

**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 a cumulative period of more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1976
<b>Ombudsman ID</b>	1002228-O
<b>Date of DIBP's reports</b>	14 November 2015 and 13 May 2016
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

**Detention history**

13 April 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 654 <i>Catford</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
14 April 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
2 May 2013	Transferred to Curtin IDC.
11 July 2013	Granted a Bridging visa and released from detention.
11 February 2014	Re-detained under s 189(1) following criminal charges. He was transferred to Brisbane Immigration Transit Accommodation.
12 February 2014	Transferred to Villawood IDC.
12 April 2014	Transferred to Northern IDC.
5 May 2014	Transferred to Curtin IDC.
26 August 2014	Transferred to Yongah Hill IDC.
9 October 2015	Transferred to Christmas Island IDC.
28 January 2016	Transferred to Yongah Hill IDC.

**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.	
5 July 2013	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa with an associated Temporary Safe Haven (TSH) visa.
8 July 2013	The former Minister agreed to intervene under s 195A.
11 July 2013	Granted a Bridging visa with an associated TSH visa.

11 January 2014	Bridging visa ceased and he became an unlawful non-citizen.
3 March 2014	Appealed to the Migration Review Tribunal (MRT) seeking a review of his Bridging visa being cancelled.
7 March 2014	The MRT determined that as Mr X's Bridging visa had expired on 11 January 2014 and had not been cancelled the MRT did not have jurisdiction to review his case.
24 August 2015	Mr X's case was referred on a ministerial submission for consideration under s 46A to lift the bar.
25 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
1 September 2015	DIBP notified Mr X 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 the next day and was assigned a provider.
14 November 2015	DIBP advised that Mr X was identified as a person of interest in relation to alleged self-disclosed involvement in criminal matters overseas.
23 December 2015	Lodged a Safe Haven Enterprise visa (SHEV) application with an associated Bridging visa application.
27 January 2016	Mr X's case was referred on a first stage submission for consideration under s 195A.
2 March 2016	The Minister declined to intervene under s 195A.
2 May 2016	DIBP notified Mr X that the associated Bridging visa application was invalid.

#### Other legal matters

10 October 2013	Mr X was arrested by B Police following allegations from the public. He was charged with being a public nuisance.
13 January 2014	He was found guilty of the public nuisance charge and received a nine-month probation period without conviction.

#### Health and welfare

23 April 2013 – 10 July 2013	International Health and Medical Services (IHMS) advised that Mr X complained of reduced hearing in one ear and was referred for an audiology assessment.  He was released on a Bridging visa before an appointment was scheduled.
23 April 2013 – ongoing	IHMS reported that Mr X disclosed a history of torture and trauma and was referred for specialist counselling.  The specialist counsellor noted that the detention environment triggered traumatic memories for Mr X, exacerbated his pre-existing symptoms and adversely affected his coping abilities. The specialist counsellor recommended that he be transferred into the community.

25 February 2014	Following his re-detention, IHMS referred him for an audiology assessment.
2 April 2014	Mr X advised the general practitioner that he was experiencing difficulties sleeping, low mood and an increase in aggression since being re-detained. He was prescribed with antidepressant medication and advised of the self-referral process.
2 June 2014	Mr X advised the psychiatrist that he was experiencing flashbacks, anger and insomnia. The psychiatrist diagnosed him with post-traumatic stress disorder and adjusted his medication.
21 August 2014	An audiologist diagnosed him with significant hearing loss and recommended bilateral hearing aids.
7 October 2014 and 12 May 2015	He attended audiology reviews.
28 May 2015	Received a hearing aid. IHMS advised that DIBP had approved only one hearing aid.
14 October 2015	Mr X informed IHMS that he had lost his hearing aid during a transfer between detention centres. IHMS advised that he had not requested a replacement.
25 October 2015	IHMS advised that he attends regular sessions with the mental health team and has advised that he finds the sessions therapeutic.  IHMS also stated that while there have been no formal recommendations, there is documentation to suggest that he would benefit from being placed in a less restrictive environment from a mental health perspective.
5 January 2016	Mr X was informed he no longer required follow up with the mental health team. He was advised to self-refer as needed.
7 March 2016	He requested an increased dose of his antidepressant medication and reportedly stated he felt his current dose was not sufficient. He was referred for a psychiatric review. IHMS advised that he remains on his current dosage while he awaits an appointment.
8 April 2016	IHMS advised that Mr X continues to attend specialist counselling and he has not presented with any hearing concerns during this reporting.  IHMS reiterated its comment of 25 October 2015 stating that while there have been no formal recommendations, there is documentation to suggest that Mr X would benefit from being placed in a less restrictive environment from a mental health perspective.

### **Ombudsman assessment/recommendation**

Mr X was detained on 13 April 2013 after arriving in Australia aboard SIEV *Catford* and has been held in restricted detention for a cumulative period of over two years.

On 25 August 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 23 December 2015 Mr X lodged a SHEV application.

The Ombudsman notes that in October 2015 Mr X reported that he had lost his hearing aid and IHMS has advised that he had not requested a replacement hearing aid. Given that IHMS reported that Mr X was diagnosed with significant hearing loss on 21 August 2014 the Ombudsman recommends that IHMS review this matter with Mr X to determine if he still requires a hearing aid.