

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 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1980
Ombudsman ID	1003225
Date of DIBP's reports	20 August 2015 ¹ and 19 January 2016
Total days in detention	914 (at date of DIBP's latest report)

Detention history

11 May 2010	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 145 <i>Gunn</i> . He was transferred to Christmas Island Immigration Detention Centre (IDC).
16 February 2011	Transferred to an Alternative Place of Detention (APOD), Christmas Island.
18 March 2011	Transferred to Scherger IDC.
12 April 2012	Granted a Bridging visa with an associated Temporary Humanitarian Stay (THS) visa and released from detention.
15 October 2012 – 28 September 2013	Granted four consecutive Bridging visas.
21 June 2015	Mr X remained in the community as an unlawful non-citizen until he was located by authorities. He was re-detained under s 189(1) and transferred to Perth IDC.
13 August 2015	Transferred to Wickham Point APOD. ²

Visa applications/case progression

6 January 2011	Refugee Status Assessment found he was not owed protection.
9 February 2012	Independent Merits Review found he was not owed protection.
27 February 2012	Requested judicial review by the Federal Magistrates Court (FMC).
11 May 2012	Mr X submitted additional protection-related claims.

¹ DIBP's 24 month review on Mr X was due in July 2015. DIBP advised that the delay in provision of this review was due to a system failure.

² Wickham Point was designated an APOD on 11 July 2013. DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point APOD is comprised of 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.

15 May 2012	Found not to be owed protection.
13 November 2012	FMC affirmed original decision.
18 December 2012	Requested judicial review by the Full Federal Court (FFC).
4 April 2013	FFC affirmed original decision.
1 July 2013	Requested judicial review by the Federal Circuit Court (FCC).
16 October 2013	The former Minister withdrew from proceedings before the FCC.
23 December 2013	The Department of Immigration and Border Protection (DIBP) advised that Mr X's case is affected by the FFC's decision of 20 March 2013 ³ and he will have his complementary protection claims reassessed as part of a new International Treaties Obligations Assessment (ITOA).
23 February 2014	Attended an interview in relation to the ITOA.
15 June 2015	Found not to be owed protection.
8 July 2015	Requested judicial review of the negative ITOA by the FCC.
14 October 2015	Mr X attended a directions hearing at the FCC and the matter was adjourned until 23 March 2016.

Health and welfare

May 2010 – ongoing	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma but declined specialist counselling. He was advised to self-refer to the mental health team (MHT) as required.
29 June 2015	Presented to a general practitioner (GP) with symptoms of anxiety and insomnia. He was prescribed with medication and advised to attend reviews as required.
3 August 2015 – ongoing	Mr X was diagnosed with anxiety and insomnia during a consultation with a GP. He was prescribed with medication and continues to be monitored by a GP and the MHT.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. He is awaiting the outcome of judicial review.

³ *Minister for Immigration and Citizenship v SZQRB* [2013] FCAFC 33.