

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

Under s 486O of the Migration Act 1958

This is the first s 486O report on Mr X who has remained in restricted immigration detention for a cumulative period of more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1977
Ombudsman ID	1002406-O
Date of DIBP's reports	18 May 2016 and 16 November 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

17 January 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 298 <i>Scully</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
18 January 2012 – 7 February 2012	Transferred three times between Christmas Island APOD and Christmas Island Immigration Detention Centre (IDC).
8 March 2012	Transferred to Curtin IDC.
19 July 2012	Granted a Bridging visa and released from detention.
19 November 2014	Re-detained under s 189(1) after his Bridging visa ceased and transferred to Villawood IDC.
27 November 2014	Transferred to Wickham Point APOD.
28 March 2015	Transferred to Brisbane Immigration Transit Accommodation.
30 October 2015	Transferred to Villawood IDC.

Visa applications/case progression

23 January 2012	'Screened in' into the protection process.
17 May 2012	The Minister lifted the bar under s 46A to allow Mr X to lodge a Protection visa application.
10 June 2012	Lodged a Protection visa application.
19 July 2012	The Minister intervened under s 195A to grant Mr X a Bridging visa.
21 September 2012	Protection visa application refused.
27 September 2012	Appealed to the Refugee Review Tribunal (RRT).
17 May 2013	RRT affirmed original decision.
14 June 2013	Requested judicial review by the Federal Circuit Court (FCC).

17 June 2013 – 7 October 2014	Mr X was granted three Bridging visas under s 195A, with the last ceasing on 18 November 2014.
2 July 2013	Mr X withdrew from the FCC proceedings.
19 November 2014	Detained under s 189(1).
8 December 2014	Requested ministerial intervention under s 417.
6 February 2015	The Assistant Minister decided not to consider Mr X's case.
19 May 2016	Mr X's case was referred to the Minister on a first stage submission for consideration of a bridging visa under s 195A or a community detention placement under s 197AB.
31 May 2016	The Minister declined to intervene.
16 November 2016	The Department of Immigration and Border Protection (the department) advised that Mr X did not wish to return to Country A voluntarily, had no matters before it or the courts, and was on a removal pathway.

Health and welfare

International Health and Medical Services (IHMS) advised that a psychologist had noted Mr X to be confused and distressed by his situation after he was re-detained in November 2014. It was reported that his mental state deteriorated and symptoms of depression and anxiety became more apparent in early 2015. Upon review by a psychiatrist on 20 February 2015 he presented as distressed and advised he had suicidal thoughts with a specific plan and was placed on Supportive Monitoring and Engagement observations.

After his first admission to a psychiatric hospital in March 2015, he was diagnosed with and treated for a major depressive disorder and a psychotic episode of schizophrenic type. It was also identified that he had previously had psychotic episodes in Country A.

A report upon discharge indicated that his stressful circumstances seemed to have precipitated his psychotic illness and he was vulnerable to stress. A psychiatrist stated that returning him to restricted detention would be detrimental to his mental health. The psychiatrist recommended he be released into the community where he could be supported by his uncle and a friend. The IHMS psychiatrists agreed with the recommendation for a community placement and recorded this in writing on 11 November 2015, 4 January 2016 and 16 March 2016 and expressed concerns of a relapse.

A more recent psychiatric report dated 31 August 2016 found that while no psychoses were displayed, Mr X was more withdrawn and isolated. The psychiatrist continued to support a recommendation for a community placement for Mr X to reduce the risk of relapse and he continued to be monitored.

According to incident reports he threatened and attempted self-harm on a number of occasions. He also self-harmed through ingesting an unknown quantity of tablets and refused food and fluid for a period in 2015.

IHMS further advised that Mr X was treated for physical health concerns including an inguinal hernia, flank pain from a renal stone, chest pain and eczema.

3 March 2015	Found by Serco officers under his bed sheets with a plastic bag over his head. Following examination he refused to be transferred to hospital. He was then transferred to a hospital emergency department without his consent under mental health legislation. Following assessment he was discharged on the same day.
27 March 2015 – 12 June 2015	Admitted to a psychiatric hospital for inpatient psychiatric care. According to the discharge summary he became psychotic a few weeks after admission.
22 July 2015, 2 October 2015	Re-admitted to the psychiatric hospital for inpatient psychiatric treatment.

Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in restricted detention for more than two and a half years. He has no matters before the department, the courts or tribunals and is on a removal pathway.

The department has advised that Mr X is unwilling to return to Country A voluntarily.

The Ombudsman notes that psychiatrists have supported recommendations on a number of occasions for Mr X to be placed in the community given concerns that if he continues to be held in restricted detention he may experience a relapse of his psychotic illness.

The Ombudsman recommends that Mr X be again considered for a community detention placement.