

# REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

*Under s 486O of the Migration Act 1958*

*Personal identifier: 441/08*

This is the second s 486O report by the Ombudsman on Mr X as he has remained in immigration detention since the Ombudsman's first report (405/08). The Ombudsman's first report was sent to the Minister on 10 April 2008 and was tabled in Parliament on 13 May 2008. This report updates the material in that report and should be read in conjunction with it.

## Principal facts

### *Visa applications*

1. Mr X lodged a Bridging Visa application, application withdrawn, request under s 195A of the *Migration Act 1958* assessed as not meeting the guidelines, request under s 197AB sent to the Minister (September 2007), Minister declined to intervene (October 2007), Minister exercised his power under s 48B to allow Mr X to lodge a further Protection Visa application (October 2007); s 197AB request lodged (February 2008), s 417 request assessed as not meeting the guidelines, s 48B request assessed as meeting the guidelines and submission sent to the Minister, s 197A request assessed as meeting the guidelines and the Department (DIAC) advises it is being progressed as a matter of urgency (March 2008), DIAC advises this submission was included in the joint review of long term detainees by the Minister and the Ombudsman. Mr X was granted a Temporary Protection Visa (TPV) on 6 June 2008.

### *Current immigration status*

2. Mr X resides lawfully in the community with his wife and child.

## Ombudsman consideration

3. DIAC's further report to the Ombudsman under s 486N is dated 7 April 2008. The Minister's Statement to Parliament is dated 13 May 2008.
4. The Ombudsman sighted the following documents: a psychological summary report by Professional Support Services dated 12 March 2008; and a report by the Human Rights and Equal Opportunity Commission (HREOC) titled '*Concerning events at Villawood Immigration Detention Centre (VIDC)*' dated 6 December 2007 in response to a complaint lodged by Mr X.

## Key issues

### *Health and welfare*

5. The PSS report states that Mr X has been seen by PSS approximately once a month since September 2007 and that he '*presented with the following psychological symptoms, including anger volatility and frustration, low mood and suicidal ideation. Client presents as highly reactive to situational circumstances*'.
6. DIAC advises that Mr X was placed on Suicide and Self Harm (SASH) watch for 20 days in November 2007 after expressing suicide ideation. PSS reported this happened '*when he received news that he was not able to support his wife in labour and the birth of his first child in community detention*'. The PSS report further states that '*Mr X's mental*

*health state appears to have declined as evident with his recent placement on SASH. It is likely that Mr X's psychological state would continue to deteriorate without changes to his environmental circumstances, given his level of anxiety due to separation from his wife and child, as well as his long-term detention'.*

7. The PSS report concludes that *'Mr X's psychological condition appears unlikely to be successfully managed in detention, given his reluctance to engage in psychological services, his high level of reactivity to negative news and his low levels of resilience and tolerance'.*

*Community Links*

8. DIAC advises Mr X's wife, Ms Y, gave birth to their first child in November 2007. Ms Y is now the holder of a TPV. DIAC also advises Mr X's aunt, uncle and four cousins are permanent Australian residents.

**Ombudsman assessment/recommendation**

9. As noted in Report 405/08, of serious concern in Mr X's case is his deteriorating mental health, which has been linked directly to his length of time in detention as well as his ongoing separation from his wife and baby. The Ombudsman notes that Mr X was placed in Community Detention with his wife and child as a result of the Minister's review and has subsequently been granted a TPV. The Ombudsman makes no recommendations in this report.

*V. Thom*

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Dr Vivienne Thom  
Acting Commonwealth and Immigration Ombudsman

*8 July 2008*

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Date