

486N-1002545-O2

16 August 2018

The Hon Peter Dutton MP  
Minister for Home Affairs  
Parliament House  
CANBERRA ACT 2600

Dear Minister

**Assessments under s 486O of the *Migration Act 1958***

In accordance with s 486O of the *Migration Act 1958* (the Act) I am forwarding my assessment concerning 20 cases on the schedule at Attachment A who fall within the reporting and assessment obligation imposed by Part 8C of the Act.

My office has assessed the appropriateness of the immigration detention arrangements of the 20 cases on the schedule and for 19 of them has made no recommendations. My office has made one recommendation in one case which is at Attachment B.

The Act also requires that I prepare this de-identified statement for tabling in the Parliament.

As part of this assessment my office has reviewed information relating to each individual's case progression, detention placement, legal matters and health and welfare. When required, further information was requested under s 486Q of the Act or s 8 of the *Ombudsman Act 1976*.

Each of the individuals and family groups on the schedule were transferred to a Regional Processing Centre (RPC) and returned to Australia for medical treatment. The Department of Home Affairs (the department) has advised that because they arrived after 19 July 2013 they remain liable for transfer back to an RPC on completion of their treatment.

The department has also advised that it is supporting the Governments of Nauru and Papua New Guinea to finalise the Refugee Status Determination of 14 of the individuals and family groups while they remain temporarily in Australia for medical treatment.

The department further advised that it is exploring options to resolve the immigration status of Mr X (1002197-O3). Under current policy settings he is only eligible to have his protection claims assessed by the Government of Papua New Guinea.

Mr X (1002572-O1), Mr X and his family (1002522-O1), Mr X and his family (1002350-O3), and Mr X (1002857-O) have been found to be refugees by either the Government of Nauru or the Government of Papua New Guinea.

I note the advice of medical professionals that the mental health of Mr X's wife, Ms X (1002522-O1), Mr X and his family (1002287-O2), and Mr X (1002587-O1) is at risk of significant deterioration if they are returned to either an immigration detention facility or a regional processing country.

I remain concerned that there are a number of cases listed on the schedule where the detainees:

- are likely to remain in detention for an indefinite period while they receive medical treatment,
- are unlikely to be returned to the countries undertaking regional processing due to their medical conditions, and
- the uncertain duration of detention is adversely impacting their mental and physical health.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Michael Manthorpe', with a stylized, flowing script.

Michael Manthorpe PSM  
Commonwealth Ombudsman

*Influencing systemic improvement in public administration*

**SCHEDULE**  
**Assessments of people placed in immigration detention for more than two years**

When coming to this assessment, the Office reviewed information relating to each individual's case progression, detention placement, legal matters and health and welfare. Additionally, when required, further information was requested under s 486Q of the Act or s 8 of the *Ombudsman Act 1976*.

No	Ombudsman ID	Recommendations	Name	No. of People	Year of birth	Days in detention <sup>1</sup>	Detention Status <sup>2</sup>	Date of 486N report	Date last assessment tabled
1	1002545-O2	0	Ms X	1	1958	1,277	FDBV	17 May 2018	25 June 2018
2	1002330-O2	0	Mr X (husband) Ms X (wife) Mr X (son) Master X (son)	4	1972 1990 2000 2005	1,460 1,460 1,460 1,460	FDBV FDBV FDBV FDBV	26 February 2018	7 February 2018
3	1002334-O2	0	Mr X (husband) Ms X (wife) Master X (son)	3	1979 1986 2015	1,459 1,459 992	CD CD CD	7 September 2017 and 5 March 2018	13 September 2017
4	1002572-O1	0	Mr X	1	1987	1,094	CD	10 January 2018	6 December 2017
5	1002304-O2	0	Mr X	1	1991	1,458	CD	1 February 2018	7 February 2018
6	1002522-O1	0	Mr X (husband) Ms X (wife) Mr X (son) Mr X (son) Master X (son)	5	1970 1975 1995 1999 2015	1,278 1,278 1,278 1,278 999	CD CD CD CD CD	9 October 2017 and 9 April 2018	13 September 2017
7	1002287-O2	0	Mr X (husband) Ms X (wife) Ms X (daughter) Master X (son) Miss X (daughter)	5	1974 1977 2005 2012 2016	1,458 1,458 1,458 1,458 731	CD CD CD CD CD	11 January 2018 and 21 January 2018	7 February 2018
8	1002312-O2	0	Mr X	1	1986	1,458	FDBV	7 February 2018	7 February 2018
9	1002197-O3	0	Mr X	1	1976	1,640	FDBV	16 April 2018	18 June 2018
10	1002587-O1	0	Mr X	1	1988	1,096	FDBV	29 January 2018	29 November 2017
11	1002857-O	0	Mr X	1	1977	730	FDBV	13 March 2018	First assessment
12	1002537-O2	0	Ms X	1	1989	1,277	FDBV	26 April 2018	18 June 2018

<sup>1</sup> At date of the department's latest report.

<sup>2</sup> Community Placement (CD), Final Departure Bridging visa (FDBV).

Attachment A

No	Ombudsman ID	Recommendations	Name	No. of People	Year of birth	Days in detention	Detention Status	Date of 486N report	Date last assessment tabled
13	1002394-O2	0	Mr X (husband) Ms X (wife) Miss X (daughter)	3	1982 1990 2015	1,460 1,460 866	CD CD CD	6 November 2017, 22 December 2017 and 7 May 2018	13 September 2017
14	1002350-O3	0	Mr X (husband) Ms X (wife) Mr X (son) Mr X (son) Master X (son)	5	1968 1972 1991 1997 2001	1,458 1,379 1,379 1,379 1,379	FDBV FDBV FDBV FDBV FDBV	23 March 2018	9 May 2018
15	1002604-O1	0	Mr X (father) Ms X (mother) Master X (son) Miss X (daughter) Master X (son)	5	1984 1987 2005 2007 2015	1,095 1,095 1,095 1,095 986	CD CD CD CD CD	19 February 2018	7 February 2018
16	1002596-O1	0	Mr X (husband) Ms X (wife) Master X (son)	3	1983 1989 2015	1,094 1,094 966	CD CD CD	7 February 2018	29 November 2017
17	1002314-O2	0	Mr X	1	1978	1,458	CD	12 February 2018	29 November 2017
18	1002354-O2	0	Mr X	1	1994	1,459	FDBV	26 March 2018	21 March 2018
19	1002171-O2	1	Mr X	1	1974	1,640	FDBV	29 March 2018	21 March 2018
20	1002605-O1	0	Ms X (mother) Mr X (son)	2	1971 1996	1,094 1,094	CD CD	20 February 2018	29 November 2017



**RECOMMENDATIONS BY THE COMMONWEALTH OMBUDSMAN TO  
THE MINISTER FOR HOME AFFAIRS**  
*Under s 486O of the Migration Act 1958*

<b>Name</b>	Mr X
<b>Ombudsman ID</b>	1002171-O2
<p>Mr X was detained in August 2013 after arriving in Australia by sea and remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than four and a half years.</p> <p>In May 2018 Mr X was granted a Final Departure Bridging visa (FDBV) and released from immigration detention.</p> <p>When granted an FDBV, individuals are responsible for their own accommodation and living costs, however in some circumstances may be eligible for the Status Resolution Support Services (SRSS) Program which may provide financial assistance.</p> <p>International Health and Medical Services (IHMS) advised that Mr X continued to require specialist treatment for a chronic health condition raising concerns about his capacity to financially support himself in the community.</p> <p><b>Recommendation</b></p> <p>The Ombudsman recommends that:</p> <ol style="list-style-type: none"><li>1. The department consider providing Mr X with financial support, such as through the SRSS Program, in light of his health condition and the possibility that his condition may impact on his capacity to maintain employment.</li></ol>	