

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 66 months (five and a half years) due to an adverse security assessment.

The first report 985/12 was tabled in Parliament on 28 November 2012, the second report 1001004 was tabled in Parliament on 18 June 2014, and the third report 1001884 was tabled in Parliament on 25 February 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	1983
Ombudsman ID	1002334
Date of DIBP's reports	23 March 2015 and 21 September 2015
Total days in detention	2,011 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001884), Mr X remained at Villawood Immigration Detention Centre where he was subject to a Community Treatment Order (CTO).	
29 January 2015	The City B Mental Health Community Centre provided Mr X with notification of breaches following his failure to attend his CTO appointments.
4 February 2015	Transferred to Hospital C, designated as an Alternative Place of Detention, because he had breached the CTO.
26 August 2015	Transferred to Sydney Immigration Residential Housing (IRH).

Recent visa applications/case progression

23 March 2015	The Department of Immigration and Border Protection (DIBP) advised that progress towards Mr X's case resolution remained limited due to his adverse security assessment, which was subject to a 12 monthly independent review. DIBP also advised that progress in relation to third country resettlement remained slow with limited prospects.
21 July 2015	His case was referred to the Minister for consideration under s 46A of the <i>Migration Act 1958</i> to lift the bar to allow Mr X to apply for a visa.
4 August 2015	The Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa.
25 August 2015	DIBP invited Mr X to lodge a Temporary Protection visa (TPV) or a Safe Haven Enterprise visa (SHEV) application.
21 September 2015	DIBP advised that at the date of its report Mr X had not yet lodged an application for a TPV or a SHEV.

Health and welfare

23 September 2014 – 17 April 2015	International Health and Medical Services (IHMS) advised that the previously reported health issues of lower back and shoulder pain, liver abnormalities and a low heart rate had all been resolved. There had been no further concerns raised after treatment and reviews by the general practitioner (GP). Mr X continued to take prescribed medication for hypothyroidism and no ongoing concerns had been reported.
25 September 2014 – 6 November 2014	Attended 15 physiotherapy appointments for treatment of his lower back and shoulder pain.
25 September 2014 – 28 January 2015	Attended eight appointments at the City B Community Health Centre for consultations and medication administration.
29 October 2014	Reviewed by a psychiatrist after Mr X had intermittently refused attendance of several appointments with City B Community Health Centre to receive his injection for treatment of schizophrenia. The psychiatrist recommended that Mr X continue with the CTO as medication had been beneficial in improving his mental health.
24 November 2014	Mr X attended a CTO hearing review and a decision was made to continue Mr X's CTO for a further six months expiring on 23 May 2015.
4 February 2015 – 26 August 2015	Admitted to the Hospital C Mental Health Unit for treatment of schizophrenia.
17 April 2015	IHMS advised that while Mr X was in hospital he had an occupational therapy (OT) assessment and recommendations were made for him to transfer to a rehabilitation unit. At the time he remained an inpatient at Hospital C while he waited for a bed to become available in the rehabilitation unit. IHMS advised that it contacted the hospital clinicians on a daily basis for all health updates for Mr X.
18 April 2015 – 1 September 2015	IHMS reported that Mr X continued to receive treatment for hypothyroidism. IHMS also advised that while he was an inpatient at Hospital C he was diagnosed with type 2 diabetes and high cholesterol. He was prescribed with medication for both conditions.
19 May 2015 – 26 August 2015	Transferred to a Hospital C rehabilitation unit for more than three months. IHMS reported that during his admission Mr X interacted well with the OT and diversional therapist, and attended regular physical exercise groups. The discharge summary letter reported that Mr X could potentially live independently in the community with a transition plan which included a community support package.
1 September 2015	IHMS advised that following his discharge to the Sydney IRH on 26 August 2015, the mental health team regularly followed up with Mr X and he continued to take prescribed medication.

Recent detention incidents

Since the Ombudsman's previous report, the DIBP Incident Reports recorded that Mr X was involved in only a few minor behavioural incidents. It was also recorded that on two occasions he alleged that he was assaulted by other detainees, but no further information was provided.

Other matters

15 December 2014	An advocate, on behalf of Mr X, lodged a complaint with the Australian Human Rights Commission (AHRC) which alleged a breach of Mr X's human rights. DIBP responded on 16 March 2015 and the complaint remains open.
3 March 2015	DIBP advised that in line with the Ombudsman's previous recommendation, it had been working with a mental health service provider to facilitate Mr X's access to appropriate mental health treatment. DIBP further advised that a new option for Mr X's health care was raised by his health providers, but this option was considered as unsuitable based on correspondence received from Mr X's lawyer. No information was provided about the option considered. Furthermore, Detention Health advised that it will conduct an assessment about Mr X's suitability for the Housing and Accommodation Support Initiative Plus Program (HASI Plus) which Mr X's lawyer has identified as a suitable mental health treatment option.
25 August 2015	Mr X's brother, Mr Y, was granted a Bridging visa and released from detention following a qualified security assessment.
11 November 2015	DIBP confirmed that Mr X is not eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application since PAIS is only available to maritime arrivals who arrived after 13 August 2012 and he arrived in 2010.

Ombudsman assessment/recommendation

Mr X has been found to be owed protection under the Refugee Convention but has been in restricted detention for more than five and a half years due to the issue of an adverse security assessment.

On 4 August 2015 the Minister lifted the bar to allow Mr X to apply for a temporary visa and on 25 August 2015 DIBP invited Mr X to lodge a temporary visa application.

The Ombudsman notes that DIBP advised it has been working with a mental health service provider to facilitate Mr X's access to appropriate mental health treatment and that Mr X has benefited from rehabilitation during his hospital admission at Hospital C. The Ombudsman also notes that Detention Health advised it will conduct an assessment about Mr X's suitability for accommodation with HASI Plus.

The Ombudsman recommends that, if it has not already occurred, the assessment for accommodation with HASI Plus be prioritised.