

**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 36 months (three years).

The first report 1002585 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	1988
Ombudsman ID	1001414-O
Date of DIBP's reports	25 November 2015 and 30 May 2016
Total days in detention	1099 (at date of DIBP's latest report)

Detention history

27 May 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 723 <i>Goole</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
30 May 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
8 June 2013	Transferred to Wickham Point IDC.
6 July 2013	Transferred to Scherger IDC.
25 January 2014	Transferred to Curtin IDC.
26 August 2014	Transferred to Yongah Hill IDC
24 March 2015	Transferred to Wickham Point APOD.

Visa applications/case progression

12 July 2013	Mr X's case was referred on a first stage submission for consideration under s 195A for the possible grant of a Bridging visa.
16 July 2013	The former Minister agreed to consider Mr X's case.
18 July 2013	Found not to meet the guidelines for referral to the former Minister following Mr X's alleged involvement in criminal activities overseas.

13 March 2014	The Department of Immigration and Border Protection (DIBP) notified Mr X of the unintentional release of personal information ¹ and advised that the privacy breach would be taken into account when considering his protection claims.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
6 November 2015	DIBP invited Mr X to lodge a temporary visa application.
25 November 2015	DIBP advised that Mr X is a person of interest following his alleged involvement in criminal activities overseas.
22 February 2016	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. He accepted the offer on 29 February 2016 and was assigned a PAIS provider.
20 April 2016	Lodged a Safe Haven Enterprise visa (SHEV) which triggered a Bridging visa application.
27 April 2016	Attended an interview in relation to his SHEV application.
3 May 2016	Bridging visa application deemed invalid.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X has not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.

Other matters

25 August 2015	<p>Mr X lodged a complaint with the Ombudsman's office about DIBP's delay in responding to a Freedom of Information request he lodged in May 2015.</p> <p>Following an investigation by the Ombudsman's office, DIBP advised that Mr X's application was initially considered invalid but following reconsideration a provision was released to Mr X on 11 September 2015. The complaint was finalised on 28 October 2015.</p>
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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.

Information provided by Mr X

During an interview with Ombudsman staff at Wickham Point APOD on 18 April 2016 Mr X said he had been invited to lodge a temporary visa application four months ago and that DIBP was organising his legal assistance. He said he spoke with his case manager recently but was unsure what was happening with his case.

Mr X said that DIBP has security concerns related to someone with the same name as him, but his case manager could not explain why he remains in detention.

Mr X stated that his health has deteriorated since being transferred to Wickham Point APOD and feels that IHMS are unable to help him.

Mr X advised that his brother was granted Australian citizenship in 2001 and resides in Perth, Western Australia. Mr X said he would like to be transferred back to Western Australia so his brother can visit him.

Ombudsman assessment/recommendation

Mr X was detained on 27 May 2013 after arriving in Australia aboard *SIEV Goole* and has been held in restricted detention for over three years with no processing of his protection claims.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 20 April 2016 he lodged a SHEV application.

The Ombudsman recommends that consideration be given to transferring Mr X to a Perth detention facility so he able to receive family support while he awaits resolution of his immigration status.