

**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 immigration detention for more than 42 months (three and a half years).

The first report 1001979¹ was tabled in Parliament on 12 August 2015. 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	1989
Ombudsman ID	1003350
Date of DIBP's reports	11 May 2015, 2 November 2015 and 2 May 2016
Total days in detention	1276 (at date of DIBP's latest report)

Detention history

3 November 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 516 <i>Ultima</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
9 November 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
13 November 2012	Transferred to Darwin Airport Lodge APOD.
7 January 2013	Transferred to Wickham Point APOD.
14 January 2013	Transferred to Villawood IDC.
1 July 2013	Transferred to community detention.

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.	
3 November 2012	DIBP advised that Mr X is deaf, mute and illiterate and has been unable to communicate with DIBP regarding his protection claims. On 1 August 2014 Mr X was appointed a public guardian for legal and immigration matters and has received ongoing support from the Multicultural Development Association and Deaf Services Queensland (DSQ). DIBP advised that it was working with service providers to support Mr X and provide him with the communication skills required to engage with DIBP.

¹ Mr X was previously reported on in a group report.

13 March 2014	DIBP notified Mr X of the unintentional release of personal information ² and advised that the privacy breach would be taken into account when considering his potential protection claims.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
23 October 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 24 November 2015 the public guardian accepted the PAIS assistance on Mr X's behalf.
2 November 2015	DIBP advised that Mr X's case has been identified for assessment against the guidelines under s 195A for consideration of a Bridging visa.
5 April 2016	Found not to meet the guidelines for referral to the Minister under s 195A.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X has received specialist treatment for severe hearing loss and associated mutism. He attends regular classes to improve his language and communication skills and was provided with hearing aids. In July 2015 the audiologist reported that Mr X was unlikely to benefit from further auditory stimulation given his long-term auditory deprivation and recommended he continue learning sign language.</p> <p>On 9 June 2015 the general practitioner reported that Mr X's progress continues to be limited due to his isolation, vulnerability and the limited funding available to provide increased treatment. In December 2015 DSQ requested additional funding from DIBP and IHMS confirmed that the request was within community standards. However, on 21 January 2016 DIBP declined the request for additional funding.</p>	
15 April 2013	A DIBP Incident Report recorded that Mr X threatened self-harm by holding a razor blade against his wrist.

Other matters

Mr X's cousin, Mr Y, resides in Australia on a Bridging visa.

² 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.

Ombudsman assessment/recommendation

Mr X was detained on 3 November 2012 after arriving in Australia aboard SIEV *Ultima* and has been held in detention for over three and a half 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 24 November 2015 the public guardian accepted the PAIS assistance on Mr X's behalf.

The Ombudsman notes that DIBP is working with service providers to support Mr X and provide him with the skills required to engage with DIBP.

The Ombudsman notes with concern advice from IHMS that Mr X's progress is limited due to the limited funding available to provide increased treatment. The Ombudsman further notes that in December 2015 DSQ requested additional funding from DIBP to provide increased treatment and IHMS confirmed that the request was within community standards. However, on 21 January 2016 DIBP declined the request for additional funding.

Given DIBP's advice that it is working with service providers to provide Mr X with the communication skills required to engage with DIBP, the Ombudsman recommends that DIBP review its decision to decline DSQ's request for additional funding.