

## 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 remained in restricted immigration detention for more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1980
<b>Ombudsman ID</b>	1002558
<b>Date of DIBP's report</b>	1 June 2015 and 17 November 2015
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

### Detention history

19 May 2013	Mr X was detained under s 189(1) of the <i>Migration Act 1958</i> after arriving in Darwin, Australia aboard Suspected Illegal Entry Vessel 709 <i>Oswestry</i> , indicating that he arrived as a 'direct entry person'. <sup>1</sup> He was transferred to Northern Immigration Detention Centre (IDC), Darwin.
2 July 2013	Transferred to Yongah Hill IDC.
11 September 2013	Transferred to Christmas Island IDC.
6 February 2015	Transferred to Wickham Point IDC.
19 September 2015	Transferred to Christmas Island IDC.
9 October 2015	Transferred to Yongah Hill IDC.
26 November 2015	Granted a Bridging visa and released from detention.

### Visa applications/case progression

12 March 2014	DIBP notified Mr X of the unintentional release of personal information <sup>2</sup> and advised that the privacy breach would be taken into account when considering his protection claims.
25 June 2014	Lodged a Protection visa application.
14 October 2014	Interview conducted for Protection visa application.
16 December 2014	Protection visa application was refused.
24 December 2014	Appealed to the Refugee Review Tribunal (RRT).
1 April 2015 and 7 April 2015	Attended hearings before the RRT.

<sup>1</sup> A maritime arrival to Australia's mainland who is seeking protection. Maritime arrivals who arrived as 'direct entry persons' after 13 August 2012 and before 20 May 2013 are not subject to the s 46A bar.

<sup>2</sup> 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.

1 June 2015	DIBP advised that because Mr X had been involved in multiple incidents and had attempted to abscond he had not met the referral guidelines for the Minister to consider a community detention placement or to grant a Bridging visa.
15 October 2015	Referred on a first stage submission under s 195A for the Minister to consider granting a Bridging visa.
21 October 2015	The Administrative Appeals Tribunal (AAT) <sup>3</sup> determined that following legislative amendment, Mr X's Protection visa application was an application for a Temporary Protection visa and affirmed the original decision.
11 November 2015	The Minister agreed to consider intervening under s 195A.
17 November 2015	DIBP advised that at the date of its review, Mr X had not requested judicial review of the AAT decision by the Federal Circuit Court.
26 November 2015	Granted a Bridging visa and released from detention.

### Health and welfare

28 May 2013	International Health and Medical Services (IHMS) reported that Mr X's induction blood tests identified that he was hepatitis C positive. He was referred to a communicable disease clinic and provided with counselling.
June 2013	As part of monitoring his hepatitis C condition, he was referred for liver function testing. IHMS advised that Mr X could not attend the scheduled appointments as he had been transferred to Yongah Hill IDC. He was monitored by IHMS and underwent regular blood tests to detect changes in his condition.
17 June 2013	He attended a counselling session with a general practitioner and was advised that he had a past hepatitis B infection which had resolved.
1 November 2014	He disclosed a history of torture and trauma but declined specialist counselling. He was made aware of the self-referral process.
Late November 2014	A psychiatrist noted that Mr X was displaying moderate grief and depression.
28 May 2015	IHMS advised that Mr X suffered from insomnia and was prescribed with medication. He was monitored by the mental health team and attended group counselling sessions.
July 2015	His mental health review noted that he presented with no mental health issues and that he showed resilience toward his situation.
26 October 2015	IHMS advised that there were no reported changes with Mr X's hepatitis infection and he had declined mental health support but attended his routine assessments.

<sup>3</sup> On 1 July 2015 the Migration Review Tribunal and the RRT were merged into the AAT.

### **Detention incidents**

21 May 2013 and 10 August 2013	DIBP Incident Reports recorded that Mr X attempted to abscond. The incidents were investigated and closed with no further action taken.
5 September 2014	A DIBP Incident Report recorded that Mr X was involved in a physical altercation with detainees of a different ethnicity at Christmas Island IDC. DIBP advised that Mr X's involvement in the matter was investigated and closed on 12 September 2014.

### **Other matters**

17 November 2015	DIBP advised that Mr X has 'self-declared' criminal convictions which include time spent in prison for his participation in political protests in Country A. DIBP further advised that Mr X was no longer a person of interest to DIBP.
------------------	---

### **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 the latest review from DIBP, Mr X had not requested judicial review.

Mr X was granted a Bridging visa on 26 November 2015 and released from immigration detention.