

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 a cumulative period of more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1994
Ombudsman ID	1002704-O
Date of department's reports	3 July 2017 and 3 January 2018
Total days in detention	914 (at date of department's latest report)

Detention history

19 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, Christmas Island.
20 August 2013	Transferred to Christmas Island Immigration Detention Centre.
14 June 2014	Transferred to Nauru Regional Processing Centre (RPC). ¹
27 April 2016	Returned to Australia and re-detained under s 189(1). He was transferred to Facility B.
20 February 2017	Placed in the community. ²

Visa applications/case progression

<p>Mr X arrived in Australia by sea after 19 July 2013 and was transferred to an RPC. The Department of Home Affairs (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.</p> <p>Mr X was returned to Australia from an RPC for medical treatment on 27 April 2016.</p> <p>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.</p>	
13 February 2017	The Minister intervened under s 197AB to grant Mr X a community placement in Queensland.
10 October 2017	The Minister intervened under s 197AD and varied Mr X's community placement to an address in New South Wales.
3 July 2017 and 3 January 2018	The department advised that Mr X had undergone a Refugee Status Determination by the government of Nauru and had been found to be a refugee.

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.

² Mr X was granted a placement in the community under s 197AB and remains in immigration detention.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received specialist treatment for significant mental health concerns, including post-traumatic stress disorder (PTSD), depression, insomnia and a history of self-harm. Mr X required an urgent transfer to Australia for medical treatment after an attempted suicide related to feelings of hopelessness and despair on Nauru. In April 2016 Mr X was admitted to a psychiatric hospital under an involuntary treatment order. He reported feelings of frustration about his prolonged detention and fear of being returned to Nauru or Country A and was prescribed with medication for the management of depression, nightmares and anxiety. He was assessed as being at chronic risk of self-harm and received ongoing psychiatric support upon his transfer back to an immigration detention facility. Mr X was admitted to hospital and placed on Psychological Support Program observations on multiple occasions following incidents of self-harm while at Facility B.

After being placed in the community in February 2017, Mr X engaged with a mental health team and ongoing specialist counselling and it was reported that his mental health had improved since he had been placed in the community. In April 2017 a psychiatrist reported that although Mr X's mental state was stable, his condition was variable and dependent upon his refugee status and his sense of hopelessness while awaiting the outcome. The treating psychiatrist recommended that Mr X be transferred to Sydney to enable him to reside closer to his family and support network for the benefit of his mental health and to help reduce his risk of self-harm and suicide. In May 2017 IHMS advised that it had submitted this recommendation to the department and the outcome of the request was pending.

In July 2017 it was reported that Mr X was socially isolated in Queensland which caused him to become increasingly distressed and to express thoughts of self-harm. The treating counsellor again recommended that in light of Mr X's history of self-harm and the deterioration in his mental health caused by his social isolation, Mr X be transferred to a community placement address in Sydney to reside closer to his support networks.

IHMS further advised that Mr X underwent investigative testing after presenting with ongoing urological concerns. He was prescribed with medication and attended a follow-up review with a urologist in July 2017. Mr X also attended physiotherapy for knee pain related to an injury sustained from a fall.

18 May 2016 – 25 October 2016	Incident Reports recorded that Mr X self-harmed on multiple occasions.
8 June 2016	Incident Reports recorded that Mr X threatened self-harm, self-harmed and was transported to hospital by ambulance.

Ombudsman assessment

Mr X was detained on 19 August 2013 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than two 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 medical treatment.

Mr X has been found to be a refugee by the government of Nauru.

The Ombudsman notes that Mr X's return to an RPC is likely to be protracted due to his ongoing mental and physical health concerns.

IHMS advised that Mr X requires ongoing specialist treatment for significant mental health concerns, including PTSD, depression, insomnia and a history of self-harm. Mr X's treating counsellors and psychiatrists advised that his mental health would benefit if he was transferred to a community placement address in Sydney so that he could reside closer to his support network.

On 10 October 2017 Mr X was transferred to a community placement address in New South Wales.

The Ombudsman notes with concern that it appears likely that Mr X will remain in detention for a prolonged and uncertain period while he receives medical treatment, posing a serious risk to his mental and physical health.