

**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 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1983
Ombudsman ID	1002361-O
Date of DIBP's reports	5 April 2016 and 5 October 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

7 April 2014	Detained under s 189(1) of the <i>Migration Act 1958</i> after being refused immigration clearance. He was transferred to Perth Immigration Detention Centre (IDC).
9 April 2014	Transferred to Yongah Hill IDC.
24 March 2015	Transferred to Wickham Point Alternative Place of Detention (APOD).
21 June 2016	Transferred to Melbourne Immigration Transit Accommodation (ITA).

Recent visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that Mr X arrived in Australia on 7 April 2014 on a fraudulently obtained Electronic Travel Authority visa and altered passport.	
22 August 2014	Lodged a Protection visa application with an associated Bridging visa application. The associated Bridging visa was deemed invalid on the same day and the Protection visa application was refused on 17 December 2014. DIBP advised that following legislative amendment, Mr X's original Protection visa application was now taken to be a valid application for a Temporary Protection visa (TPV).
29 December 2014	Appealed to the Refugee Review Tribunal (RRT).
12 June 2015	RRT affirmed original decision and substituted the refusal of a Protection visa with the refusal of a TPV.
10 July 2015	Requested judicial review at the Federal Circuit Court (FCC).
16 June 2016	The FCC set aside the RRT decision to affirm the refusal of Mr X's TPV application and remitted the matter to the Administrative Appeals Tribunal (AAT) ¹ for reconsideration.

¹ On 1 July 2015 the Migration Review Tribunal and RRT were merged into the AAT.

16 August 2016	Found to meet the guidelines for referral to the Minister under s 195A for the grant of a Bridging visa. On 5 October 2016 DIBP advised that it was preparing a ministerial submission.
----------------	---

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was identified of having a suspected history of torture and trauma and was monitored by the mental health team.

IHMS further advised that Mr X received treatment for multiple complex physical health concerns, including type 2 diabetes and sleep apnoea. He was due to attend a routine optometry review as part of diabetes monitoring on 7 August 2016 but refused to attend as he would be required to wear handcuffs during transport. Further, he was placed on a waiting list for nasal obstruction surgery and commencement of use of breathing apparatus at night. Following his transfer from Wickham Point APOD to Melbourne ITA, a new referral was sent on 14 July 2016 to a different hospital

Case status

Mr X was found not to be owed protection under the Refugee Convention and the complementary protection criterion.

On 10 July 2016 the FCC set aside the RRT decision to affirm the refusal of Mr X's TPV application and remitted the matter to the AAT for reconsideration.