

## REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the third s 486O report on Mr X who has remained in immigration detention for more than 48 months (four years).

The first report 1001756 was tabled in Parliament on 29 October 2014 and the second report 1002273 was tabled in Parliament on 2 March 2016. This report updates the material in those reports and should be read in conjunction with the previous reports.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1995 <sup>1</sup>
<b>Ombudsman ID</b>	1001068-O
<b>Date of DIBP's reports</b>	22 January 2016 and 22 July 2016
<b>Total days in detention</b>	1458 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous report (1002273), Mr X has remained in community detention.

### Recent visa applications/case progression

13 March 2014	The Department of Immigration and Border Protection (DIBP) notified Mr X of the unintentional release of personal information. <sup>2</sup>
22 January 2016	DIBP advised that Mr X' case was affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) <sup>3</sup> which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair.
13 April 2016	The Minister lifted the bars under ss 46A and 48B of the <i>Migration Act 1958</i> to allow Mr X to lodge a temporary visa application.
27 July 2016	The Minister appealed the FFC decision and the High Court (HC) found that the ITOA process was not procedurally unfair. <sup>4</sup>  DIBP advised that it is considering the implications of this judgment.

### Health and welfare

International Health and Medical Services advised that Mr X has not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.

<sup>1</sup> In Mr X's 42-month review DIBP advised that he had originally arrived in Australia as an unaccompanied minor. His uncle, who was residing in the community on a Bridging visa, acted as his guardian until he turned 18.

<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.

<sup>3</sup> *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

<sup>4</sup> *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.

**Case status**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. His case is affected by the HC judgment of 27 July 2016 and DIBP advised that it is considering the implications of this judgment.

On 13 April 2016 the Minister lifted the bars under ss 46A and 48B to allow Mr X to lodge a temporary visa application. Mr X is awaiting an invitation to apply for a temporary visa.