

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 remained in immigration detention for more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1996
Ombudsman ID	1003033
Date of DIBP's reports	31 March 2013 and 21 September 2015
Total days in detention	912 (at date of DIBP's latest report)

Detention history

23 March 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland as an unaccompanied minor aged 16 aboard Suspected Illegal Entry Vessel 618 <i>Studebaker</i> . He was transferred to Darwin Airport Lodge Alternative Place of Detention (APOD).
19 April 2013	Transferred to Pontville APOD.
22 August 2013	Transferred to community detention.
22 October 2015	Granted a Bridging visa and released from detention.

Visa applications/case progression

<p>The Department of Immigration and Border Protection (DIBP) advised that as Mr X arrived in Australia as a 'direct entry person'¹ he is not barred under s 46A from lodging a Protection visa application.</p> <p>DIBP further advised that following legislative amendment, Mr X is only eligible for a temporary visa.</p>	
9 April 2013	An age determination assessment confirmed that Mr X was under the age of 18.
9 September 2013	Lodged a Protection visa application.
13 March 2014	Mr X was issued with a letter inviting him to comment on the unintentional release of personal information through DIBP's website. ²
20 October 2014	Mr X attended an interview in relation to his Protection visa application.
7 July 2015	Protection visa application refused.

¹ A maritime arrival to Australia's mainland who is seeking protection.

² 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.

21 July 2015	Mr X appealed the refusal of his Protection visa application to the Administrative Appeals Tribunal (AAT).
21 September 2015	DIBP advised that Mr X's case is affected by the judgment handed down by the Full Federal Court (FFC) ³ which found that the ITOA process was procedurally unfair. DIBP further advised that it is in the process of seeking legal advice in relation to the judgment.
22 October 2015	Granted a Bridging visa.

Health and welfare

4 April 2013	International Health and Medical Services (IHMS) advised that Mr X was diagnosed with a past hepatitis B infection. He remains immune and non-infectious with no follow up required.
12 June 2013	Identified as a tuberculosis contact. Chest x-rays identified no abnormalities. He was monitored as per state policy.
July 2013 – September 2015	IHMS did not record any health summary information during this 26-month period.

Detention incidents

3 December 2013	A DIBP Incident Report recorded that Mr X was suspended from school for the remainder of the school year following abusive behaviour towards a female teacher.
28 February 2014	A DIBP Incident Report recorded that Mr X was suspected to have absconded from his community detention placement. No further information was provided.

Case status

Mr X was granted a Bridging visa on 22 October 2015 and released from immigration detention.

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 his appeal to the AAT.

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. DIBP advised that it is seeking legal advice in relation to the judgment.

³ SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125