

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 42 months (three and a half years).

The first report 1002444 was tabled in Parliament on 14 September 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	1977
Ombudsman ID	1001333-O
Date of DIBP's reports	4 November 2015 and 6 May 2016
Total days in detention	1278 (at date of DIBP's latest report)

Detention history

5 November 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 518 <i>Willys</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island. ¹
6 November 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
2 December 2012	Transferred to Northern IDC.
13 March 2013	Transferred to Curtin IDC.
24 July 2013	Transferred to Yongah Hill IDC.
1 November 2013	Transferred to Curtin IDC.
28 August 2014	Transferred to Yongah Hill IDC.
24 March 2015	Transferred to Wickham Point APOD.

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.	
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 protection claims.

¹ Mr X's detention history and visa case progression was not provided in DIBP's 24 or 30-month reviews.

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.

11 August 2015	Mr X's case was referred on a ministerial submission for consideration to lift the bar under s 46A.
13 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
3 September 2015	DIBP invited Mr X to lodge a temporary visa application.
2 November 2015	Lodged a Safe Haven Enterprise visa (SHEV) application with an associated Bridging visa application.
4 November 2015	DIBP advised that Mr X has been identified as a person of interest to an external agency following allegations of criminal matters overseas.
14 December 2015	DIBP notified Mr X that the associated Bridging visa was invalid.
22 February 2016	DIBP notified Mr X that he was eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application and if he accepts the offer he would be invited to lodge a new application or provide further information in relation to his existing SHEV application. He accepted the offer on 29 February 2016 and was assigned a provider.
22 April 2016	Mr X withdrew his existing SHEV application and lodged a new SHEV application with the assistance of his authorised representative.
27 April 2016	Mr X attended an interview in relation to his SHEV application.
6 May 2016	DIBP advised that Mr X remains a person of interest to an external agency.

Health and welfare

International Health and Medical Services (IHMS) reported that Mr X has not required treatment for any significant physical health concerns, but continued to be treated for previously reported ongoing mental health issues.

IHMS advised that he ceased specialist counselling and regular mental health reviews noted that there was no evidence of any mental health issues. However, in March 2016 he reported increased anxiety and difficulty coping with prolonged detention. IHMS referred him again for specialist counselling and at the time of the latest IHMS report an appointment was pending.

Other matters

26 November 2014	<p>DIBP received a complaint from the Australian Human Rights Commission (AHRC) on behalf of Mr X. DIBP provided a response to the AHRC on 22 December 2014.</p> <p>On 1 December 2015 the AHRC notified DIBP that it was considering a report under s 11 of the <i>Human Rights Commission Act 1986</i> and requested further information from DIBP. DIBP responded on 15 January 2016 and advised that AHRC provided its preliminary view on 15 April 2016.</p>
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Information provided by Mr X

During an interview with Ombudsman staff at Wickham Point APOD on 21 April 2016 Mr X advised that DIBP told him his first SHEV application was invalid and he needed to make a new application. He said DIBP were providing him with legal support and he was waiting to see a lawyer. Mr X said he felt DIBP were wasting his time and he did not know why he had been detained for more than three and a half years.

Mr X said he had no interest in participating in the activities at 3Wickham Point APOD but forced himself to attend so he could earn his full points³ each week.

He stated he feels his mental health is deteriorating and while he sees the mental health team this is only as a means of passing time. He said he has problems sleeping and spends a lot of time in his room thinking.

Mr X advised he did not receive any visitors in detention and from January 2016 he had stopped contacting his family in Country A.

Case status

Mr X was detained on 5 November 2012 after arriving in Australia aboard SIEV *Willys* and has been held in restricted detention for over three and a half years.

On 13 August 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 22 April 2016 Mr X lodged a SHEV application.

³ Section 6, Clause 5.6 of the Immigration Detention Facilities and Detainee Services Contract stipulates that Serco must implement and manage DIBP's approved Individual Allowance Programme (IAP) in each detention facility. Through the IAP, detainees are allocated points that can be exchanged for a variety of goods on offer, such as telephone cards, tobacco and snack food, at the facility shop managed by Serco.