

## 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).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1985
<b>Ombudsman ID</b>	1002567-O
<b>Date of DIBP's reports</b>	5 January 2017 and 6 July 2017
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

### Detention history

3 December 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.
4 December 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
5 December 2013	Transferred to Manus Island Regional Processing Centre (RPC). <sup>1</sup>
8 January 2015	Returned to Australia and re-detained under s 189(1). He was transferred to Brisbane Immigration Transit Accommodation.
1 March 2015	Transferred to Wickham Point IDC.
2 March 2015	Transferred to Wickham Point APOD.
22 March 2016	Transferred to community detention.
28 August 2017	Granted a Final Departure Bridging visa and released from community detention.

### 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 Immigration and Border Protection (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 8 January 2015.</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>	
15 March 2016	The Minister intervened under s 197AB to allow Mr X to reside in community detention.

<sup>1</sup> Time spent at an RPC is not counted towards time spent in immigration detention in Australia for the purposes of reporting under s 486N.

6 July 2017	The department advised that it is supporting the government of Papua New Guinea to finalise the Refugee Status Determination of Mr X while he remains temporarily in Australia for medical treatment.
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### **Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X received treatment for multiple complex mental health concerns including post-traumatic stress disorder, depression, anxiety, bipolar disorder, psychosis, insomnia, schizophrenia and social phobia. IHMS reported that Mr X experienced significant deterioration in his mental health in January 2015, and required hospitalisation in Australia for approximately five weeks. A psychiatrist advised that Mr X had experienced a reactive psychotic episode associated with the stress of his uncertain immigration status, and was prescribed with medication to manage his symptoms.

Mr X regularly engaged with a psychiatrist and psychologist, and attended specialist counselling for the management of a history of torture and trauma. Upon psychiatric review in May 2017, Mr X's condition was assessed to be further deteriorating. IHMS advised that his deterioration was associated with being unable to engage in paid work or study as well as uncertainty regarding his future. Mr X had previously engaged in volunteer work, however he ceased after reporting that he felt he was becoming depressed again. A psychiatrist recommended that Mr X's immigration status be adjusted to allow him to engage in paid work or study as this would significantly improve his mental health and give him a sense of purpose. Additionally, IHMS advised that the possibility of Mr X's cousin being transferred to Australia to reside with Mr X had been raised.

IHMS further advised that Mr X received treatment for multiple physical health concerns including hypertension, dental issues and a benign tumour on his left shoulder.

### **Other matters**

Mr X's cousin, Mr Y, was located at Manus Island at the time of the department's latest report.

### **Ombudsman assessment/recommendation**

Mr X was detained on 3 December 2013 after arriving in Australia by sea and remained in detention 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 treatment.

The department further advised that it is supporting the government of Papua New Guinea to finalise the Refugee Status Determination of Mr X while he remains temporarily in Australia for medical treatment.

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

The Ombudsman notes with concern Mr X's significant history of mental health concerns including depression, social phobia and schizophrenia and the extensive support that he has required.

1. In light of these concerns, the Ombudsman recommends that the department explore options to provide further access to support and medical services while Mr X remains in the community on a Final Departure Bridging visa to better manage his ongoing health concerns and his capacity to support himself.

Additionally, the Ombudsman notes that IHMS advised that the possibility of Mr X's cousin being transferred to Australia to reside with Mr X had been raised.

2. The Ombudsman recommends that the department explore options to transfer Mr X's cousin to Australia so that he can be of further support to him while he remains in the community on a bridging visa.