

## 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. The first report 1000955 was tabled in Parliament on 11 December 2013. This report updates the material in that report and should be read in conjunction with the previous report.

<b>Name</b>	Mr X
<b>Citizenship</b>	Stateless (claimed), born in Country A
<b>Year of birth</b>	1991
<b>Ombudsman ID</b>	1001419
<b>Date of DIBP's report</b>	21 January 2014
<b>Total days in detention</b>	1,099 (at date of DIBP's report)

### Recent detention history

9 October 2013	Since the Ombudsman's previous report (1000955), Mr X was transferred from Maribyrnong Immigration Detention Centre (IDC) to Facility B.
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### Recent visa applications/case progression

21 January 2014	The Department of Immigration and Border Protection (DIBP) advised that Mr X's application for judicial review of his Independent Merits Review (IMR) was re-scheduled for March 2014.
19 May 2014	Further correspondence provided by DIBP advised that Mr X's final hearing for judicial review of his IMR with the Federal Circuit Court (FCC) is set for 2 July 2014.

### Health and welfare

22 July 2013	Referred to neurosurgeon to review a displaced vertebra. International Health and Medical Services (IHMS) reported that Mr X had a magnetic resonance imaging scan in readiness for this appointment and continued to receive physiotherapy.
3 October 2013	Tested positive for helicobacter pylori after persistent stomach pain. Treated with antibiotics and prescribed with pain relief medication.
12 October 2013	IHMS reported that upon his arrival at Facility B Mr X was referred to a neurosurgeon and commenced physiotherapy. Neurosurgeon appointment remained outstanding at the time of IHMSs' latest report.
14 January 2014	Provided with pain relief medication and referred to a dentist following toothache. He attended the dental appointment on 24 January 2014.

20 January 2014	During a consultation with a general practitioner Mr X was diagnosed with a dental abscess. He was prescribed with antibiotics and alternative pain relief medication.
21 January 2014	IHMS reported that Mr X has not required any mental health treatment since its previous report.

### Other matters

In a complaint to the Ombudsman's office on 8 January 2014, Mr X stated that he was not provided with an explanation of the reason he was transferred from Maribyrnong IDC to Facility B and that he had been unable to access physiotherapy or dental services since his transfer.

An investigation undertaken by the Ombudsman's office found that Mr X and his lawyer were informed prior to his transfer that Maribyrnong IDC was over capacity and that several detainees who had arrived in Australia without a valid visa, including Mr X, were required to transfer to other centres.

The investigation found that Mr X had seen a physiotherapist on two occasions since his transfer to Facility B but, due to an administrative error, he was not provided with an appointment slip for a physiotherapy session on 13 January 2014 resulting in him not attending the appointment. DIBP provided feedback to Serco to ensure that care be taken to confirm all appointment slips are printed and handed to detainees.

The investigation also found that Mr X first reported dental pain on 17 December 2013, when he was assessed by a nurse and prescribed with pain relief medication. He next reported dental pain on 14 January 2014 and a referral to an offsite dentist was made, which he attended on 24 January 2014.

At a visit to Facility B in March 2014 Ombudsman staff spoke to Serco welfare staff in relation to Mr X's concerns and it was confirmed that his back pain did not allow him to participate in sport or physical activities. Ombudsman staff noted that Mr X had lodged several complaints to Serco staff in early January 2014 about delays in seeing a dentist, and had also complained in February 2014 about the welfare clothing he had been issued. Ombudsman staff further noted that some months prior, in November 2013, Mr X had complained about clothing issues and asked that he be supplied with 'gaol' clothing, since he said he was in a gaol. Mr X also complained about the inadequacy of his mattress for his back issues, and Ombudsman staff noted that a room move was approved on 22 November 2013 based on his health requirements.

Ombudsman staff concluded that Serco staff had been responsive to Mr X's complaints and that these had been resolved within agreed timeframes and according to the appropriate operational guidelines. On 12 May 2014 Mr X's complaint to the Ombudsman was finalised and closed.

### **Ombudsman assessment**

The Ombudsman notes that Mr X has been found not to be owed protection and is awaiting the outcome of his judicial review with the FCC.

In the Ombudsman's previous report (1000955) tabled in Parliament on 11 December 2013, the Ombudsman noted that it would be a further five months before Mr X had a judicial review hearing and recommended that other placement options be explored for Mr X, such as a transfer to immigration transit accommodation.

The Minister noted the Ombudsman's recommendation and advised that the Government's policy was being implemented in regard to the detention placement of detainees and once implemented, and if appropriate, DIBP would prepare advice for him in relation to Mr X's the detention placement.

The Ombudsman notes that Mr X has remained at Facility B while awaiting his judicial review hearing in July 2014 and makes no recommendations in this report.