

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O report on Mr X who has remained in immigration detention for more than 72 months (six years).

The first report 1413/13 was tabled in Parliament on 26 June 2013, the second report 1001049 was tabled in Parliament on 28 May 2014 and the third report 1001568 was tabled in Parliament on 18 March 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X
Citizenship	Country A
Year of birth	1969
Ombudsman ID	1002542
Date of DIBP's reports	27 May 2015 and 17 November 2015 and 17 May 2016
Total days in detention	2186 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001568), Mr X has remained in community detention.

Recent visa applications/case progression

19 August 2015	The Department of Immigration and Border Protection (DIBP) conducted an Identity Assessment which concluded that Mr X's identity aligned with his claims.
22 October 2015	Mr X's case was referred on a ministerial submission for consideration to lift the bar under s 46A of the <i>Migration Act 1958</i> .
25 November 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
3 December 2015	DIBP invited Mr X to lodge a temporary visa application.
17 May 2016	DIBP advised that Mr X was issued with a qualified security assessment (date not provided) and his protection claims will be assessed based on new and updated country information available to DIBP. Mr X's case was also identified for assessment against the guidelines under s 195A for the possible grant of a Bridging visa.

Health and welfare

On 7 April 2015 Mr X's Australian Red Cross (ARC) caseworker advised that Mr X had restricted mobility and was undergoing rehabilitation following surgery. He said Mr X was very stressed about the uncertainty of his immigration case but had not sought any mental health support for a long time as he was focusing on his physical health.

International Health and Medical Services (IHMS) advised that Mr X continued to be treated and reviewed by a general practitioner (GP) for chronic sciatica and gastro-oesophageal reflux disease. He remains under the care of a pain management specialist and attends physiotherapy, hydrotherapy and acupuncture. He also requires a walking frame for distances of over 100 metres.

IHMS advised that Mr X had not been treated for any mental health issues until January 2016 when he reported to the GP that he was experiencing low mood attributed to his immigration pathway. The GP provided support and advised IHMS that Mr X had attended a specialist counselling session.

Information provided by Mr X

During a telephone conversation with Ombudsman staff on 2 April 2015 Mr X expressed concern that the Ombudsman's office and DIBP are not aware of his disability and health condition. He advised he has had surgery on his back twice and on his knee and understands he may require further surgery in a few years.

Mr X stated his mental health has deteriorated because of the uncertainty of his immigration case and his ongoing health problems. He said he does not understand why he has not been granted a Protection visa when he was found to be a refugee in 2010.

Mr X stated he is grateful for all the support he has been receiving in the community, particularly from ARC staff, who assist him to attend medical appointments.

Ombudsman assessment

The Ombudsman notes that Mr X was found to be owed protection under the Refugee Convention on 2 December 2010 and has been held in detention for more than six years.

The Ombudsman recommended in report 1001568 that resolution of Mr X's case be finalised as soon as practicable so that he can have some certainty about his immigration case.

On 25 November 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 3 December 2015 DIBP invited Mr X to apply.

The Ombudsman notes that DIBP advised on 17 May 2016 that Mr X has been issued with a qualified security assessment and his protection claims will be assessed based on new and updated country information available to DIBP. The Ombudsman makes no recommendations in this report.