

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 immigration detention for more than 30 months (two and a half years).

The first report 1001557 was tabled in Parliament on 27 August 2014. 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	1995
Ombudsman ID	1002028
Date of DIBP's report	17 November 2014
Total days in detention	914 (at date of DIBP's report)

Recent detention history

Since the Ombudsman's previous report (1001557), Mr X has remained in community detention.

Recent visa applications/case progression

4 July 2014	The Refugee Review Tribunal affirmed the decision that Mr X was not owed protection under the Refugee Convention.
8 August 2014	Requested judicial review by the Federal Circuit Court (FCC).
5 November 2014	Mr X's case was heard at the FCC. The final hearing of his matter is scheduled for 8 April 2015.
17 November 2014	The Department of Immigration and Border Protection (DIBP) advised that Mr X's case was considered for ministerial intervention under s 417 of the <i>Migration Act 1958</i> . However, his case did not satisfy the Public Interest Criteria for referral.

Health and welfare

International Health and Medical Services (IHMS) reported that Mr X has not required treatment for any major physical or mental health issues since its previous report which had documented incidents of lower back pain since January 2013.

IHMS advised that an appointment at an infectious disease clinic was scheduled for 3 February 2015 for routine monitoring of Mr X's latent tuberculosis condition.

Other matters

Mr X resides in community detention with his brother, Mr Y, who is the subject of Ombudsman report 1001654.

Information provided by Mr X

During a telephone conversation with Ombudsman staff on 24 February 2014 Mr X advised that he is awaiting the outcome of his request for judicial review and a hearing is scheduled for 8 April 2015.

He advised that he shares accommodation with his older brother and a friend and regularly attends English and yoga classes.

Mr X said that in July 2014 his brother was invited to comment on DIBP's unintentional release of personal information on its website¹ and the impact of the data breach on his protection claims, but he did not recall receiving a similar letter inviting him to respond.

Mr X also advised that since turning 18 it had been difficult to access physiotherapy treatment for his ongoing back pain, and that when the former Minister was his guardian he had no problems accessing health care. Mr X said that he had requested to see a physiotherapist about seven months ago but has not been given an appointment. He also said that he attended a hospital at the beginning of February 2015 because he was in so much pain and was advised to take Vitamin D tablets.

Mr X said he would like to see a physiotherapist as soon as possible because he is in such severe pain.

Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. DIBP advised that he has lodged a request for judicial review and his final hearing is scheduled for 1 April 2015.

The Ombudsman notes that Mr X is concerned that he had not been invited to comment on DIBP's unintentional release of personal information through its website, when his brother had been contacted in July 2014. The Ombudsman notes that the brothers are subject to separate reporting and recommends that Mr X's case manager discuss this matter with him to alleviate any further concern or clarify any misunderstanding.

The Ombudsman also notes that IHMS reported that Mr X had not required treatment during this reporting period. However, Mr X advised Ombudsman staff that he is still experiencing severe back pain and requested to see a physiotherapist more than seven months ago but has had no response. The Ombudsman recommends that, if not already addressed, IHMS follow up this matter with Mr X as soon as practicable.

¹ In a media release dated 19 February 2014 the former Minister advised that an immigration detention statistics report was released on DIBP's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as DIBP became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by DIBP.