

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).

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| Name | Mr X |
| Citizenship | Country A |
| Year of birth | 1974 |
| Ombudsman ID | 1002883 |
| Date of DIBP's reports | 2 January 2015 and 9 July 2015 |
| Total days in detention | 918 (at date of DIBP's latest report) |

Detention history

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| 2 January 2013 | Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 570 <i>Wyvern</i> . |
| 9 July 2015 | The Department of Immigration and Border Protection (DIBP) advised that Mr X is located at Yongah Hill Immigration Detention Centre. |

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(2).

Health and welfare

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| 2013 | International Health and Medical Services (IHMS) reported that Mr X attended regular psychological counselling sessions following increased stress related to family concerns, limited access to a social support network and his uncertain future. |
| January 2013 | Disclosed a history of torture and trauma but he declined specialist counselling. |
| 21 November 2013 | He was assessed by an optometrist and was provided with prescription glasses in December 2013. |
| 9 January 2014 | He injured his left hand while playing sport. An x-ray was conducted following ongoing pain and swelling with joint limitation. IHMS advised that a fracture of his left third finger was identified and he received treatment. |
| 14 July 2014 | He was reviewed by a psychiatrist who reported that Mr X did not show any signs of a mental illness and had good coping skills. However, the psychiatrist also reported that Mr X was experiencing anxiety in relation to his time in detention and immigration pathway. |

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| 3 March 2015 | <p>He advised IHMS that he was having problems with his vision and suffers from headaches. He was referred to a general practitioner for review. This appointment remained outstanding.</p> <p>IHMS commented that his vision worsened when reading. Mr X had lost the prescription glasses that he was provided with in December 2013 and had been advised that he was not eligible for a replacement pair at that time.</p> |
| 12 March 2015 | <p>Advised of ongoing back pain for the past four months and was provided with lifestyle modification education. He was also referred for physiotherapy.</p> |
| 10 April 2015 - 5 May 2015 | <p>Attended five sessions of physiotherapy for his back pain.</p> |
| 15 April 2015 | <p>Following complaints of increased back pain, he was referred for an x-ray.</p> <p>IHMS advised that the x-ray identified minor irregularities and that there have been no further concerns reported to date.</p> |
| 12 May 2015 | <p>A visual field test was performed by an optometrist and no serious concerns were reported. Mr X was provided with a new pair of reading glasses in June 2015 and it was recommended that further visual field testing take place in 18 months' time.</p> |

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 2 January 2013 after arriving in Australia aboard SIEV *Wyvern* and has been held in detention for over two and a half 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.