

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 and Ms Y who have remained in restricted immigration detention for more than 30 months (two and a half years).

Name	Mr X (and wife)
Citizenship	Country A
Year of birth	1965

Family details

Family members	Ms Y (wife)
Citizenship	Country A
Year of birth	1967

Ombudsman ID	1003136
Date of DIBP's reports	5 May 2015 and 6 November 2015
Total days in detention	912 (at date of DIBP's latest report)

Detention history

8 May 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 698 <i>Beccles</i> . They were transferred to an Alternative Place of Detention (APOD), Christmas Island.
7 June 2013	Transferred to Wickham Point APOD.
18 September 2013	Transferred to Melbourne Immigration Transit Accommodation.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, Mr X and Ms Y were 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	Mr X and Ms Y were issued with a letter inviting them to comment on the unintentional release of personal information through DIBP's website. 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.

1 September 2015	<p>DIBP advised that Ms Y had initially indicated she would consider release separately from her husband and she was included on a group submission under s 195A for the Minister to consider granting a Bridging visa. On 27 May 2015 Ms Y requested to be removed from the submission as she had changed her mind.</p> <p>Further to this, DIBP Case Management advised that Ms Y reportedly stated that she did not wish to be released on a Bridging visa if this meant being separated from her husband.</p>
29 September 2015	The Minister intervened to lift the bar under s 46A to allow Mr X and Ms Y to lodge an application for a temporary visa.
26 October 2013	DIBP notified Mr X that he was eligible to receive the Primary Application Information Services (PAIS) to assist him with lodging a temporary visa application.
27 October 2015	Mr X accepted the PAIS offer and advised that the application would include his wife, Ms Y. On 5 November 2015, DIBP assigned a PAIS provider.

Health and welfare

Mr X

8 May 2013 – ongoing	International Health and Medical Services (IHMS) reported that Mr X was identified as a tuberculosis contact. No abnormalities have been detected and he is monitored as per state policy.
23 June 2014	<p>He was taken to hospital by ambulance after presenting to IHMS with slurred speech, right-sided weakness, a tremor in his right arm and complaints of a severe headache.</p> <p>IHMS advised that he was admitted for observations and tests returned normal results. He was discharged the following day.</p>
26 June 2014 – ongoing	He disclosed a history of torture and trauma and commenced specialist counselling sessions.
2 July 2014 – ongoing	<p>Changes in his lungs and liver were identified by a routine chest x-ray. The general practitioner (GP) noted that Mr X advised that he had been exposed to chemicals in the war in Country A and Country B and referred him for a computed tomography (CT) scan.</p> <p>The CT scan found multiple nodules in his lungs and liver. A liver ultrasound identified benign cysts and he was referred to a hospital for further investigations. In September 2014 he attended a sleep and respiratory doctor and a bronchoscopy and biopsy were conducted (date not provided) which returned normal results. In May 2015 a specialist surgeon assessed his liver abnormalities.</p> <p>IHMS advised that a review with the sleep and respiratory doctor was scheduled for September 2015. Investigations into his condition continue and he is monitored by his GP and specialists.</p>

8 August 2014	<p>A DIBP Incident Report recorded that Mr X allegedly threatened to harm himself and Ms Y should they be transferred to another detention facility. No further information was provided.</p> <p>On the same day, he was taken to hospital by ambulance after suffering a seizure. IHMS advised he was diagnosed with anxiety and agitation. His condition improved with a muscle relaxant and he was prescribed with medication for his anxiety. No information was provided about his discharge from hospital.</p>
11 August 2014 and 12 August 2014	A DIBP Incident Report recorded that Mr X experienced seizures. No further information was provided.
13 August 2014	<p>A DIBP Incident Report recorded that Mr X called the Australian Federal Police and allegedly threatened self-harm if they did not come to see him. No further information was provided.</p> <p>On the same day, he was placed on Supportive, Monitoring and Engagement observations after he was overheard threatening to self-harm. IHMS reported that Mr X and Ms Y denied any thoughts of self-harm and were able to assure their safety.</p>
18 December 2014 and 14 April 2015	He attended two specialist counselling sessions.
29 May 2015	<p>IHMS advised that Mr X continued to be prescribed with medication and attended regular psychotherapy sessions with his psychiatrist. He also regularly saw the mental health team (MHT), as recommended by his psychiatrist.</p> <p>He was also treated for various physical health concerns which included leg and knee pain and kidney stones. He was regularly monitored by the GP and provided with treatment when required.</p>
9 June 2015	A liver specialist reported that Mr X requires a repeat scan in six months to monitor the cysts on his liver. IHMS advised his next review is scheduled for 22 December 2015.
9 July 2015	A magnetic resonance imaging (MRI) scan did not detect the cause of Mr X's severe headaches.
September 2015	At his mental health review, Mr X described ongoing stressors because of his immigration pathway but stated he has no other mental health concerns. He continues to engage with the MHT and attends supportive counselling sessions.

Ms Y

DIBP did not provide an IHMS Health Summary Report for Ms Y for the reporting period 8 May 2013 to 5 May 2015.

20 June 2014	IHMS reported that Ms Y was diagnosed with a benign tumour and an elevated hormone level in her blood and she was referred to an endocrinologist. She has regular blood tests and MRI scans to monitor her hormone levels and the growth of the tumour.
23 June 2015	The endocrinologist reported that her elevated hormone levels are considered mild because she has no symptoms. She does not require any intervention but it was recommended that further investigations be pursued. IHMS advised that scheduling of a six-month review with the endocrinologist was outstanding.
7 September 2015	Her mental health review noted that she has suffered with anxiety and stress since arriving in Australia. She has been engaging with the MHT and attending group counselling sessions. She did not have any mental health concerns and is aware of the self-referral process.
15 October 2015	IHMS advised that she was identified as a tuberculosis contact in May 2013 and has been monitored as per state policy.

Detention incidents

DIBP Incident Reports recorded that Mr X has allegedly displayed aggressive and abusive behaviour towards DIBP and IHMS staff, Serco officers and other detainees on several occasions. It was also recorded that Mr X has made several threats towards Serco officers.

Other matters

On 25 July 2013, Ms Y lodged a complaint with the Ombudsman's office alleging that a mobile telephone was missing from her personal possessions held by Serco.

Following an investigation Ms Y's mobile telephone was located but she claimed that her mobile telephone was not the located telephone. The Ombudsman's office provided further advice and the complaint was finalised on 30 October 2013.

6 November 2015	DIBP advised that Mr X has been identified as a person of interest in relation to his alleged involvement in criminal matters overseas.
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Case status

Mr X and Ms Y were detained on 8 May 2013 after arriving in Australia aboard SIEV *Beccles* and have been held in restricted detention for over two and a half years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X and Ms Y to lodge a temporary visa application. They are yet to lodge an application.