

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 a cumulative period of more than 42 months (three and a half years).¹

The first report 1001062 was tabled in Parliament on 5 March 2014, the second report 1001371 was tabled in Parliament on 22 October 2014 and the third report 1002078 was tabled in Parliament on 3 June 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	1989
Ombudsman ID	1002863
Date of DIBP's reports	6 July 2015, 3 December 2015 and 17 June 2016
Total days in detention	1277 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002078), Mr X remained at Brisbane Immigration Transit Accommodation.

Recent visa applications/case progression

21 April 2015	The Minister lifted the bar under s 46A of the <i>Migration Act 1958</i> to allow Mr X to lodge a Temporary Protection visa (TPV) application. The Minister declined to intervene under s 197AB.
3 July 2015	Lodged a Temporary Protection visa (TPV) application with an associated Bridging visa application.
22 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a Safe Haven Enterprise visa (SHEV) application.
28 September 2015	Mr X was invited to lodge a SHEV application. The Department of Immigration and Border Protection (DIBP) advised that Mr X's initial TPV application remains ongoing.
3 December 2015	DIBP advised that Mr X is considered a person of interest in relation to his conviction for people smuggling offences.
15 December 2015	Mr X's identity was refuted following an identity assessment.
18 February 2016	Associated Bridging visa application deemed invalid.

¹ Mr X has previously been reported on a 30, 36 and 42 month report under section 486N. However due to changes in the reporting requirement for the time spent serving a custodial sentence, DIBP advised that Mr X is now deemed to have been in immigration detention for a period of 42 months.

28 April 2016	DIBP advised that Mr X was found to meet the guidelines for referral to the Minister under s 197AB for a community detention placement. DIBP further advised that Mr X may be placed in community detention with his brother and father who reside in the community on Bridging visas.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X attended regular torture and trauma counselling and received psychiatric treatment for symptoms of major depression, post-traumatic stress disorder, an adjustment disorder and suicidal ideation related to his prolonged detention. He continued to be closely monitored by detention centre staff following multiple incidents of self-harm and anxiety attacks related to situational stress.

The IHMS psychiatrist reported that Mr X experienced symptoms of detention fatigue, including low mood and poor sleep, and his mental health was unlikely to improve while he remains in restricted detention.

Following a deterioration in his mental health, Mr X was admitted to a psychiatric hospital between 15 January 2016 and 9 March 2016. The hospital psychiatrist reported that there was a risk of further deterioration if Mr X remains in restricted detention and recommended that he be transferred to community detention.

IHMS further advised that Mr X received treatment for multiple physical health concerns, including skin abscesses, viral infections and high cholesterol.

Ombudsman assessment/recommendation

Mr X was found to be owed protection under the complementary protection criterion in June 2012 and has been held in immigration detention for a cumulative period of more than three and a half years.

On 21 April 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 3 July 2015 he lodged a TPV application.

The Ombudsman notes with concern the reported impact restricted detention is having on Mr X's mental health and advice from the IHMS psychiatrist that his mental health is unlikely to improve while he remains in restricted detention. The Ombudsman further notes advice from IHMS that Mr X's mental health would improve if he was transferred to community detention.

The Ombudsman notes that Mr X has been found to meet the guidelines for referral to the Minister under s 197AB for a potential community detention placement and DIBP has advised that he could be placed with his brother and father. The Ombudsman recommends that this referral be expedited to enable Mr X to reside in the community while he awaits the resolution of his TPV application.