

## 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 a cumulative period of more than five years. The previous assessment 1000557-O was tabled in Parliament on 13 September 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A, born in Country B
<b>Year of birth</b>	1984
<b>Ombudsman ID</b>	1000557-O1
<b>Date of department's reports</b>	26 September 2017 and 26 March 2018
<b>Total days in detention</b>	1,823 (at date of department's latest report)

### Recent detention history

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

### Recent visa applications/case progression

May 2017	The Minister declined to intervene under s 195A of the <i>Migration Act 1958</i> to grant Mr X a bridging visa.
September 2017	Found not to meet the guidelines for referral to the Minister under s 195A for the grant of a Final Departure Bridging visa.
September 2017	Referred to Status Resolution Operational Support section for consideration of a specialised detention placement. On 6 October 2017 he was assessed as not meeting the criteria.
March 2018	The Department of Home Affairs (the department) advised that Mr X is ineligible for an assessment against the guidelines under s 197AB for the grant of a community placement due to his vulnerabilities.  The department further advised that as Mr X has no matters before the department, the court or tribunals, he is on an involuntary removal pathway.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to be prescribed with medication and engaged with the mental health team for the management of complex mental health concerns. In July 2017 Mr X informed a mental health nurse that he would like to cease his prescribed medications and he was advised to discuss his options with a general practitioner (GP). He continued to be supported by IHMS.

IHMS advised that Mr X received treatment for a medical condition with associated liver concerns.

November 2017	An Incident Report recorded that Mr X refused food and fluid.
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### **Information provided by Mr X's advocate**

Mr X's advocate contacted the Office of the Commonwealth Ombudsman in May 2017 to express concern about Mr X's medical treatment and his continued placement in an immigration detention facility. His advocate stated that Mr X has a diagnosis of complex mental health concerns and should have access to emergency psychiatric care which is not available at Facility C. The advocate further stated that Mr X was diagnosed with a medical condition and did not appear to be being provided with adequate treatment to prevent the associated deterioration of his physical health.

### **Ombudsman assessment**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion through the non-statutory process and has remained in an immigration detention facility for a cumulative period of more than five years. He has no matters before the department, the courts or tribunals and is on an involuntary removal pathway.

The Ombudsman's previous assessment noted that Mr X's removal was likely to be protracted and recommended that Mr X be referred on a new ministerial submission for consideration under s 197AB for the grant of a community placement, if he was not already granted a bridging visa.

On 13 September 2017 the Minister advised that he had recently considered Mr X's case under s 195A for the grant of a bridging visa and declined to intervene. The Minister further advised that Mr X was being assessed against the guidelines under s 197AB for possible referral to the Minister.

In March 2018 the department advised that Mr X is ineligible for an assessment against the guidelines under s 197AB due to his vulnerabilities.

The Ombudsman 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.

IHMS has advised that Mr X continued to receive treatment for complex mental health concerns.

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