

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

*Under s 486O of the Migration Act 1958*

This is the second s 486O report on Mr X who has remained in restricted immigration detention for more than 36 months (three years).

The first report 1002224 was tabled in Parliament on 12 August 2015. This report updates the material in that report and should be read in conjunction with the previous report.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1971
<b>Ombudsman ID</b>	1003153
<b>Date of DIBP's reports</b>	28 July 2015 and 29 January 2016
<b>Total days in detention</b>	1,094 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous report (1002224), Mr X remained at Facility B.	
29 January 2016	The Department of Immigration and Border Protection (DIBP) advised that Mr X was located at Facility C.

### Recent visa applications/case progression

14 July 2015	The Federal Court (FC) set aside the Administrative Appeals Tribunal's (AAT) decision to affirm the cancellation of Mr X's visa under s 501 of the <i>Migration Act 1958</i> and remitted the matter to the AAT for reconsideration. <sup>1</sup>
29 January 2016	DIBP advised that the AAT's reconsideration was ongoing and that Mr X was also awaiting the outcome of judicial review by the Federal Circuit Court of the refusal of his Protection visa application.  DIBP further advised that Mr X's case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) <sup>2</sup> which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair.
21 March 2016	The Minister filed an application in the High Court for special leave to appeal the FFC's decision.

<sup>1</sup> On 21 April 2016 DIBP advised that its 24-month review of 3 February 2015 incorrectly stated that Mr X applied to the Federal Circuit Court (rather than the Federal Court) for judicial review of the AAT's decision.

<sup>2</sup> *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

### Health and welfare

4 March 2015	International Health and Medical Services (IHMS) advised that Mr X told his case manager that he was distressed about his relocation from Facility C to Facility B and was thinking about self-harming. His case manager referred him to IHMS for mental health support and he was treated by a psychologist.
17 March 2015	Mr X's psychologist noted that he was anxious and frustrated after his transfer to Facility B due to the lack of family activities and facilities. His psychologist assisted him to develop effective coping and mood regulation strategies.
4 June 2015	The psychologist noted that Mr X's ongoing detention at Facility B without transfer back to Facility C was likely to exacerbate his existing anxiety and low mood.
23 December 2015	IHMS advised that the mental health team continued to review Mr X as required and reports indicated that he appeared to be at low risk during the latest reporting period.

### 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.

Mr X's case is also affected by the FFC's judgment of 2 September 2015, which found that the ITOA process undertaken by DIBP was procedurally unfair. On 21 March 2016 the Minister filed an application in the High Court for special leave to appeal the FFC's decision.