

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABELING 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 a cumulative period of more than five years. The previous assessment 1000373-01 was tabled in Parliament on 29 November 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

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| Name | Mr X |
| Citizenship | Country A |
| Year of birth | 1984 |
| Ombudsman ID | 1000373-02 |
| Date of department's report | 6 December 2017 |
| Total days in detention | 1,822 (at date of department's report) |

Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Facility C.

Recent visa applications/case progression

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| December 2017 | <p>The Department of Home Affairs (the department) advised that Mr X remained a person of interest to an external agency.</p> <p>The department further advised that while Mr X has unresolved security issues he is not considered suitable to be referred to the Minister under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa.</p> <p>The department advised that as Mr X has no matters before the department, the courts or tribunals, he is on a removal pathway.</p> |
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Health and welfare

International Health and Medical Services advised that Mr X did not receive treatment for any major physical or mental health concerns during this assessment period.

Other matters

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| August 2017 | <p>The department was notified that Mr X lodged a complaint with the Australian Human Rights Commission. In September 2017 the department provided a response. The matter remained ongoing at the time of the department's report.</p> |
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Information provided by Mr X

In January 2018 Mr X advised Ombudsman staff that his transfer into an immigration detention facility had impacted on his contact with his daughter. He stated that a family court made a decision to grant him fortnightly access to contact his daughter, but that his lawyer had advised that the ruling could only be enforced if he was within the appropriate jurisdiction.

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 immigration detention, both in a detention facility and the community, for a cumulative period of more than five years. He has no matters before the department, the courts or tribunals and is on a removal pathway.

The Ombudsman's previous assessment recommended that in light of Mr X's mental health concerns, his separation from his daughter and the significant length of time he has remained in detention, that he be transferred to Facility D or Facility B to enable him to reside closer to his family while he awaits the resolution of his immigration status.

On 29 November 2017 the Minister advised that the department had reviewed Mr X's placement and found that a transfer to Facility B was not possible due to capacity issues. The Minister further advised that due to Mr X's need for a high level of monitoring a transfer to Facility D was also not possible.

The Ombudsman notes that Mr X's removal is likely to be protracted as involuntary removal is not possible at present.

In light of the likely protracted nature of Mr X's removal and his continued separation from his daughter, the Ombudsman recommends that the department consider transferring Mr X to an alternative facility.