

## 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 1003025 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.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1987
<b>Ombudsman ID</b>	1001801-O
<b>Date of DIBP's report</b>	22 February 2016
<b>Total days in detention</b>	1096 (at date of DIBP's report)

### Recent detention history

Since the Ombudsman's previous report (1003025), Mr X has remained at Wickham Point Alternative Place of Detention (APOD).<sup>1</sup>

### 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*.

12 March 2014	DIBP notified Mr X of the unintentional release of personal information <sup>2</sup> and advised that the privacy breach would be taken into account when considering his protection claims.
25 September 2015	Referred on a ministerial submission for consideration under s 46A to lift the bar.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
6 November 2015	DIBP invited Mr X to apply for a temporary visa.
9 November 2015	Mr X's case was referred for assessment against the guidelines under s 195A for the grant of a Bridging visa.
11 November 2015	Found not to meet the guidelines for referral to the Minister under s 195A.

<sup>1</sup> DIBP advised that its 30-month review dated 22 August 2015 stated that Mr X was transferred from Yongah Hill Immigration Detention Centre to Wickham Point APOD on 31 August 2015 but the transfer date was 31 July 2015.

<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.

22 February 2016	<p>Mr X was notified that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application.</p> <p>DIBP advised that Mr X remains a person of interest in relation to his involvement in alleged criminal matters overseas.</p>
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### Health and welfare

13 August 2015 – 19 January 2016	<p>International Health and Medical Services (IHMS) reported that Mr X expressed frustration at the length of time he has been in detention, but at a mental health review on 18 November 2015 he advised that his mental health had improved and he was thinking positively. No concerns were noted and he was aware of the self-referral process.</p>
19 January 2016	<p>IHMS advised that Mr X's observation period for tuberculosis was completed, as during the past two years no symptoms were identified and x-rays returned normal results. His condition is considered resolved.</p>

### Information provided by Mr X

<p>During an interview with Ombudsman staff at Wickham Point APOD on 19 April 2016 Mr X advised he was invited to apply for a temporary visa in November 2015. However he had not lodged an application because the visa application instructions are difficult for him to understand because they are in English. He said about four months ago he was given information by his case manager about who to contact for assistance but he did not know what to do.</p> <p>Mr X said he did not have any concerns about detention conditions but being transferred from one detention facility to another was stressful. He said he feels depressed because of the uncertainty of his immigration pathway. He attends regular reviews with IHMS and stated that IHMS cannot do anything about his mental health.</p> <p>Mr X advised he has no family in Australia and he speaks to his parents in Country A every two or three months.</p>
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### Other matters

19 April 2016	<p>Following the interview with Mr X at Wickham Point APOD, Ombudsman staff spoke with the Status Resolution team at Wickham Point APOD about Mr X's difficulty to complete his visa application form. The Status Resolution team agreed to follow up with Mr X.</p>
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### **Ombudsman assessment**

Mr X was detained on 21 February 2013 after arriving in Australia aboard SIEV *Oscra* 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 6 November 2015 DIBP invited Mr X to apply.

The Ombudsman notes that on 22 February 2016 DIBP notified Mr X that he is eligible for PAIS assistance. The Ombudsman also notes that on 19 April 2016 Mr X raised concerns about the difficulty in completing his visa application form and that the Status Resolution team agreed to follow this up with Mr X. The Ombudsman makes no recommendations in this report.