

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 more than 24 months (two years).

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| Name | Mr X |
| Citizenship | Country A |
| Year of birth | 1967 |
| Ombudsman ID | 1003207 |
| Date of DIBP's report | 17 August 2015 |
| Total days in detention | 739 (at date of DIBP's report) |

Detention history

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| 29 January 2005 | Mr X arrived in Australia as the holder of a Short Stay Business visa of three months duration. |
| 8 August 2013 | Mr X had been living in the community unlawfully since 30 April 2005. He was located by authorities and detained under s 189(1) of the <i>Migration Act 1958</i> . He was transferred to Villawood Immigration Detention Centre (IDC). |
| 10 April 2014 | Transferred to Yongah Hill IDC. |

Visa applications/case progression

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| 27 August 2013 | Lodged a Protection visa application with an associated Bridging visa application. |
| 29 August 2013 | Bridging visa application refused. |
| 5 September 2013 | Attended interview in relation to his Protection visa application. |
| 16 September 2013 | Protection visa application refused. |
| 18 September 2013 | Appealed to the Refugee Review Tribunal (RRT). |
| 9 January 2014 | RRT affirmed original decision. |
| 13 January 2014 | Found not to meet the guidelines for referral to the former Minister under s 417. |
| 11 March 2014 | Mr X lodged an injunction with the Federal Circuit Court (FCC) to prevent involuntary removal. |
| 12 March 2014 | Mr X was issued with a letter inviting him to comment on the unintentional release of personal information through the Department of Immigration and Border Protection's (DIBP) website. ¹ |

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.

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| 27 May 2014 | Found not to meet the requirements for referral to the former Minister under s 195A. |
| 27 June 2014 | DIBP invited Mr X to provide further information in relation to the privacy breach. |
| 1 July 2014 and 9 July 2014 | Mr X provided his responses to DIBP in relation to its unintentional release of personal information. |
| 14 January 2015 | Mr X was issued with a letter notifying him of the commencement of an International Treaties Obligation Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations. |
| 19 January 2015 | Mr X withdrew his injunction with the FCC. |
| 5 February 2015 | DIBP invited Mr X to provide further information relevant to the ITOA. |
| 24 March 2015 | Found not to be owed protection. |
| 26 March 2015 | Requested judicial review of negative ITOA by the FCC. |
| 27 March 2015 | Requested second judicial review by the FCC. |
| 1 May 2015 | Initial judicial review of the FCC was discontinued following duplicate applications. DIBP advised that Mr X's hearing was scheduled for 11 November 2015. |

Health and welfare

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| August 2013 | International Health and Medical Services (IHMS) advised that Mr X reported a history of chest pain, palpitations and symptoms of gastric reflux during consultations with his general practitioner (GP). |
| 8 September 2013 – ongoing | Presented to hospital with chest pain. He underwent diagnostic testing and was diagnosed with an abnormally fast heart rhythm. He was prescribed with medication and referred to a cardiology clinic. Mr X was reviewed by the cardiology clinic and prescribed with further medication, however he was non-compliant with his medication. |
| 25 November 2013 | A DIBP Incident Report recorded that Mr X was transferred to hospital by ambulance after reporting chest pains. No further information was provided. |
| February 2014 | Presented to the mental health team (MHT) with symptoms of stress and depression, including insomnia and difficulty coping. IHMS advised that he was provided with supportive counselling. |
| 3 April 2014 | A DIBP Incident Report recorded that Mr X refused food and fluids as a form of protest. No further information was provided. |
| 8 May 2014 | Pathology testing indicated that Mr X was a hepatitis B carrier. He was referred to a gastroenterologist for further investigation. IHMS advised that this appointment remained outstanding at the time of its report. |

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| June 2014 | Abdominal ultrasound was conducted with no abnormalities identified. |
| May 2015 | Presented to the MHT with poor sleep and nightmares related to past trauma. He was prescribed with medication and referred to a psychologist for further mental health support. |
| 14 July 2015 | Attended a mental health review with no further mental health concerns identified. IHMS advised that Mr X was advised to self-refer to the MHT as required. |

Other matters

DIBP advised that Mr X is the holder of an expired Country A passport.

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.