

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 a cumulative period of more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1982
Ombudsman ID	1003197
Date of DIBP's report	6 August 2015
Total days in detention	736 (at date of DIBP's report)

Detention history

24 December 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 568 <i>Unipower</i> . He was transferred to an Alternative Place of Detention, Christmas Island.
30 December 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
11 January 2013	Transferred to Manus Island Regional Processing Centre (RPC). ¹
18 August 2013	Transferred to Curtin IDC.
26 August 2014	Transferred to Yongah Hill IDC.
31 July 2015	Transferred to Facility B.

Visa applications/case progression

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.	
6 August 2015	DIBP advised that Mr X had been identified for assessment against the guidelines under s 195A for referral to the Minister for consideration of a Bridging visa.
11 November 2015	DIBP confirmed that people transferred to an RPC who have been returned to immigration detention in Australia are subject to an additional bar under s 46B. DIBP further advised that these people cannot have the s 46B bar lifted to allow them to apply for a temporary visa until a new regulation is introduced which will bring them within the 'fast track' definition to have their protection claims processed.

¹ Time spent at an RPC is not counted towards time spent in immigration detention in Australia for the purposes of reporting under s 486N.

Health and welfare

15 March 2013	International Health and Medical Services (IHMS) advised that Mr X was placed on Psychological Support Program observations after he had lacerated his arms and torso. IHMS reported that Mr X was experiencing distress and had self-harmed as a form of protest related to his transfer to an RPC.
20 March 2013	Mr X was reviewed by the mental health team (MHT).
11 May 2013	Presented with a history of insomnia and was prescribed with medication. In September 2013 Mr X reported that he had ceased this medication.
2 June 2013	Presented to his general practitioner (GP) with deteriorating vision and reported that he experiences near-sightedness. On 8 September 2014 he was reviewed by an optometrist and prescribed with glasses.
8 June 2013	Mr X threatened self-harm following ongoing insomnia. He was reviewed by a psychiatrist the following day and was prescribed with medication.
October 2013 – ongoing	Mr X presented with insomnia and anger issues. He was prescribed with medication and referred to the MHT. His condition continues to be monitored by his general practitioner (GP).
31 March 2014 – ongoing	Reviewed by a psychiatrist and diagnosed with an adjustment disorder and anxiety and was provided with counselling to assist him in managing his symptoms. Mr X reported that he was experiencing frustration and anger related to his prolonged detention. The psychiatrist recommended that Mr X be transferred into community detention as he was at risk of developing depression if he remained in restricted detention.
12 June 2014	Reviewed by a psychiatrist who further recommended that Mr X be transferred to community detention.
July 2014 – ongoing	Reviewed by a psychiatrist who advised that Mr X was experiencing helplessness, frustration and distress as a result of his prolonged detention. IHMS advised that his mental health continues to be monitored by his GP.
July 2014 – July 2015	IHMS did not record any health summary information during this 12-month period.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 24 December 2012 after arriving in Australia aboard SIEV *Unipower* and has been held in restricted detention for a cumulative period of over two years with no processing of his protection claims.

The Ombudsman notes DIBP's advice that because Mr X spent a period of time in an RPC before being transferred back to Australia, he is subject to an additional bar under s 46B. DIBP has further advised that until a new regulation is introduced to lift this bar, Mr X will not be invited to apply for protection.

The Ombudsman recommends that priority is given to resolving Mr X's status to allow him to apply for a temporary visa.