

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
Year of birth	1964
Ombudsman ID	1003179
Date of DIBP's reports	28 July 2015 and 25 January 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

27 July 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland as a 'direct entry person' ¹ aboard Suspected Illegal Entry Vessel (SIEV) 803 <i>Dotelle</i> . He was transferred to Northern Immigration Detention Centre (IDC).
30 July 2013	Transferred to Christmas Island Alternative Place of Detention (APOD).
4 August 2013	Transferred to Christmas Island IDC.
17 January 2014	Transferred to Northern IDC.
31 January 2014	Transferred to Christmas Island IDC.
28 March 2014	Transferred to Wickham Point APOD.
7 May 2015	Transferred to Christmas Island IDC.
10 October 2015	Transferred to Wickham Point APOD. ²

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.

¹ A maritime arrival to Australia's mainland who is seeking protection. Following legislative amendment on 20 May 2013, all unauthorised maritime arrivals, including those who arrived on the Australian mainland or an 'excised offshore location' were barred from lodging a Protection visa application under s 46A

² Wickham Point was designated an APOD on 11 July 2013. DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point APOD is comprised of 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.

12 March 2014	DIBP notified Mr X of the unintentional release of personal information ³ and advised that the privacy breach would be taken into account when considering his protection claims.
29 September 2015	The Minister lifted the bar under s 46A to allow him to lodge a temporary visa application.
5 November 2015	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. On 6 November 2015, Mr X accepted the PAIS assistance.

Criminal matters

5 September 2014	A DIBP Incident Report recorded that Mr X was allegedly involved in a physical altercation with detainees of a different ethnicity at Christmas Island IDC.
1 December 2014	Mr X was charged with taking part in a riot in relation to his involvement in the incident on 5 September 2014.
10 December 2014	Mr X appeared before the Christmas Island Magistrates Court and pleaded not guilty. His case was adjourned.
13 January 2016	Mr X was found guilty of taking part in a riot and placed on a conditional release order, including a six-month good behaviour bond. Mr X was granted a spent conviction and the matter was finalised.

Health and welfare

12 September 2013 – ongoing	International Health and Medical Services (IHMS) advised that Mr X reported to the general practitioner (GP) that he experiences seizures. He underwent several diagnostic tests and no brain abnormalities were identified. IHMS advised that he was prescribed with medication and continues to be monitored by his GP.
6 January 2014 – ongoing	Mr X was diagnosed with depression after presenting with symptoms of stress and a history of panic attacks. He was referred to a specialist and prescribed with medication.
8 January 2014	IHMS advised that Mr X sewed his lips together as a form of protest. He received treatment from IHMS and was closely monitored by the mental health team (MHT).
30 January 2014	Mr X was reviewed by a psychiatrist and referred for specialist counselling. IHMS advised that he attended counselling and improvements in his mental health were noted. A DIBP Incident Report recorded that Mr X threatened self-harm if he was transferred to Christmas Island IDC.

³ 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.

14 February 2014 – 6 May 2014	DIBP Incident Reports recorded that Mr X threatened self-harm on three occasions. No further information was provided.
3 March 2014	A DIBP Incident Report recorded that Mr X experienced an anxiety attack. No further information was provided.
2 June 2014	A DIBP Incident Report recorded that Mr X refused food and fluid as a form of protest and threatened self-harm during a protest at Wickham Point APOD.
5 October 2014	Mr X was diagnosed with a past hepatitis B infection following routine pathology testing. IHMS advised that no further treatment was required.
6 November 2014 – ongoing	Presented to a GP with symptoms of swelling and was referred for an ultrasound. Mr X was reviewed by a psychiatrist who recommended that he be transferred into community detention and placed near his family. His psychiatrist noted that family support may assist in improving his mental health. Mr X continues to be monitored by his GP and the MHT.
7 December 2014 – ongoing	An ultrasound identified a cyst. His GP noted that the cyst may require surgical excision and he was referred to a specialist. IHMS advised that this appointment remained outstanding at the time of its report.
29 January 2015	Mr X was referred to a neurologist for seizure management advice.
11 February 2015	Reviewed by a neurologist who advised that his current treatment was effective.
May 2015	During a review with a psychiatrist, it was noted that Mr X was experiencing symptoms of distress and situational stress.
17 May 2015	A DIBP Incident Report recorded that Mr X refused food and fluid as a form of protest. No further information was provided.
8 June 2015	Mr X was diagnosed with a medical condition and referred to a specialist.
12 June 2015 – ongoing	Reviewed by a neurologist who advised that his condition was unlikely to be seizure-related and recommended that his medication be ceased. IHMS advised that Mr X continues to be monitored by his GP.
21 July 2015 – 10 August 2015	Mr X was closely monitored by detention centre staff after he self-harmed by attempting to hang himself with a bed sheet. IHMS advised that his GP organised a teleconference between Mr X and his psychiatrist and his medication was adjusted. He was reviewed by a psychologist on 10 August 2015 and monitoring ceased.
22 July 2015	IHMS reported that Mr X experienced two suspected seizures. He was reviewed by his GP and it was noted that the seizures may have been stress-related.

26 November 2015	Mr X presented to his GP with a shoulder injury. An ultrasound was conducted and he received a cortisone injection for pain management. He was prescribed with oral pain relief medication and continues to be monitored by his GP.
December 2015	During a mental health assessment, Mr X presented with low mood related to his ongoing detention. He advised that he was not experiencing thoughts of self-harm at that time and continues to take antidepressant medication. IHMS advised that he continues to be closely monitored by the MHT and his GP.

Other matters

Mr X arrived in Australia with his sister, Ms Y, her husband, Mr Z and their daughter, Miss Q, who were granted Bridging visas on 25 February 2015.

Case status

Mr X was detained on 27 July 2013 after arriving in Australia aboard SIEV *Dotelle* and has been held in detention for over two and a half years.

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.