

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 more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1956
Ombudsman ID	1002763-O
Date of department's report	13 September 2017
Total days in detention	730 (at date of department's report)

Detention history

14 September 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.
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Visa applications/case progression

Mr X arrived in Australia on 25 January 1969. Following legislative amendment on 1 September 1994, Mr X held a Transitional (Permanent) visa.	
30 August 2006	Mr X's case was considered under s 501 following criminal convictions.
29 April 2009	A delegate of the Minister declined to cancel Mr X's Transitional (Permanent) visa under s 501 and instead issued him with a warning letter advising that further criminal convictions could result in the cancellation of his visa.
18 November 2008	Issued with a Notice of Intention to Consider Cancellation of his Transitional (Permanent) visa under s 501.
7 June 2010 – 12 June 2012	Applied for Australian citizenship on four occasions. His applications were deemed invalid on three occasions and on one occasion his application was refused.
1 August 2015	Transitional (Permanent) visa mandatorily cancelled under s 501.
8 September 2015	Mr X lodged a Request for Revocation of Cancellation. On 16 September 2016 the Minister decided not to revoke the decision to cancel Mr X's visa under s 501.
9 October 2015 – 16 November 2015	Lodged three bridging visa applications, all of which were deemed invalid under s 501.
29 March 2017	The Federal Court (FC) dismissed Mr X's application for judicial review of the Minister's decision not to revoke the cancellation of his visa.
14 April 2017	Applied to the Full Federal Court (FFC) for judicial review of the FC's decision.
4 August 2017	FFC adjourned pending the outcome of a matter before the High Court (HC).

Criminal history

May 2004 – August 2005	Convicted of multiple offences, including child sex offences, sexual assault and acts of indecency with a person under 16 years of age. He was sentenced to eight years and six months imprisonment.
May 2015	Convicted of failing to comply with reporting obligations and producing, disseminating or possessing child abuse material. He was sentenced to two years and six months imprisonment.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X received intermittent support from the mental health team for situational depression and anxiety. He has also presented with poor sleep, poor concentration and ruminating thoughts related to his immigration pathway and mother's health concerns.</p> <p>IHMs advised that Mr X was transferred to hospital on 22 April 2016 after presenting with facial numbness. He was prescribed with medication and discharged on the same day. On 3 May 2016 he underwent investigative testing which indicated that he had suffered a stroke. He was immediately transferred to hospital for review by a neurology team and referred for investigative testing. On 9 May 2016 he was reviewed at a hospital emergency department after presenting with a headache and paraesthesia and his medication was adjusted. His condition continued to be monitored by a neurologist and IHMS advised that no further investigative testing was required.</p> <p>IHMS further advised that Mr X received treatment for additional physical health conditions, including urological concerns, nasal congestion, asthma, a dermatological condition, high blood pressure and high cholesterol. He was reviewed by a respiratory specialist and underwent investigative testing following ongoing breathing concerns and was prescribed with medication.</p>	
28 September 2015	An Incident Report recorded that Mr X threatened self-harm.

Other matters

Mr X's mother and two brothers reside in the Australian community.	
13 October 2015 – 1 February 2018	Mr X lodged a number of complaints with the Office of the Commonwealth Ombudsman in relation to his immigration detention, including the conduct of his case manager. The complaints were reviewed and subsequently closed.

Case status

<p>Mr X was detained on 14 September 2015 following his release from a correctional facility and has remained in an immigration detention facility for more than two years.</p> <p>Mr X's Transitional (Permanent) visa was mandatorily cancelled under s 501 on 1 August 2015 and on 16 September 2016 the Minister decided not to revoke the decision to cancel his visa.</p> <p>On 14 April 2017 he applied to the FFC for judicial review of the Minister's decision and on 4 August 2017 the FFC adjourned pending the outcome of a matter before the HC.</p>	
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