

**REPORT BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

This is the second s 486O report on Mr X who has remained in restricted immigration detention for more than 42 months (three and a half years).

The first report 1002952 was tabled in Parliament on 16 March 2016. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A
Year of birth	1979
Ombudsman ID	1001728-O
Date of DIBP's reports	20 April 2016 and 19 October 2016
Total days in detention	1276 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002952), Mr X remained at Facility B.	
21 June 2016	Transferred to Facility C.

Recent visa applications/case progression

6 November 2015	Invited to lodge a temporary visa application.
8 December 2015	The Department of Immigration and Border Protection (DIBP) completed an identity assessment for Mr X with an outcome of indeterminate.
19 February 2016	Mr X's case was referred on a ministerial submission for consideration under s 195A of the <i>Migration Act 1958</i> for the grant of a Bridging visa. On 24 February 2016 the Minister declined to intervene.
22 February 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application. He declined the offer on 1 March 2016.
7 April 2016	Again invited to lodge a temporary visa application.
28 June 2016	Lodged a Safe Haven Enterprise visa (SHEV) application.
2 August 2016	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa. On 9 September 2016 the Minister declined to intervene.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X presented at low risk of self-harm at a mental health review in October 2015 but he reported incidents of bullying from other detainees which made him depressed and worried. He requested mental health support and in January 2016 was referred to a specialised counselling service for psychological support and attended counselling sessions. He declined to take medication for depression due to side effects.

Following transfer to Facility C he was seen by the mental health team and referred to a local specialised counselling service with ongoing monitoring by the mental health team and the counselling service.

IHMS further advised that Mr X received treatment for physical health conditions including an old injury, which was causing chronic pain and mobility issues. On 13 September 2016 IHMS advised that he was awaiting an orthopaedic specialist referral and appointment. An earlier appointment on 27 June 2016 following referral on 28 September 2015 was cancelled as Mr X had been transferred from Facility B to Facility C on 21 June 2016.

Information provided by Mr X

During an interview with Ombudsman staff at Facility B on 19 April 2016 Mr X advised he had been attempting to have his name changed for 12 months without success. He stated that when he arrived in Australia he had used his son's name as he was worried that the authorities in Country A would find out he was in Australia and harm his family.

Mr X discussed mobility issues and the ongoing impact on daily life. He referred to a request he had made in relation to this matter which had been refused due to the item being unavailable.

He said that while in Country A he had been beaten by the police and sustained a fracture. He had requested an operation in August 2015 but had not received a response.

Mr X advised that his mental health was not good: he could not sleep well and would only sleep for around two to three hours per night. He said that he was not receiving treatment as, because of his circumstances, he could not get to appointments.

He said he did not participate in activities aside from craft and church as he was in pain. He did not go on excursions as he was in too much pain.

He advised he did not have family in Australia but spoke regularly with family in Country A.

Ombudsman assessment/recommendation

Mr X was detained on 22 April 2013 after arriving in Australia by sea and has been held in restricted detention for more than three and a half years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 28 June 2016 he lodged an application for a SHEV.

The Ombudsman notes that at the date of IHMS's latest report Mr X continued to await an appointment with an orthopaedic specialist, having first been referred in September 2015. The Ombudsman notes an appointment was cancelled after Mr X was transferred between detention facilities in June 2016. The Ombudsman recommends that if possible this matter be expedited should Mr X still need to see an orthopaedic specialist.