

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 for more than two and a half years.

Name	Mr X
Citizenship	Country A
Year of birth	1963
Ombudsman ID	1002756-O
Date of department's reports	7 September 2017 and 7 March 2018
Total days in detention	912 (at date of department's latest report)

Detention history

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.
October 2015	Transferred to Facility C.
May 2017	Transferred to Facility D.
November 2017	Transferred to Facility C.

Visa applications/case progression

<p>Mr X arrived in Australia in July 1986 without a valid visa. He was granted several entry permits and in November 1986 he was granted refugee status. He was granted a permanent entry permit on refugee grounds in December 1987.</p> <p>Following legislative amendment on 1 September 1994, Mr X held a Transitional (Permanent) visa.</p> <p>Following criminal convictions in May 2008 and March 2012, the Department of Home Affairs (the department) decided not to cancel Mr X's Transitional (Permanent) visa after issuing him with a Notice of Intention to Consider Cancellation of his visa under s 501 of the <i>Migration Act 1958</i>.</p> <p>His Transitional (Permanent) visa was cancelled under s 501 in August 2015.</p>	
August 2015	Mr X lodged a request for revocation of the cancellation of his Transitional (Permanent) visa. In January 2017 the Minister decided not to revoke the decision to cancel Mr X's visa under s 501.
November 2016	Lodged a Protection visa application.
November 2016	Lodged a bridging visa application that was deemed invalid.
March 2017	Applied to the Federal Court (FC) for judicial review of the decision not to revoke the cancellation of his Transitional (Permanent) visa. A hearing was adjourned in June 2017.
July 2017	Protection visa application refused.
August 2017	Applied to the Administrative Appeals Tribunal (AAT) for merits review of the refusal of his Protection visa application.

November 2017	The AAT remitted Mr X's case to the department for reconsideration with the direction that Mr X is a refugee under s 5H of the <i>Migration Act 1958</i> .
December 2017	Issued with a Notice of Intention to Consider Refusal (NOICR) of his Protection visa under s 501. Mr X provided a response in January 2018.
March 2018	The department advised that Mr X's application for judicial review in the FC regarding the cancellation of his Transitional (Permanent) visa was listed for a directions hearing in March 2018.

Criminal history

March 1992 – June 2015	Convicted of multiple criminal offences and was sentenced to multiple terms of imprisonment.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for multiple complex physical health concerns. He was prescribed with medication and underwent pathology and investigative testing for the ongoing management of his medical conditions.

IHMS further advised that Mr X received treatment for the management of a mental health condition. He engaged with the mental health team for psychotherapy sessions and was recommended to attend regular reviews. In July 2017 a treating psychiatrist noted that he was compliant with his prescribed medication and that his condition was stable.

Case status

Mr X was detained in September 2015 following his release from a correctional facility and has remained in an immigration detention facility for more than two and a half years.

Mr X's Transitional (Permanent) visa was cancelled under s 501 in August 2015. In August 2015 Mr X lodged a request for revocation of the cancellation of his visa and in January 2017 the Minister decided not to revoke the cancellation decision. In March 2017 Mr X applied to the FC for judicial review.

Mr X lodged a Protection visa application in November 2016 which was refused in July 2017. The AAT remitted Mr X's case to the department for reconsideration with the direction that Mr X is a refugee under the *Migration Act 1958* and the department issued Mr X with a NOICR of his Protection visa application under s 501 in December 2017.

At the time of the department's latest report Mr X was awaiting the outcome of judicial review of the decision not to revoke the cancellation of his Transitional (Permanent) visa and the reconsideration of his Protection visa under s 501 remained ongoing.