
18 September 2017	The Department of Home Affairs (the department) advised that Mr X had been identified as a person of interest to the department in relation to information he provided in his TPV application.  The department further advised that as a result Mr X was not being considered for an assessment against the guidelines under ss 195A and 197AB for the grant of a bridging visa or community placement as a result.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to engage with group counselling and specialist psychotherapy for the management of anxiety associated with a significant history of torture and trauma. Following a review in March 2017 an IHMS mental health nurse noted that he presented with symptoms of detention fatigue and a sense of hopelessness.

IHMS further advised that Mr X continued to be monitored for chronic back pain associated with an injury sustained from torture and trauma in Country A.

### **Information provided by Mr X**

During an interview with Ombudsman staff on 20 June 2017 Mr X advised that he attended specialist counselling which he found helpful, but that he found it frustrating that the doctors at Melbourne ITA changed so frequently.

Mr X explained that his two young children and wife live in Country A and he has regular contact with them over the phone and Skype. He said that he misses his family a lot and that staying in contact is difficult particularly because the internet is very slow when using Skype. He explained that his sister lives in Sydney and used to visit him when he was placed at Villawood Immigration Detention Centre, but he preferred to be placed at Melbourne ITA.

Mr X stated that he spends his time sleeping, watching television, playing soccer and going to English classes. He explained that he isolates himself to try and stay out of trouble.

### **Ombudsman assessment**

Mr X was detained on 23 March 2013 after arriving in Australia as an irregular air arrival and has remained in an immigration detention facility for more than four and a half years.

Mr X was previously found not to be owed protection under the Refugee Convention and complementary protection criterion. His case was affected by a Full Federal Court decision which reviewed an International Treaties Obligations Assessment undertaken by the department to assess the implications of a data breach.

On 26 July 2017 the Minister lifted the bar under s 48B to allow Mr X to apply for a temporary visa and on 7 September 2017 Mr X lodged an application for a TPV.

The Ombudsman's previous assessment recommended that Mr X be considered for a bridging visa or community placement.

On 21 June 2017 the Minister advised that Mr X was being considered for referral to him under s 195A for the grant of a bridging visa.

The department has since advised that Mr X has been identified as a person of interest and as a result he is not currently being considered for an assessment against the guidelines under ss 195A and 197AB.

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 advised that Mr X presented with symptoms of detention fatigue and a sense of hopelessness and continued to engage with group counselling and specialist psychotherapy for the management of anxiety associated with a significant history of torture and trauma.