

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	1972
Ombudsman ID	1003375
Date of DIBP's reports	24 August 2015 and 22 February 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

24 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia with his wife and two children aboard Suspected Illegal Entry Vessel (SIEV) 838 <i>Vance</i> . He was transferred to Christmas Island Immigration Detention Centre (IDC). The Department of Immigration and Border Protection (DIBP) advised that Mr X's wife, Ms Y, and their children, Master Z and Miss Q, were granted Bridging visas on 16 July 2015.
15 January 2014	Transferred to an Alternative Place of Detention (APOD), Christmas Island.
24 January 2014	Transferred to Christmas Island IDC.
25 March 2014	Transferred to an APOD, Christmas Island.
10 May 2014	Transferred to Perth Immigration Residential Housing (IRH).
16 June 2014	Transferred to Perth IDC.
11 July 2014	Transferred to Perth IRH.
28 August 2014	Transferred to Bladin APOD.
26 February 2015	Transferred to Wickham Point APOD.
14 August 2015	Transferred to Facility B.

Visa applications/case progression

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.	
12 March 2014	DIBP notified Mr X of the unintentional release of personal information. ¹

¹ 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.

18 June 2015	Mr X's case was referred on a combined ministerial submission for consideration under ss 46A, 197AB and 195A.
26 June 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a Temporary Protection visa (TPV) application. However, the Minister declined to intervene under ss 197AB and 195A.
12 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge Safe Haven Enterprise Visa (SHEV) application.
7 September 2015	DIBP invited Mr X to lodge a temporary visa application.
5 October 2015	Mr X lodged a Safe Haven Enterprise visa (SHEV) application with an associated Bridging visa application.
17 December 2015	Associated Bridging visa application deemed invalid.
22 February 2016	DIBP advised that Mr X is a person of interest to DIBP in relation to criminal matters offshore.

Criminal history

22 January 2015	<p>DIBP advised that an Interpol search and Five Country Conference (FCC) fingerprint check was conducted after receiving an allegation that Mr X was a member of an international crime organisation.</p> <p>The Interpol search identified that Mr X is the subject of an active notice. The FCC fingerprint check indicated that in 2008 Mr X was convicted of charges relating to drug production in Country C and received a two year and three month custodial sentence. DIBP advised that it has requested further checks in Country D and Country E.</p>
-----------------	--

Health and welfare

16 January 2014	International Health and Medical Services (IHMS) advised that Mr X was identified as a tuberculosis contact. Chest x-rays returned normal results and no further follow up was required.
20 May 2014	Mr X presented with skin infections and was prescribed with medication.
19 June 2014 – 21 August 2014	IHMS advised that Mr X attended seven psychological counselling sessions and continues to self-refer to the mental health team as required.
25 July 2014 and 2 July 2015	Attended consultations with a plastic surgeon for management of his skin condition.
7 November 2014	IHMS reported that improvement in his skin condition was noted.
16 January 2016	Admitted to a hospital emergency department after rupturing a tendon in his finger. He was provided with treatment and scheduled for a review at a specialist clinic on 15 April 2016.
25 January 2016	IHMS reported that Mr X was referred to a dermatologist for further assessment of his skin condition. An appointment was scheduled for 29 April 2016.

Other matters

17 November 2014	DIBP received a complaint from the Australian Human Rights Commission (AHRC) on behalf of Mr X and his family. DIBP provided a response on 27 February 2015 and responded to additional questions on 2 March 2015, 18 March 2015 and 22 May 2015. On 28 May 2015 AHRC advised that the complaint was resolved and finalised.
------------------	--

Case status

Mr X was detained on 24 August 2013 after arriving in Australia aboard *SIEV Vance* and has been held in restricted immigration detention for over two and a half years.

On 26 June 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a TPV. On 12 August 2015 the Minister lifted the bar under s 46A to allow Mr X to choose to apply for a SHEV and on 5 October 2015 Mr X lodged a SHEV application.