

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).

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| Name | Mr X |
| Citizenship | Country A |
| Year of birth | 1979 |
| Ombudsman ID | 1002906 |
| Date of DIBP's reports | 30 January 2015 and 31 July 2015 |
| Total days in detention | 912 (at date of DIBP's latest report) |

Detention history

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| 30 January 2013 | Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 578 <i>Excalibur</i> . He was transferred to Phosphate Hill Alternative Place of Detention (APOD), Christmas Island. |
| 31 January 2013 | Transferred to Christmas Island Immigration Detention Centre (IDC). |
| 13 February 2013 | Transferred to Northern IDC. |
| 10 April 2013 | Transferred to Scherger IDC. |
| 2 July 2013 | Transferred to Yongah Hill IDC. |
| 15 July 2013 | Transferred to Curtin IDC. |
| 26 July 2013 | Transferred to Yongah Hill IDC. |

Visa applications/case progression

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| The Department of Immigration and Border Protection (DIBP) advised that Mr X is part of a cohort who have not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister has not lifted the bar under s 46A. | |
| 7 May 2015 | Mr X was included in a ministerial submission under s 195A for consideration of the grant of a Bridging visa. |
| 28 May 2015 | The Minister declined to intervene under s 195A. |

Health and welfare

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| 18 February 2013 – 6 March 2013 | International Health and Medical Services (IHMS) reported that Mr X was experiencing ongoing sinus pain. He was prescribed antibiotics on two occasions. |
| 6 March 2013 | Referred for an optometry assessment after he complained about blurred vision. |

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| 12 March 2013 | As Mr X's sinus condition had not responded to the antibiotic treatment he was referred to a hospital emergency department for further assessment. He was provided with pain relief medication and referred for a computed tomography (CT) scan. |
| 18 March 2013 | The CT scan results were normal and IHMS advised that Mr X did not present with any further symptoms of sinus pain. |
| 25 March 2013 | He attended an optometry assessment and the optometrist advised that he did not need glasses. |
| 20 September 2014 | He complained of further problems with blurred vision and the GP referred him for another optometry assessment. |
| 15 October 2014 | The optometrist diagnosed Mr X with an intermittent eye condition which causes temporary blurring of vision. He was prescribed with eye drops. IHMS advised that he had not reported any further episodes of blurred vision. |
| April 2015 | IHMS reported that he referred himself to the mental health team (MHT) because he was feeling flat and had reduced motivation. |
| July 2015 | A mental health assessment noted that Mr X's frustration with his immigration status was ongoing but he had denied any thoughts of self-harm or harm to others. |

Information provided by Mr X

During an interview with Ombudsman staff at Yongah Hill IDC on 1 September 2015 Mr X stated that he fled Country A because of his religious beliefs and fearing that he would be imprisoned by the Country A government.

Mr X said that he has no health concerns although he stated that he feels 'miserable' most of the time. He occasionally sees the MHT and he likes the programs and activities provided at Yongah Hill IDC.

Mr X said that he received a letter on 28 August 2015 advising him that the Minister had lifted the s 46A bar and he can now apply for a Temporary Protection visa or a Safe Haven Enterprise visa. However, he said he cannot understand the application form, is not confident about following the instructions, and is concerned because the letter advised him that he had only 28 days to apply. He said that he has no money for a lawyer or a migration agent to assist him with his application.

Other matters

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| 20 July 2013 | DIBP received a complaint from the Australian Human Rights Commission (AHRC) on behalf of Mr X. DIBP provided a response to AHRC on 6 August 2013. On 26 August 2013 AHRC advised DIBP that it had decided to finalise Mr X's complaint. |
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| 30 September 2015 | <p>Following the interview with Mr X, Ombudsman staff met with DIBP Case Management at Yongah Hill IDC seeking further information about Mr X's reported difficulties in lodging an application for a temporary visa.</p> <p>Case Management advised that while it had obtained a two-week extension for Mr X, he continued to experience difficulty with completing his application.</p> <p>Case Management further advised that it was facilitating a visit to Yongah Hill IDC from a community organisation to meet with all detainees who had been invited to apply for a temporary visa, to provide information and support with their visa applications.</p> |
| 20 October 2015 | <p>DIBP advised that a new online microsite was launched for maritime arrivals. This includes information in English and ten community languages, including language C, about temporary visa options and how protection claims are processed.</p> |

Ombudsman assessment

The Ombudsman notes that Mr X was detained on 30 January 2013 after arriving in Australia aboard SIEV *Excalibur* and has been held in restricted detention for over two and a half years with no processing of his protection claims.

The Ombudsman notes with concern Mr X's advice that he had been invited to apply for a temporary visa but was experiencing difficulty in completing his application for a temporary visa due to limited English skills, lack of access to an interpreter and lack of understanding of the process. The Ombudsman notes that Mr X was given a two-week extension and during that time a community organisation had been invited to visit Yongah Hill IDC to provide assistance to those detainees who had been invited to apply for a temporary visa.

The Ombudsman further notes the launch of DIBP's online microsite for maritime arrivals which includes Protection Application Information and Guides in ten languages. The Ombudsman supports the expansion of these guides to include other community languages. The Ombudsman makes no recommendations in this report.