

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).

The first report 1134/13 was tabled in Parliament on 13 November 2013, the second report 1001282 was tabled in Parliament on 27 August 2014 and the third report 1001969 was tabled in Parliament on 21 October 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	1977
Ombudsman ID	1000689-O
Date of DIBP's reports	30 October 2015 and 29 April 2016
Total days in detention	2004 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001969), Mr X has remained at Yongah Hill Immigration Detention Centre.

Recent visa applications/case progression

21 April 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a Temporary Protection visa (TPV) application.
1 June 2015	Mr X lodged a TPV 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	The Department of Immigration and Border Protection (DIBP) wrote to Mr X stating that he had previously been invited to apply for a TPV only but SHEVs were now available and he was invited to apply for either visa.
29 September 2015	Found not to meet the guidelines for referral to the Minister under ss 195A or 197AB.
10 February 2016	Mr X lodged an application for a SHEV.
3 March 2016	DIBP received a notice from Mr X requesting withdrawal of his application for a TPV. On the same day DIBP withdrew the application.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to be monitored and treated for type 2 diabetes and high cholesterol.

IHMS advised that Mr X suffered an acute relapse in his mental health, presenting with insomnia, low mood, loss of appetite and detention fatigue. He was placed on Supportive Monitoring and Engagement observations and provided with regular mental health support. He was prescribed with antidepressant medication and IHMS advised that he continued to see an external counsellor but did not attend any appointments during this period as the counsellor was on leave.

Information provided by Mr X

During a telephone conversation with Ombudsman staff on 26 April 2016 Mr X said the main issue he faced in detention was his mental state. He felt prolonged detention had affected his sleep and memory and he felt that he was breaking down as a person. He worried that he was getting older and life was passing him by. The only thing keeping him going was visits from friends who encouraged him not to give up hope. He advised he had been given sleeping tablets as well as tablets for his mental health but nothing had worked. He did not use the mental health services anymore as all they did was bring up his former life which upset him.

Mr X said his physical health had also been affected by prolonged detention, as he had developed diabetes and high cholesterol. He advised he did not eat much because of his diabetes and because the food was not to his taste.

Ombudsman assessment/recommendation

Mr X has been found to be owed protection under the Refugee Convention. He has been held in restricted immigration detention for more than five and a half years.

On 21 April 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a TPV and on 22 September 2015 the Minister lifted the bar again to allow Mr X to apply for a SHEV. On 10 February 2016 Mr X lodged a SHEV application.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged detention may pose. The Ombudsman further notes advice from IHMS on 17 March 2016 that Mr X suffered an acute relapse in his mental health.

The Ombudsman notes that Mr X has been held in restricted detention for more than five and a half years. In light of the length of time Mr X has been detained, the Ombudsman recommends that consideration be given to granting Mr X a Bridging visa while he awaits the outcome of his SHEV application.