

**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 42 months (three and a half years).

The first report 1002883 was tabled in Parliament on 10 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	1974
Ombudsman ID	1001666-O
Date of DIBP's reports	4 January 2016 and 1 July 2016
Total days in detention	1276 (at date of DIBP's latest report)

Detention history

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> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
3 January 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
18 January 2013	Transferred to Wickham Point IDC.
5 April 2013	Transferred to Scherger IDC.
25 January 2014	Transferred to Curtin IDC.
28 August 2014	Transferred to Yongah Hill IDC.
24 March 2015	Transferred to Wickham Point APOD.
16 June 2016	Transferred to Yongah Hill IDC.

Recent 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 March 2014	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.
20 July 2014	Found not to meet the guidelines for referral to the former Minister under s 197AB.

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.

25 September 2015	Mr X's case was referred on a ministerial submission for consideration under s 46A to lift the bar.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa.
5 November 2015	DIBP invited Mr X to lodge a temporary visa application.
4 January 2016	DIBP advised that Mr X was previously a person of interest in relation to his alleged involvement in criminal matters overseas.
22 February 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging his application. He accepted the offer on 3 March 2016 and was assigned a provider.
23 April 2016	Lodged a Safe Haven Enterprise visa (SHEV) application with the assistance of his authorised representative.
6 May 2016	Referred on a first stage submission under s 195A for the possible grant of a Bridging visa. On 11 May 2016 the Minister decided not to consider Mr X's case.
14 June 2016	Attended an interview in relation to his SHEV application.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to be treated for ongoing back pain which was identified as chronic sciatica with a spinal disc protrusion. He was referred to a specialist for further assessment and is monitored by the general practitioner.

IHMS also reported that while Mr X presented with frustration related to his prolonged detention and interrupted sleep related to his back pain, a mental health review conducted in September 2015 reported there was no evidence of mental illness.

In its report dated 24 May 2016 IHMS reported that Mr X was placed on an orthopaedic waiting list in January 2016 for review of his sciatica and disc condition. He also attended physiotherapy and was prescribed stronger medication to manage worsening leg pain.

IHMS advised the mental health team (MHT) had recently commented he was suffering from detention fatigue with slight anxiety related to his prolonged detention. No risk or suicidal ideation was noted and Mr X is aware to self-refer as needed.

Information provided by Mr X

During an interview with Ombudsman staff at Wickham Point APOD on 20 April 2016 Mr X said he has not applied for a visa because he does not understand the forms and is still waiting to see the lawyer allocated by DIBP. There was no one at Wickham Point APOD to help him with translating these. He also said the letters he received are in English.

Mr X mentioned he suffers a lot of physical pain and the pain relief medication he is provided is not helping. He said he has been waiting to see a specialist for over eight months but remains on a waiting list. He suffers from memory loss and lack of sleep and does not find the MHT to be helpful.

Case status

Mr X was detained on 2 January 2013 after arriving in Australia aboard SIEV *Wyvern* and has been held in restricted detention for over three and a half 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 5 November 2015 DIBP invited Mr X to apply.

On 22 February 2016 DIBP notified Mr X he was eligible for PAIS to assist with lodging a temporary visa application which he accepted on 3 March 2016 and on 23 April 2016 Mr X lodged an application for a SHEV with the assistance of his authorised representative.