

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

Name	Mr X
Citizenship	Country A/Country B (born in Country A)
Year of birth	1988
Ombudsman ID	1003094
Date of DIBP's reports	24 April 2015 and 21 October 2015
Total days in detention	916 (at date of DIBP's latest report)

Detention history

18 April 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 664 <i>Newark</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
25 April 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
14 July 2013	Transferred to Scherger IDC.
29 January 2014	Transferred to Northern IDC.
22 February 2014	Transferred to Wickham Point APOD. ¹

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.	
5 June 2014	Mr X was issued with a letter informing him of the unintentional release of personal information through DIBP's website. ² DIBP stated that the matter will be taken into account when considering his protection claims.
26 June 2014	Mr X provided his response in relation to the privacy breach.
16 October 2014	'Screened in' to the protection process, following his response to the privacy breach.

¹ 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 is accommodated in the single adult male compound at Wickham Point APOD.

² 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.

29 September 2015	The Minister lifted the bar under s 46A to allow him to lodge a temporary visa application.
21 October 2015	DIBP advised that it had yet to invite Mr X to lodge a temporary visa application. It also advised that Mr X has been identified for assessment against the s 195A guidelines for referral to the Minister to consider granting a Bridging visa.

Health and welfare

18 April 2013 – 23 September 2015	<p>International Health and Medical Services (IHMS) advised that Mr X had a history of extensive physical and emotional abuse since a young age. He attended regular psychology and group therapy sessions and had regular contact with the mental health team (MHT). IHMS stated that medication was previously prescribed for management of his symptoms, and at the time of its report his mental health appeared stable.</p> <p>IHMS also stated that while there was no clinical evidence in Mr X's last mental health assessment to suggest that his health was likely to be adversely affected by his placement, it advised that prolonged ongoing detention could potentially have a negative effect on his complex mental health issues and vulnerability.</p>
19 May 2013	A DIBP Incident Report recorded that Mr X made a threat of self-harm. No further information was provided.
21 May 2013 – ongoing	IHMS advised that Mr X was identified as having depression.
30 May 2013	Mr X was identified as having a history of torture and trauma. On 23 September 2015 IHMS reported this health issue was resolved.
8 July 2013 – ongoing	Mr X was identified as having post-traumatic stress disorder.
23 July 2013	A DIBP Incident Report recorded that Mr X threatened self-harm during an appointment with a mental health nurse. No further information was provided.
25 July 2013	A DIBP Incident Report recorded that Mr X fainted after returning from the gym. The Serco officer in attendance treated the incident as a medical emergency and it was noted that at the time Mr X was under Psychological Support Program observations at a high imminent level.
6 February 2014	A DIBP Incident Report recorded that Mr X threatened self-harm during a removal interview with DIBP.
10 June 2014	A DIBP Incident Report recorded that Mr X was the alleged victim in a minor disturbance which Serco treated as a medical emergency. No further information was provided.

Ombudsman assessment/recommendation

Mr X was detained on 18 April 2013 after arriving in Australia aboard SIEV 664 *Newark* and has been held in restricted detention for over two and a half years with no processing of his protection claims.

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

The Ombudsman notes that IHMS advised Mr X has a history of extensive physical and emotional abuse since a young age and that prolonged detention could potentially have a negative effect on his complex mental health issues and vulnerability.

The Ombudsman also notes that Mr X has also been identified for assessment against the s 195A guidelines for consideration of a Bridging visa.

In consideration of Mr X's mental health concerns, the Ombudsman recommends that priority be given to consider Mr X for a Bridging visa or community detention placement.