

**REPORT BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

This is the second s 486O report on Mr X who has remained in restricted immigration detention for more than 36 months (three years).

The first report 1002783 was tabled in Parliament on 24 February 2016. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A
Year of birth	1993
Ombudsman ID	1001583-O
Date of DIBP's reports	15 December 2015 and 14 June 2016
Total days in detention	1094 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002783), Mr X has remained at Wickham Point Alternative Place of Detention (APOD).
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Recent visa applications/case progression

12 March 2014	The Department of Immigration and Border Protection (DIBP) notified Mr X of the unintentional release of personal information ¹ and advised that the privacy breach would be taken into account when considering his protection claims.
29 September 2015	The Minister lifted the bar under s 46A of the <i>Migration Act 1958</i> to allow Mr X to lodge a temporary visa application.
6 November 2015	DIBP invited Mr X to apply for a temporary visa.
29 March 2016	Found not to meet the guidelines for referral to the Minister under s 195A for the possible grant of a Bridging visa.
14 April 2016	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.
16 April 2016	Mr X accepted the PAIS assistance and was assigned a provider to assist with lodging his application.
23 April 2016	Lodged a Safe Haven Enterprise visa (SHEV) application.
28 April 2016	Attended an interview in relation to his SHEV application.
10 May 2016	DIBP advised that Mr X's identity had been accepted and that security and character assessments have been requested.

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.

14 June 2016	DIBP advised that Mr X continues to be of interest to an external agency.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X attended regular physiotherapy appointments and was reviewed by an orthopaedic surgeon after continuing to experience pain in his left knee. He underwent further orthopaedic review in December 2015 and February 2016 after severely spraining his ankle.

IHMS advised that Mr X’s mental health has declined significantly since the Ombudsman’s previous report. In December 2015 the mental health team (MHT) reported increasing concern after he presented with low mood, tearfulness and feelings of loneliness, hopelessness and helplessness. He was diagnosed with depression and an adjustment disorder and prescribed with antidepressant medication. He continues to attend offsite specialist counselling for his previously disclosed history of torture and trauma on an intermittent basis and is regularly reviewed by the MHT.

In May 2016 IHMS advised that Mr X’s mental health would benefit from being placed in a less restrictive environment.

Other matters

18 August 2015	Mr X lodged a complaint with the Australian Human Rights Commission (AHRC). The AHRC finalised its investigation of Mr X’s complaint on 8 March 2016.
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Information provided by Mr X

During an interview with Ombudsman staff at Wickham Point APOD on 19 April 2016 Mr X said he did not understand why he was still in detention. He knew DIBP was conducting a security check on him but he did not know what this related to and he said he was of good character.

He said he had been detained at Wickham Point APOD for more than 1000 days, and he was very lonely because he no longer had any friends left in detention.

Mr X advised he did not attend external medical appointments or counselling because he was uncomfortable with the new escort position used to transfer him to these appointments. He claimed that six months ago Serco officers applied stricter security when escorting detainees to medical appointments and when he is escorted in this way he feels ashamed and undignified.

Mr X advised he was very depressed and said his mental health was deteriorating in detention. He was concerned he was losing his memory and said he had lost interest in participating in activities. He spends his days in his room alone and said he felt like there was no life left for him in detention.

Ombudsman assessment/recommendation

Mr X was detained on 16 June 2013 after arriving in Australia aboard Suspected Illegal Entry Vessel *Jachin* and has been held in restricted detention for over three years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 23 April 2016 Mr X lodged a SHEV application.

The Ombudsman notes the Government's duty of care to immigration detainees and the serious risk to mental and physical health that prolonged restricted immigration detention may pose. The Ombudsman notes with concern the reported impact that ongoing restricted detention is having on Mr X's mental health and that IHMS has recommended Mr X be considered for a placement in a less restrictive environment.

The Ombudsman recommends that consideration be given to granting a Bridging visa or community detention placement to Mr X while he awaits processing of his SHEV application.