

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING 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 60 months (five years). The previous assessment 1001981-O was tabled in Parliament on 13 September 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1986
Ombudsman ID	1001981-O1
Date of department's report	16 October 2017
Total days in detention	1,822 (at date of department's report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Facility B.	
8 August 2017	Transferred to Facility C.

Recent visa applications/case progression

16 October 2017	The Department of Home Affairs (the department) advised that Mr X was awaiting the outcome of his application to the Federal Circuit Court for judicial review of the department's decision to refuse his Safe Haven Enterprise visa application. A hearing was scheduled for 30 October 2017.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment for multiple physical health concerns, including hepatitis B and hypertension.	
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Recent detention incidents

May 2017	An Incident Report recorded that Mr X was involved in an altercation with another detainee at Facility B. IHMS advised that he was transferred to hospital and received treatment for head injuries.
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Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has remained in an immigration detention facility for more than five years. At the time of the department's report, Mr X was awaiting the outcome of judicial review.

The Ombudsman's previous assessment recommended that Mr X's case be referred to the Minister under s 195A of the *Migration Act 1958* for the grant of a bridging visa given the length of time he has remained in detention and the absence of any recent behavioural or security concerns.

On 13 September 2017 the Minister advised that he had considered Mr X's case under s 195A and declined to intervene. As there had been no significant changes in Mr X's case, the Minister advised that further consideration under s 195A was not appropriate at that time.

The Ombudsman notes that the Minister last considered Mr X's case under s 195A in February 2017 and declined to intervene.

The Ombudsman also 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.

In light of the significant length of time Mr X has remained in an immigration detention facility and the absence of any recent behavioural or security concerns, the Ombudsman again recommends that he be considered under s 195A for the grant of a bridging visa.