

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	1986
Ombudsman ID	1003002
Date of DIBP's report	17 July 2015
Total days in detention	735 (at date of DIBP's report)

Detention history

12 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 783 <i>Aliceville</i> . He was transferred to an Alternative Place of Detention, Christmas Island.
21 July 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
31 July 2013	Transferred to Northern IDC.
8 August 2013	Transferred to Scherger IDC.
25 January 2014	Transferred to Curtin IDC.
25 February 2014	Transferred to Yongah Hill IDC.
24 March 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.	
13 March 2014	Mr X was issued with a letter inviting him to comment on the unintentional release of personal information through DIBP's website. ¹
17 July 2015	DIBP advised that it is assessing whether Mr X meets the guidelines under s 195A for consideration of a Bridging visa.

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.

Health and welfare

21 November 2014	International Health and Medical Services (IHMS) advised that Mr X was diagnosed with depression after presenting with low mood, anxiety and insomnia. He was prescribed with antidepressant medication and attended regular appointments with a psychologist for psychotherapy treatment. He continues to attend counselling and his condition is monitored by the mental health team.
28 November 2014	An x-ray was conducted after Mr X reported toe pain. Results identified nerve deformities and he received ultrasound guided steroid injections to provide pain relief. IHMS advised that he was referred for further steroid treatment.
7 March 2015	A magnetic resonance imaging scan was conducted following a knee injury. Results identified ligament abnormalities and he was referred to a physiotherapist and orthopaedic specialist for further investigation.

Other matters

DIBP advised that Mr X was identified as a 'person of interest' after disclosing alleged foreign criminal charges during his induction interview. This matter remains ongoing.

Information provided by Mr X

During a telephone conversation with Ombudsman staff on 30 October 2015 Mr X said that he has been in a relationship with a male detainee for 26 months and was experiencing isolation, verbal abuse and harassment related to his homosexuality.

Mr X advised that he experiences anxiety and regularly requests mental health support but his requests have been declined. He said that IHMS have advised him that there are limited mental health resources and other detainees require more urgent assistance.

He said that he keeps occupied by participating in English classes and studies online.

Mr X expressed concern about his prolonged detention and said his DIBP case manager could not provide him with information about why his case had not been resolved.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 12 July 2013 after arriving in Australia aboard SIEV *Aliceville* and has been held in restricted detention for over two years with no processing of his protection claims.

The Ombudsman notes with concern 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.