

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 449/08

This is the second s 486O report by the Ombudsman on Mr X as he had remained in immigration detention following the Ombudsman's first report (352/08). The Ombudsman's first report was sent to the Minister on 8 January 2008 and tabled in Parliament on 12 March 2008. This report updates the material in that report and should be read in conjunction with it.

Principal facts

Visa applications

1. Mr X applied to the High Court (HC) for special leave to appeal the November 2007 Federal Court decision (December 2007); Mr X lodged a request under s 351 of the *Migration Act 1958* for Ministerial Intervention (December 2007); request did not meet guidelines and was referred to the Minister on a schedule (January 2008); the Minister declined to consider the request (March 2008); the Department (DIAC) initiated s 195A assessment but it did not meet the guidelines for referral to the Minister (March 2008); appeal dismissed by the HC (May 2008); Mr X's case was considered by the Minister in his review of long term detainees (May 2008).

Removal details

2. Mr X was removed from Australia on 23 May 2008.

Ombudsman consideration

3. DIAC's further report to the Ombudsman under s 486N is dated 9 April 2008 and the Minister's Statement to Parliament was tabled on 12 March 2008.
4. Ombudsman staff interviewed Mr X by telephone on 15 May 2008.
5. Ombudsman staff sighted the following documents: an International Health and Medical Services (IHMS) medical summary report dated 10 March 2008; a Professional Support Services psychological summary report dated 25 March 2008; and written communication from Mr X received on 19 May 2008.

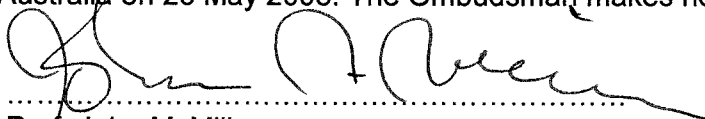
Key issues

Health and welfare

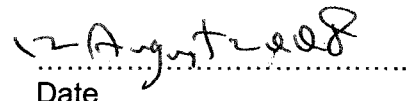
6. A Mental State Examination was conducted on 4 January 2008 and 'it was noted that [Mr X's] mood was low and he suffers from occasional panic attacks'. The PSS report noted that Mr X had 'declined the offer for psychological services' and PSS could not establish any prognosis due to limited contact with Mr X.

Ombudsman assessment/recommendation

7. In Report 352/08 the Ombudsman recommended 'that DIAC does all that is reasonable to keep Mr X advised of the progress of this claim [loss of personal property in Baxter fire November 2005], and expedites fair compensation for Mr X'. The Ombudsman notes that Mr X has been approached by DIAC to provide further information and that he will be able to continue to pursue the matter offshore.
8. Mr X's matter before the HC was dismissed in May 2008 and he was removed from Australia on 23 May 2008. The Ombudsman makes no recommendations in this report.



Prof. John McMillan
Commonwealth and Immigration Ombudsman



12 August 2008
Date