

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 immigration detention for a cumulative period of more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1973
Ombudsman ID	1003223
Date of DIBP's report	17 August 2015
Total days in detention	734 (at date of DIBP's report)

Detention history

17 October 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 485 <i>Opaque</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
24 October 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
3 November 2012	Transferred to Curtin IDC.
13 December 2012	Transferred to Maribyrnong IDC. On the same day, Mr X was granted a Bridging visa with an associated Temporary Humanitarian Stay (THS) visa and released from detention
9 September 2013	Following the expiry of his visa, Mr X was re-detained under s 189(1) and transferred to Maribyrnong IDC.
26 February 2014	Transferred to Melbourne Immigration Transit Accommodation.

Visa applications/case progression

The Department of Immigration and Border Protection (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.	
13 December 2012	Granted a Bridging visa with an associated THS visa valid until 13 June 2013.
30 October 2013	DIBP advised that Mr X lodged a Bridging visa application following the expiry of his visa. On the same day, he was notified that his application was considered invalid.
8 September 2014	Mr X was referred on a ministerial intervention submission under s 195A for consideration of a Bridging visa.
10 September 2014	The Minister declined to intervene under s 195A.

Health and welfare

7 November 2012 – ongoing	International Health and Medical Services (IHMS) advised that Mr X was diagnosed with type 2 diabetes and hypertension following routine pathology testing. He was prescribed with medication, provided with lifestyle education and referred to a podiatrist and optometrist for review. His condition continues to be monitored by a general practitioner.
18 August 2014	Mr X was referred for physiotherapy after presenting with ongoing pain related to a previous back injury.
30 July 2014 – 9 October 2014	Attended 12 physiotherapy sessions.
January 2015	Mr X was reviewed by a psychiatrist and diagnosed with moderate depression. He was prescribed with antidepressant medication and referred for specialist counselling.
16 January 2015 – 24 July 2015	Attended 12 specialist counselling sessions.
1 June 2015 – ongoing	Mr X expressed frustration regarding his prolonged detention during a review with a psychiatrist. IHMS advised that no mental health concerns were identified and he was advised to self-refer to the mental health team as required.

Other matters

3 September 2013	DIBP advised that Mr X was found to be in possession of a false passport by the South Australian Police and allegedly displayed extremist ideology while residing in the community. As a result, he has been identified as a person of interest.
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Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 17 October 2012 after arriving in Australia aboard SIEV *Opaque* and has been held in detention for a cumulative period of over two 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 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.