

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 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1985
Ombudsman ID	1003049
Date of DIBP's report	20 July 2015 and 14 January 2016
Total days in detention	913 (at the date of DIBP's latest report)

Detention history

15 July 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland ¹ aboard Suspected Illegal Entry Vessel (SIEV) 791 <i>Keyton</i> . He was transferred to Northern Immigration Detention Centre (IDC).
21 July 2013	Transferred to Wickham Point IDC.
24 August 2013	Transferred to Facility B.
22 May 2014	Transferred to Facility C.
2 July 2014	Transferred to Facility D.
5 November 2015	Transferred to Facility C.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, 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 were subject to the bar under s 46A.	
13 August 2015	The Minister lifted the bar under s 46A to allow him to lodge a temporary visa application.
20 August 2015	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 assistance the same day and was assigned a PAIS provider.
27 October 2015	Mr X lodged a Temporary Protection visa application with an associated Bridging visa application.
12 November 2015	Associated Bridging visa application was deemed invalid.
22 December 2015	Found not to meet the guidelines for referral to the Minister under s 195A.

¹ Following legislative amendment on 20 May 2013, all unauthorised maritime arrivals, including those who arrived on the Australian mainland or an 'excised offshore location' were barred from lodging a Protection visa application under s 46A.

14 January 2016	DIBP advised that Mr X disclosed information in relation to alleged offshore criminal matters and his case was referred to an external agency for investigation.
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Health and welfare

July 2013 – ongoing	<p>International Health and Medical Services (IHMS) advised that Mr X has experienced ongoing mental health issues including incidents of self-harm, suspected drug overdoses, food and fluid refusal, impulsive behaviour and hallucinations. He has been placed on Supportive Monitoring and Engagement (SME) observations on multiple occasions (dates not provided) following incidents of attempted suicide and drug seeking behaviour.</p> <p>Mr X was prescribed with antipsychotic medication, but IHMS advised that he has not been consistently compliant. He continues to be closely monitored by detention centre staff and by the mental health team (MHT).</p>
22 September 2013 – 27 May 2014	DIBP Incident Reports recorded that Mr X threatened self-harm on four occasions. No further information was provided.
17 October 2013	Mr X presented to IHMS on multiple occasions with chronic headaches. A computed tomography identified no abnormalities.
29 October 2013 – ongoing	Mr X has required ongoing treatment for digestive discomfort and abdominal pain. He was prescribed with medication and reviewed by a surgical specialist. IHMS advised that his condition continues to be monitored by a general practitioner (GP).
3 December 2013 – 10 March 2014	DIBP Incident Reports recorded that Mr X refused food and fluid as a form of protest on four occasions. No further information was provided.
4 December 2013 – ongoing	IHMS advised that Mr X was reviewed by the MHT following an alleged altercation with a Serco officer. It was suspected that he was experiencing anxiety and he was referred for relaxation counselling.
5 April 2014	DIBP Incident Reports recorded that Mr X self-harmed by hitting his head against a wall and use of force was required to prevent further injury.
June 2014	Mr X was admitted to hospital after experiencing pain related to his digestive condition. He was prescribed with medication and discharged (date not provided).
10 June 2014	DIBP Incident Reports recorded that Mr X threatened self-harm during an interview with detention centre staff. DIBP advised that, on the same day, he was found on a balcony ledge with a rope around his neck. No further information was provided.
13 June 2014	A DIBP Incident Report recorded that Mr X expressed thoughts of suicide. No further information was provided.
15 June 2014	DIBP Incident Reports recorded that Mr X broke a glass tray and used the shards to self-harm. DIBP advised that use of force was required to prevent further injury.

6 August 2014 – 7 August 2014	DIBP Incident Reports recorded that Mr X threatened self-harm on three occasions. No further information was provided.
21 September 2014 – 22 September 2014	Mr X was admitted to hospital after presenting with acute confusion. IHMS advised that diagnostic testing identified no abnormalities and he was diagnosed with probable behavioural issues. He was discharged after regaining lucidity and was referred to the MHT.
1 November 2014	DIBP advised that Mr X was admitted to hospital for treatment after he collapsed following a suspected drug overdose. He was discharged on 3 November 2014 and placed on SME observations.
December 2014 – ongoing	IHMS advised that Mr X continues to be voluntarily mute and communicates with detention centre staff in writing.
18 September 2014	A DIBP Incident Report recorded that Mr X self-harmed by hitting his head against a wall.
21 September 2014	A DIBP Incident Report recorded that Mr X was transferred to hospital by ambulance. No further information was provided.
26 September 2014 – 4 April 2015	DIBP Incident Reports recorded that Mr X threatened self-harm on eight occasions. No further information was provided.
11 April 2015	DIBP Incident Reports recorded that Mr X self-harmed by attempting to hang himself and was subsequently transferred to hospital by ambulance. No further information was provided.
21 April 2015 – 29 October 2015	A DIBP Incident Report recorded that Mr X threatened self-harm on 13 occasions. No further information was provided.
15 May 2015	A DIBP Incident Report recorded that Mr X was transferred to hospital by ambulance. No further information was provided.
13 June 2015 – 29 October 2015	DIBP Incident Reports recorded that Mr X threatened self-harm on four occasions in writing.
25 June 2015 – 27 October 2015	DIBP Incident Reports recorded that Mr X threatened self-harm on four occasions by indicating that he wished to hang himself. No further information was provided.
July 2015	Mr X was reviewed by a psychiatrist and no further deteriorations in his mental health were reported. IHMS advised that he continued to be voluntarily mute and was referred to a speech pathologist for assessment.
15 July 2015	Disclosed a history of torture and trauma and attended one specialist counselling session. IHMS advised that Mr X declined further counselling and follow-up assessments.
October 2015 – ongoing	Mr X presented to his GP on multiple occasions and requested medication for the management of alleged chronic headaches. His GP advised that there is no neurological evidence to suggest that Mr X experiences headaches and noted previous manipulative behavioural concerns. IHMS reported that he was prescribed with medication on 27 November 2015 and continues to be monitored by his GP.

7 December 2015 – ongoing	IHMS advised that Mr X has requested sleeping medication on multiple occasions for management of his alleged insomnia, however drug-dependency concerns were reported. He was reviewed by a psychiatrist and symptoms of both insomnia and drug seeking behaviour were noted. He was prescribed with medication and it was recommended that he continue attending psychological counselling. The psychiatrist further advised that the prompt resolution of Mr X's immigration status would be beneficial for his overall mental health.
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Detention incidents

DIBP Incident Reports recorded that Mr X has allegedly been involved in numerous behavioural incidents, including displaying aggressive, threatening and abusive behaviour towards other detainees and detention centre staff and assaulting detention centre staff and other detainees.	
11 December 2013	DIBP advised that use of force was required after Mr X allegedly became aggressive, threatening and abusive towards detention centre staff.
20 September 2014	A DIBP Incident Report recorded that use of force was required after Mr X allegedly attempted to assault a Serco officer. No further information was required.
17 October 2014	A DIBP Incident Report recorded that Mr X allegedly kicked an IHMS staff member while he was receiving treatment. No further information was provided.
1 November 2014 – 3 November 2014	DIBP advised that during a hospital admission following mental health concerns, Mr X assaulted an IHMS staff member and use of force was required to restrain him.
23 December 2014	DIBP advised that Mr X was placed on a Behavioural Management Plan (BMP) following an alleged theft incident and his ongoing disruptive and non-compliant behaviour. The BMP was ceased on 9 January 2015 and Mr X was transferred to an alternative compound within Facility D.
9 January 2016	A DIBP Incident Report recorded that Mr X allegedly inappropriately touched a Serco officer on two occasions.

Other matters

9 January 2014	<p>Mr X lodged multiple complaints with the Ombudsman's office alleging that he had been assaulted by Serco officers on two occasions at Facility B.</p> <p>Following an investigation by the Ombudsman's office, which included reviewing DIBP Incident Reports as well as closed-circuit television footage, DIBP advised that Mr X was restrained by Serco officers following concerns for his safety and to prevent harm to others. The incidents were referred to the Australian Federal Police but it declined to investigate.</p> <p>On 23 June 2014 the Ombudsman's office finalised Mr X's complaint.</p>
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26 December 2014	<p>Mr X lodged a complaint with the Ombudsman's office alleging that he had been placed in isolation for one week and had not been provided with an explanation by Serco officers.</p> <p>Following an investigation by the Ombudsman's office, DIBP advised that Mr X had been placed on a BMP following ongoing behavioural incidents and this was a reasonable cause of action for Serco given the circumstances.</p> <p>On 13 May 2015 the Ombudsman's office finalised Mr X's complaint.</p>
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Ombudsman assessment

Mr X was detained on 15 July 2013 after arriving in Australia aboard SIEV *Keyton* and has been held in restricted detention for over two and a half years.

On 13 August 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 27 October 2015 Mr X lodged a TPV application.

The Ombudsman notes with concern the number of alleged self-harm incidents, mental health concerns and behavioural issues involving Mr X, including advice from IHMS that Mr X has been electively mute for over one and a half years. The Ombudsman further notes that Mr X's psychiatrist recommended that the prompt resolution of Mr X's immigration status would be beneficial for his overall mental health. The Ombudsman makes no recommendations in this report.