

# 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 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1973
<b>Ombudsman ID</b>	1002548
<b>Date of DIBP's report</b>	25 May 2015
<b>Total days in detention</b>	741 (at date of DIBP's report)

## Detention history

14 May 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland aboard Suspected Illegal Entry Vessel 741 <i>Horncastle</i> . He was transferred to Northern Immigration Detention Centre (IDC).
21 October 2013	Transferred to Yongah Hill IDC.
24 March 2015	Transferred to Wickham Point Alternative Place of Detention. <sup>1</sup>

## Visa applications/case progression

30 June 2014	Lodged a Protection visa application. The Department of Immigration and Border Protection (DIBP) advised that as Mr X arrived in Australia as a 'direct entry person' <sup>2</sup> he was not barred under s 46A from lodging a Protection visa application.  DIBP further advised that following legislative amendment, Mr X is only eligible for a temporary visa.
17 October 2014	Protection visa interview conducted.
12 May 2015	Found not to be owed protection.
18 May 2015	Appealed to the Refugee Review Tribunal (RRT).

## Health and welfare

12 July 2013 – ongoing	International Health and Medical Services (IHMS) advised that Mr X presented to the general practitioner (GP) with thumb swelling and pain and he was diagnosed with a cyst. He was advised to inform the GP if the cyst continued to grow.
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<sup>1</sup> DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point is a designated APOD comprising three compounds. One of these compounds is used to house single adult males and is considered a higher security compound than the compounds used to house families and children. Mr X is accommodated in the single adult male compound at Wickham Point APOD.

<sup>2</sup> A maritime arrival to Australia's mainland who is seeking protection.

13 August 2013 – ongoing	Presented to the GP with multiple lumps on his body. Scans were conducted which revealed skin growths and lipomas. He was advised to inform the GP if the growths became painful or increased in size.
24 April 2014	IHMS advised that Mr X reported a history of exposure to traumatic incidents and he was referred for specialist counselling.
17 November 2014 – 2 February 2015	Received specialist counselling during this period.
28 May 2015	IHMS advised that Mr X receives ongoing support from the mental health team (MHT).

#### **Other matters**

25 May 2015	DIBP advised that a Five Country Conference fingerprint match for Mr X identified that he had been arrested and charged with a criminal offence in Country B. Mr X informed DIBP that he was found guilty of an offence and was incarcerated for 12 months in Country B before he was deported to Country A.
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#### **Information provided by Mr X**

During a telephone conversation with Ombudsman staff on 25 September 2015 Mr X advised that the RRT found he was not owed protection and he has requested judicial review by the Federal Circuit Court.

Mr X said that he tries to keep himself as busy as possible while in detention and participates in many activities. However, he advised that he suffers from depression, stress, anxiety, insomnia and nightmares as a result of his prolonged detention and uncertain future. He has seen the MHT once in the last six months but said that discussing his mental health concerns increases his depression and anxiety.

Mr X said he has no family in Australia but keeps in contact with a Christian minister in City D.

#### **Case status**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion.

At the time of DIBP's review he was awaiting the outcome of his appeal to the RRT.