

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 restricted immigration detention for more than 72 months (six years).

The first report 870/12 was tabled in Parliament on 20 March 2013, the second report 1001065 was tabled in Parliament on 28 May 2014 and the third report 1001611 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	1985
Ombudsman ID	1002681
Date of DIBP's reports	9 June 2015 and 9 December 2015
Total days in detention	2190 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001611), Mr X has remained at Melbourne Immigration Transit Accommodation (ITA).

Recent visa applications/case progression

19 January 2015	The Department of Immigration and Border Protection (DIBP) advised that an external agency issued Mr X with a qualified security assessment in response to the Minister's office requesting updated security status information in September 2014.
3 February 2015	Mr X's case was referred on a ministerial submission for consideration under ss 195A and 197AB of the <i>Migration Act 1958</i> for the grant of a Bridging visa or community detention placement.
12 February 2015	The Minister declined to intervene under ss 195A and 197AB.
17 February 2015 and 20 October 2015	Mr X was interviewed by an external agency.
7 December 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application. The same day DIBP invited Mr X to lodge a temporary visa application.
9 December 2015	DIBP advised that Mr X's case has been identified for assessment against the guidelines for a possible referral to the Minister under ss 195A and 197AB. DIBP further advised that Mr X's security assessment with an external agency remained ongoing.

Health and welfare

15 April 2015 – ongoing	International Health and Medical Services (IHMS) advised that Mr X injured his ankle playing sport. A magnetic resonance imaging scan identified an ankle ligament tear and on 7 May 2015 he was referred to an orthopaedic specialist.
July 2015 – August 2015	Mr X was placed on Supportive Monitoring and Engagement (SME) observations after experiencing psychological stress as a result of his prolonged detention. IHMS advised that Mr X's mental health deteriorated and he required a psychiatric hospital admission. A hospital psychiatrist diagnosed Mr X with chronic post-traumatic stress disorder and grief.
24 August 2015	Following his discharge from hospital Mr X reported that his mental health had improved but was unsure if he had been ready to be discharged from hospital.
28 August 2015	Mr X declined to attend a scheduled psychiatric consultation but advised IHMS that he would self-refer to the mental health team (MHT) if he required support.
7 September 2015	An external psychiatrist reported that Mr X had chronic low mood, anxiety, a sense of hopelessness and helplessness and chronic self-harm ideations. The psychiatrist noted that Mr X had been in restricted detention for more than five years which had immensely impacted on his mental state. The psychiatrist recommended Mr X be transferred to community detention as remaining in a restricted detention environment would most likely further negatively impact his mental state and coping skills.
24 September 2015 – 20 October 2015	Mr X was placed on SME observations following sleep disturbance with thoughts of self-harm.
9 October 2015	An IHMS psychiatrist reported that Mr X's mood remained low because of his prolonged detention and he continued to experience insomnia. The psychiatrist recommended psychological counselling.
23 October 2015	Reviewed by the MHT who assessed Mr X as a low risk of self-harm. Mr X advised that his main concerns were insomnia and his inability to concentrate.
16 November 2015	IHMS advised that Mr X was compliant with his medication regime and is aware of the self-referral process.

Information provided by Mr X

During an interview with Ombudsman staff at Melbourne ITA on 24 March 2016 Mr X advised on 23 March 2015 he lodged an application for a Safe Haven Enterprise visa.

He said last year he was interviewed by the Australian Security Intelligence Organisation in relation to his security clearance but was still waiting for an outcome.

Mr X stated he recently lost hope when DIBP erected a fence around Melbourne ITA and said he no longer goes on excursions as they impact his mental health.

He advised he has seen an orthopaedic specialist and no longer has any trouble with his ankle.

Ombudsman assessment/recommendation

Mr X was detained on 10 December 2009 after arriving in Australia aboard Suspected Illegal Entry Vessel *Hackney* and has been held in restricted detention for over six years.

Mr X has been found to be owed protection under the complementary protection criterion in June 2014. However, the Ombudsman notes that Mr X's security assessment, which was referred to an external agency on 13 June 2014, remains outstanding at the time of writing this report. The Ombudsman notes with concern that Mr X has now been waiting for a period of over two years for his security assessment outcome.

On 7 December 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on the same day DIBP invited Mr X to apply.

The Ombudsman further notes with concern a treating psychiatrist's recommendation of 7 September 2015 that Mr X be transferred to community detention as remaining in restricted detention may further negatively impact his mental state and coping skills.

The Ombudsman also notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged detention may pose.

Given the uncertainty as to when Mr X's security assessment will be finalised and the effect of prolonged detention on Mr X's mental health, the Ombudsman recommends that Mr X's case be expedited.