

## REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABELING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the first s 486O report on Mr X who remained in restricted immigration detention for a cumulative period of more than 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1991
<b>Ombudsman ID</b>	1003493
<b>Date of DIBP's report</b>	6 October 2015
<b>Total days in detention</b>	731 (at date of DIBP's report)

### Detention history

21 January 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 576 <i>Cortina</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
23 January 2013	Transferred to Christmas Island Detention Centre (IDC).
8 February 2013	Transferred to Manus Island Regional Processing Centre (RPC). <sup>1</sup>
22 October 2013	Returned to Australia and re-detained under s 189(1). He was transferred to Northern IDC.
22 February 2014	Transferred to Wickham Point IDC.
9 January 2015	Transferred to Wickham Point APOD. <sup>2</sup>
15 December 2015	Granted a Bridging visa and released from detention.

### Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to being released from detention, Mr X was part of a cohort who had not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister had not lifted the bar under s 46A.	
12 March 2014	Mr X was issued with a letter inviting him to comment on the unintentional release of personal information through DIBP's website. <sup>3</sup>

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

<sup>2</sup> 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 was accommodated in the single adult male compound at Wickham Point APOD.

<sup>3</sup> 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.

2 June 2014	Referred for ministerial intervention under s 195A for consideration of a Bridging visa.
3 June 2014	The former Minister declined to intervene under s 195A.
20 October 2014	Referred for ministerial intervention under s 195A for consideration of a Bridging visa.
22 October 2014	The former Minister declined to intervene under s 195A.
15 December 2015	Granted a Bridging visa.
10 March 2016	DIBP confirmed that detainees who arrived in Australia prior to 19 July 2013 who were transferred to an RPC and subsequently 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 legislative instrument is introduced to bring them within the 'fast track' protection assessment process.

### Health and welfare

International Health and Medical Services (IHMS) provided details of Mr X's health and welfare. No significant ongoing physical health concerns were noted.	
8 July 2014	IHMS advised that at his 18-month psychiatric review Mr X was reported to be distressed about his prolonged detention and was experiencing stress-related anxiety, mood swings, sleep disturbance and a body tremor. He was provided with education about stress management and relaxation techniques.
17 July 2015	Mr X underwent a routine mental health assessment. No mental health issues were recorded.
11 September 2015	IHMS advised that Mr X was prescribed with medication to assist him with sleeping difficulties.

### Ombudsman assessment/recommendation

<p>Mr X was granted a Bridging visa on 15 December 2015 and released from immigration detention.</p> <p>Mr X was detained on 21 January 2013 after arriving in Australia and was held in detention for a cumulative period of over two years before being granted a Bridging visa. The Ombudsman further notes that, at the time of DIBP's review, Mr X was subject to the bar under s 46A and processing of his claims for protection had not commenced.</p> <p>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 legislative instrument is introduced to lift this bar, Mr X will not be invited to apply for protection.</p> <p>The Ombudsman recommends that priority is given to resolving Mr X's status to allow him to apply for a temporary visa.</p>
--