

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).

Name	Mr X
Citizenship	Country A
Year of birth	1988
Ombudsman ID	1003158
Date of DIBP's reports	23 July 2015 and 22 January 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

24 July 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community. He was transferred to Villawood Immigration Detention Centre (IDC).
10 April 2014	Transferred to Yongah Hill IDC.
27 July 2014	Transferred to Villawood IDC.
24 December 2014	Transferred to Yongah Hill IDC.
10 February 2015	Transferred to Villawood IDC.
13 February 2015	Transferred to Yongah Hill IDC.
March 2016	Mr X was released from detention when he voluntarily departed Australia and returned to Country A.

Visa applications/case progression

19 May 2007	Arrived in Australia as the holder of a Student visa valid until 15 March 2009. He was granted work rights on 7 July 2007.
21 April 2008	The Department of Immigration and Citizenship (DIAC) was notified that Mr X had breached his visa conditions and he was informed that his visa was being considered for cancellation.
11 November 2008	Mr X was notified that his Student visa had not been cancelled.
16 March 2009	Mr X applied for a Student visa and was granted an associated Bridging visa.
28 May 2009	Granted a Student visa.
20 September 2011	Mr X applied for a Student visa and was granted an associated Bridging visa.
14 December 2011	Granted a Student visa.
26 March 2012	DIAC was notified that Mr X had breached his visa conditions and he was informed that his visa was being considered for cancellation.

4 May 2012	Mr X's Student visa was cancelled under s 116 following a breach of visa conditions.
7 May 2012	Appealed to the Migration Review Tribunal (MRT).
18 April 2013	MRT affirmed original decision.
15 August 2013	Requested ministerial intervention under s 351.
11 November 2013	Mr X's case was included on a ministerial intervention submission under s 351.
27 November 2013	The former Minister declined to intervene under s 351.
16 December 2013	Lodged a Protection visa application with an associated Bridging visa application.
18 December 2013	Associated Bridging visa application was refused.
23 January 2014	Found not to be owed protection.
25 January 2014	Appealed to the Refugee Review Tribunal (RRT).
19 March 2014	RRT affirmed original decision.
26 March 2014	Found not to meet the guidelines for referral to the former Minister under s 417.
14 April 2014	Requested judicial review by the Federal Circuit Court (FCC).
15 July 2014	The Department of Immigration and Border Protection (DIBP) issued Mr X with a letter inviting him to comment on the unintentional release of personal information. ¹
17 July 2014	Mr X provided his response and DIBP advised that it was assessing whether he had raised further protection related claims as a result of the privacy breach.
18 March 2015	FCC affirmed original decision.
26 May 2015	Mr X was issued with a letter notifying him of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
3 June 2015	Mr X was invited to provide further information in relation to the ITOA.
25 June 2015	Mr X requested voluntary removal from Australia.
29 June 2015	Mr X withdrew his request for voluntary removal.

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.

February 2016	DIBP advised that Mr X's case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ² which found that the ITOA process was procedurally unfair. DIBP further advised that it has filed an application in the High Court (HC) for special leave to appeal the FFC's decision but is making the necessary administrative arrangements to recommence consideration of privacy breach-related claims prior to the matter being heard by the HC.
March 2016	Mr X voluntarily departed Australia.

Health and welfare

10 September 2013	International Health and Medical Services advised that Mr X was prescribed with medication after presenting with symptoms of insomnia.
27 May 2014	Mr X refused to receive vaccinations and signed a Refusal of Treatment form.
14 July 2014	An x-ray was conducted following ongoing pain related to a previous foot injury. No abnormalities were identified and he was provided with pain relief medication.
5 August 2014	Mr X presented with symptoms of stress related to his prolonged detention and attended group counselling. He was advised to self-refer to the mental health team as required.

Case status

Mr X voluntarily departed Australia in March 2016 and returned to Country A.
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² SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125.