

**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 restricted immigration detention for more than 36 months (three years).

The first report 1003010 was tabled in Parliament on 24 February 2016. 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	1992
Ombudsman ID	1001784-O
Date of DIBP's report	15 March 2016
Total days in detention	1094 (at date of DIBP's report)

Recent detention history

Since the Ombudsman's previous report (1003010), Mr X has remained at Wickham Point Alternative Place of Detention (APOD).

Recent 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 of the *Migration Act 1958*.

29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
29 October 2015	DIBP invited Mr X to apply for a temporary visa.
24 December 2015	Found not to meet the guidelines for referral to the Minister under s 195A.
29 January 2016	DIBP granted Mr X an extension of time to lodge his temporary visa application.
15 March 2016	DIBP advised that Mr X had sought several extensions to lodge his temporary visa application and at the time of its review he was yet to lodge an application.

Health and welfare

International Health and Medical Services (IHMS) provided details of Mr X's health and welfare. No significant ongoing mental health concerns were noted.

20 November 2015	He underwent day surgery to remove a benign lump. No complications were recorded.
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Other matters

3 November 2015 – ongoing	DIBP provided a response to the Australian Human Rights Commission (AHRC) in relation to Mr X's complaint lodged on 8 September 2015. On 25 November 2015 the AHRC provided DIBP a conciliation proposal, which DIBP responded to on 21 December 2015.
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Information provided by Mr X

During an interview with Ombudsman staff at Wickham Point APOD on 19 April 2016 Mr X advised he is not sure where his immigration case is up to but he speaks to his case manager once a month. He said he meets with an advocate every three weeks and they have helped him fill out forms for DIBP.

He said he has not applied for a visa yet because he is waiting on documents from Country A and is not sure when they will arrive.

Mr X said he arrived in Australia with his younger brother, Mr Y, who is at Yongah Hill Immigration Detention Centre (IDC). He said he would like to be transferred to Yongah Hill IDC to be with his brother.

He said that he was transferred from Christmas Island IDC to Darwin for medical reasons and generally his health is good but he has not seen IHMS for a long time.

He said he has a cousin in Melbourne but has not been in recent contact. Mr X said he speaks to his family in Country A every two days and they are very concerned for him.

Ombudsman assessment/recommendation

Mr X was detained on 17 March 2013 after arriving in Australia aboard Suspected Illegal Entry Vessel *Biscayne* and has been held in restricted detention for over three years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 29 October 2015 DIBP invited Mr X to apply.

The Ombudsman notes that Mr X's younger brother, Mr Y,¹ is located at Yongah Hill IDC. The Ombudsman recommends that consideration be given to transferring Mr X to Yongah Hill IDC to be with his brother while they await resolution of their immigration status.

¹ Mr Y is the subject of Ombudsman report 1003009.