

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 more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1993
Ombudsman ID	1002783
Date of DIBP's report	19 June 2015
Total days in detention	733 (at date of DIBP's report)

Detention history

16 June 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 749 <i>Jachin</i> .
19 June 2015	The Department of Immigration and Border Protection (DIBP) advised that Mr X is currently located at Wickham Point Alternative Place of Detention (APOD). ¹

Visa applications/case progression

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.	
19 June 2015	DIBP advised that Mr X is the subject of an external agency investigation.

Health and welfare

5 July 2013	International Health and Medical Services (IHMS) reported that Mr X disclosed a history of torture and trauma. He declined specialist counselling but attended counselling sessions with IHMS to manage his mood and feelings of loneliness.
14 October 2013 – 14 April 2014	He attended reviews and treatment sessions with a surgical team for an umbilical hernia. In March 2014 he received surgery to repair the hernia and drain an abscess.
21 January 2014 – 20 March 2014	He attended physiotherapy to treat ongoing knee pain.

¹ DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point is a designated APOD comprising three compounds. One of these compounds is used to house single adult males and is considered a higher security compound than the compounds used to house families and children. Mr X is accommodated in the single adult male compound at Wickham Point APOD.

25 February 2015	An IHMS counsellor noted that he was becoming increasingly despondent and was at further risk of deterioration because of stressors and anxiety about his immigration pathway. Mr X was identified as a person of concern in the Psychological Support Program meetings and monitored accordingly.
7 May 2015	He was referred for further physiotherapy after he reported to his general practitioner (GP) that his knee pain had returned.
11 June 2015	He requested a referral for specialist counselling.
22 June 2015	IHMS advised that while Mr X had shown frustrations about his immigration detention in recent months, there had been no recommendations from his psychiatrist or GP to suggest that his health was adversely affected by his current detention placement.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 16 June 2013 after arriving in Australia aboard SIEV *Jachin* and has been held in restricted detention for over two years with no processing of his protection claims.

The Ombudsman notes that Mr X is the subject of an ongoing external agency investigation.

The Ombudsman notes with concern that the Government's duty of care to detainees and the serious risk to mental and physical health prolonged detention may pose. Without an assessment of Mr X's claims to determine if he is found to engage Australia's protection obligations, it appears likely that he will remain in restricted detention for an indefinite period.

The Ombudsman notes the Minister's recent Statements to Parliament, in which he advises that DIBP is progressing the substantial caseload of maritime arrivals, and will provide him with advice to assist his consideration of whether to lift the bar to allow these people to lodge a Temporary Protection visa application.

The Ombudsman recommends that the Minister lift the bar under s 46A and processing of Mr X's protection claims commence as soon as possible.