

# 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 remained in restricted immigration detention for more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1966
<b>Ombudsman ID</b>	1003083
<b>Date of DIBP's reports</b>	21 April 2015 and 13 October 2015
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

## Detention history

14 April 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 656 <i>Ealing</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
22 April 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
3 August 2013	Transferred to Yongah Hill IDC.
4 April 2014	Transferred to Wickham Point APOD. <sup>1</sup>
26 June 2014	Transferred to Bladin Point APOD.
29 October 2014	Transferred to Wickham Point APOD.
6 January 2015	Transferred to Yongah Hill IDC.
31 July 2015	Transferred to Wickham Point APOD.
26 November 2015	Granted a Bridging visa and released from detention.

## Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, Mr X was part of a cohort who had not had their protection claims assessed as they arrived in Australia after 13 August 2012 and were subject to the bar under s 46A.

<sup>1</sup> DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point is a designated APOD comprising three compounds. One of these compounds is used to house single adult males and is considered a higher security compound than the compounds used to house families and children. Mr X was accommodated in the single adult male compound at Wickham Point APOD.

13 March 2015	DIBP notified Mr X of the unintentional release of personal information through its website. <sup>2</sup> DIBP advised that this matter will be taken into account when considering his protection claims.
27 May 2015	The Minister declined to grant Mr X a Bridging visa under s 195A.
29 September 2015	The Minister lifted the bar under s 46A allowing Mr X to lodge an application for a temporary visa.
13 October 2015	DIBP advised that Mr X was previously a person of interest because of his self-declaration that he was an organiser and crew member of SIEV 656 <i>Ealing</i> .
13 October 2015	DIBP further advised that processing of Mr X's protection claims had not yet commenced.
26 November 2015	Granted a Bridging visa.

### Health and welfare

7 August 2013	International Health and Medical Services (IHMS) advised that blood test results identified Mr X as a hepatitis B carrier. He was referred for further blood tests, a liver ultrasound, and review by a specialist.
August 2013	A liver ultrasound returned normal results.
July 2014	An abdominal ultrasound revealed some abnormalities but no evidence of cirrhosis or lesions. Following the ultrasound Mr X was scheduled to see a specialist in July 2014, but due to his transfer to another detention facility he was re-referred to another specialist.
24 October 2014	Mr X attended a specialist appointment and was advised that he had suspected non-alcoholic fatty liver disease. He was advised that he would need ongoing liver cancer screening and required six-monthly liver ultrasounds. The specialist also educated Mr X on the importance of liver function tests twice a year and annual blood tests.
January 2015	During a mental health review Mr X disclosed that he was experiencing declining mood and function related to separation from the family he arrived with and because of grief arising from the death of his wife in 2010.
February 2015	He was informed of his mother's death which caused him significant sleeping issues and grief. He was prescribed with sleeping tablets.
4 February 2015	A follow-up liver ultrasound identified multiple small gallstones but no liver lesions.

<sup>2</sup> 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.

27 February 2015	Did not attend appointment for gastroenterology review at a hospital in Darwin as he had been transferred to Yongah Hill IDC.
23 May 2015	IHMS advised that Mr X was confident his sleeping issues and grief would improve and there were no concerns about his mental health.
24 May 2015 – 22 September 2015	IHMS stated that Mr X was monitored regularly for infectivity of his hepatitis B and its impact on his health. It stated that he did not attend a scheduled appointment at a liver clinic and it is noted that Mr X was transferred from Yongah Hill IDC to Wickham Point APOD on 31 July 2015. IHMS stated that Mr X was re-referred for review.  IHMS also advised that Mr X had not required any ongoing support in relation to the deaths in his family, and he had no further mental health concerns.
21 August 2015	Mr X's ultrasound revealed normal liver appearance but he was found to have a gallstone. He was referred to the specialist for opinion and management.

#### Other matters

11 December 2014	The Australian Human Rights Commission notified DIBP of a complaint that Mr X had lodged. DIBP has advised that the matter remains ongoing.
DIBP advised that Mr X arrived in Australia with his three adult children, two daughters-in-law and a grandson who are all residing in the community on Bridging visas in Brisbane and Perth.  DIBP further advised that Mr X also has an Australian citizen brother who resides in Perth.	

#### Information provided by Mr X

During a telephone conversation with Ombudsman staff on 24 November 2015 Mr X advised that his case manager had told him he was to be granted a Bridging visa on 26 November 2015.

### **Ombudsman assessment/recommendation**

Mr X was granted a Bridging visa on 26 November 2015 and released from restricted immigration detention.

The Ombudsman notes that Mr X was detained on 14 April 2013 after arriving in Australia and was held in restricted detention for over two and a half years before being granted a Bridging visa.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa. Mr X is awaiting an invitation to apply for a temporary visa.

The Ombudsman notes that Mr X has chronic health concerns which IHMS advised require ongoing specialist care. The Ombudsman notes that Mr X's specialist care was disrupted on more than one occasion due to transfers between detention facilities. The Ombudsman recommends that if there were any outstanding referrals to medical specialists at the time of Mr X's release from detention that follow-up action be taken to ensure continuity of care.