

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 483/08

This is the third s 486O report by the Ombudsman on Mr X as he has remained in immigration detention since the Ombudsman's second report. The Ombudsman's first report (359/08) was sent to the Minister on 14 January 2008 and tabled in Parliament on 12 March 2008. The Ombudsman's second report (392/08) was sent to the Minister on 31 March 2008 and tabled in Parliament on 14 May 2008. This report updates the material in those reports and should be read in conjunction with them.

Principal facts

Visa applications

1. The Department's (DIAC) request under s 197AB of the *Migration Act 1958* (November 2007) did not meet the guidelines for referral to the Minister; s 417 request lodged on Mr X's behalf (January 2008) considered as part of the Minister's review of long term detainees (May 2008); the Minister agreed to consider Mr X for a Removal Pending Bridging Visa (RPBV) (April 2008) and will make a decision on this visa once all relevant checks are complete. On 29 April 2008 Mr X was placed in Community Detention.

Current immigration status

2. Mr X remains an unlawful non-citizen detained in the community.

Removal details

3. DIAC advises that Mr X remains uncooperative with removal efforts by refusing to sign a travel document application. DIAC further advises that there is no change to the Embassy of the Russian Federation's advice that Russian law prevents the issuing of a passport or a travel document to Russian nationals who refuse to sign travel document applications.
4. DIAC advises that it is continuing to attempt to persuade Mr X to sign a travel document application, and that cooperation with DIAC is one of the conditions of the consideration of a RPBV.

Ombudsman consideration

5. DIAC's report to the Ombudsman under s 486N is dated 25 June 2008.
6. Ombudsman staff sighted a medical summary report from International Health and Medical Services (IHMS) dated 18 June 2008.

Key issues

Health and welfare

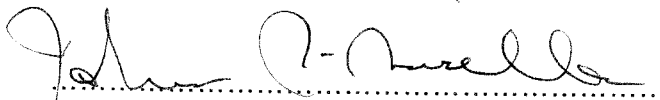
7. Previous reports highlighted Mr X's psychological issues and the IHMS report of June 2008 noted that Mr X was on voluntary starvation from 21 January 2008 to 2 February 2008 while at Villawood Immigration Detention Centre. The report stated that since his transfer to Community Detention, '*Mr X's medical care is now managed by a community GP practice*'.

Community links

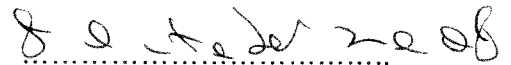
8. DIAC advises that Mr X's former wife and daughter returned to Australia in November 2007. Ms X arrived as the holder of a Prospective Marriage Visa with dependant child and has since been granted a Spouse Visa.

Ombudsman assessment/recommendation

9. The Ombudsman notes that Mr X has been in immigration detention for over three years and that he was transferred to Community Detention in April 2008. The Ombudsman further notes that the Minister has agreed to consider Mr X for a RPBV.
10. The Ombudsman notes that if Mr X remains in detention a further report under s 486N will fall due in January 2009. The Ombudsman will, at that time, review Mr X's circumstances, considering again the impact of detention upon him. The Ombudsman makes no recommendations in this report.



Prof. John McMillan
Commonwealth and Immigration Ombudsman



Date