

**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 a cumulative period of more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1986
<b>Ombudsman ID</b>	1002370-O
<b>Date of DIBP's reports</b>	18 April 2016 and 17 October 2016
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

**Detention history**

28 June 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 360 <i>Narko</i> . He was transferred to an Alternative Place of Detention, Christmas Island.
24 July 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
3 August 2012	Transferred to Wickham Point IDC
16 October 2012	Granted a Bridging visa and released from detention.
7 August 2014	Located at his residence in New South Wales, re-detained and transferred to Villawood IDC.
13 September 2016	Transferred to Yongah Hill IDC.

**Visa applications/case progression**

13 July 2012	Screened in to the protection process.
10 September 2012	The former Minister lifted the bar under s 46A to allow Mr X to lodge a Protection visa application.
16 October 2012	The former Minister intervened under s 195A to grant Mr X a Bridging visa valid until 27 November 2012.
16 November 2012	Lodged a Protection visa application and granted an associated Bridging visa
23 January 2013	Protection visa application refused.
31 January 2013	Appealed to the Refugee Review Tribunal (RRT).
12 June 2013	RRT affirmed original decision.
10 July 2013	Bridging visa ceased as a result of the RRT's decision.
16 July 2013	Requested ministerial intervention under s 48B to lift the bar against applying for a further Protection visa and under s 417 for the former Minister to consider substituting a more favourable decision for that made by the RRT.

19 July 2013	Mr X was included on a first stage submission for referral to the former Minister under s 195A for grant of a further Bridging visa. However, as Mr X did not attend appointments with DIBP for administrative detention under s 189, his name was removed from the submission. Mr X was included on two further submissions under s 195A. However, on both occasions his name was removed as he did not attend appointments with DIBP for administrative detention under s 189.
29 October 2013	DIBP determined that Mr X's request under s 48B did not meet the guidelines for referral to the former Minister.
12 November 2013	The request under s 417 was referred to the former Assistant Minister. On 15 November 2013 a decision was made not to consider the request.
25 August 2014	Made a complaint to the United Nations Committee Against Torture (UNCAT).
29 August 2016	Proceedings commenced in Mr X's complaint to UNCAT.
17 October 2016	DIBP advised that Mr X's removal from Australia was not considered to be reasonably practicable whilst his complaint to UNCAT remained under consideration.

#### **Health and welfare**

International Health and Medical Services advised that Mr X has not required treatment for any major physical or mental health issues, aside from a physical health matter which was said to have resolved.

#### **Ombudsman assessment/recommendation**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in restricted detention for a cumulative period of more than two and a half years. At the time of DIBP's latest review Mr X was awaiting the outcome of a complaint to UNCAT.

The Ombudsman recommends that Mr X be considered for a Bridging visa if it appears likely that it will take some time for the complaint to UNCAT to be finalised.