

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 48 months (four years).

The first report 1001503 was tabled in Parliament on 22 October 2014, the second report 1001932 was tabled in Parliament on 27 May 2015 and the third report 1002430 was tabled in Parliament on 31 August 2016. 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	1981
Ombudsman ID	1000958-O
Date of DIBP's reports	14 April 2016
Total days in detention	1458 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002430), Mr X has remained at Villawood Immigration Detention Centre (IDC).

Recent visa applications/case progression

8 October 2015	Found not to meet the guidelines for referral to the Minister under s 48B of the <i>Migration Act 1958</i> .
6 January 2016	The Minister declined to intervene under s 417. On the same submission the Minister declined to consider Mr X's case under s 195A.
10 February 2016	Mr X requested judicial review by the High Court of the decisions made in relation to his ministerial intervention requests under ss 48B, 417, and 195A.
14 April 2016	The Department of Immigration and Border Protection (DIBP) advised that Mr X's case was affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ¹ which found that the International Treaties Obligations (ITOA) process was procedurally unfair. The Minister appealed the FFC decision and on 27 July 2016 the High Court (HC) found that the ITOA process was not procedurally unfair. ²

¹ *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

² *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.

Health and welfare

International Health and Medical Services advised that due to behavioural changes Mr X attended a mental health screening on 22 January 2016 and presented as anxious, irritable and stressed in the context of ongoing immigration matters. He reported being angry and having aggressive outbursts. He became agitated during the assessment. Oral medications to assist with his symptoms were recommended and a referral was made to a specialist counselling service in view of his disclosed history of torture and trauma. On 15 February 2016 he was prescribed with an atypical antipsychotic.

Information provided by Mr X

During an interview with Ombudsman staff at Villawood IDC on 20 July 2016 Mr X advised that he had been transferred to Blaxland high security compound within Villawood IDC in May 2016 after allegations had been made against him. He said that he had been cleared of the allegations three weeks later but remained in Blaxland compound. He stated he had been told he was only supposed to be in Blaxland for four weeks but had now been there for 12 weeks. A request for an internal move within Blaxland had also been refused. He had first requested a transfer back to the lower security main centre three to four weeks previously and was now putting a new request every week because he said he was not receiving answers.

Mr X advised that he had to sleep in a room with six people and noise travelled over the top of the walls from the nearby lounge and could be heard clearly. He said there would be detainees in the lounge until well into early morning. He would be able to get to sleep around 4.30 – 5.00 am. He found the best time to sleep was 1.00 pm. He would frequently miss his morning medication for anxiety at 10.30 am because of not getting to sleep until around 4.30 am. Once he got to sleep he would sleep until lunch time. He would be awake to obtain his night-time sleeping medication. In the previous week he had stayed up for his morning medication and then slept until 5.00 pm.

He did not participate in activities much as he was asleep for most of the time when they were taking place.

He said he suffered from bad anxiety and became agitated, edgy and uncomfortable around people aside from his wife and family. When he was in the main part of Villawood IDC he had his own room.

This week his wife and daughter had been visiting in the afternoon so he would have to get up to see them. He described his sleeping as being 'all over the place'. Other visitors included uncles and aunts and members of his wife's family. He was also in contact with family by telephone.

Mr X also commented that the general state of Blaxland was dirty. However, the gym was good.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. At the time of DIBP's latest review Mr X was awaiting the outcome of judicial review.