

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).

Name	Mr X
Citizenship	Country A
Year of birth	1989
Ombudsman ID	1003397
Date of DIBP's report	4 September 2015
Total days in detention	731 (at date of DIBP's report)

Detention history

3 September 2013	Mr X was detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community and transferred to Villawood Immigration Detention Centre (IDC).
10 April 2014	Transferred to Yongah Hill IDC.
24 March 2015	Transferred to Wickham Point Alternative Place of Detention (APOD). ¹
29 April 2015	Transferred to Yongah Hill IDC.
31 July 2015	Transferred to Wickham Point APOD.

Visa applications/case progression

27 November 2007	Arrived in Australia as the holder of a Schools Sector visa valid until 31 December 2007.
24 December 2007	Mr X lodged a further Schools Sector visa application with additional work rights.
31 December 2007	Granted a Schools Sector visa with work rights valid until 15 March 2010.
16 September 2013	Lodged a Protection visa application
18 September 2013	Lodged an associated Bridging visa application.
20 September 2013	Associated Bridging visa application refused.
23 September 2013	Appealed associated Bridging visa refusal to the Migration Review Tribunal (MRT).
2 October 2013	MRT affirmed original decision.
17 October 2013	Protection visa application refused.

¹ DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point is a designated APOD comprising three compounds. One of these compounds is used to house single adult males and is considered a higher security compound than the compounds used to house families and children. Mr X is accommodated in the single adult male compound at Wickham Point APOD.

18 October 2013	Appealed Protection visa refusal to the Refugee Review Tribunal (RRT).
10 January 2014	Lodged a Bridging visa application.
14 January 2014	Bridging visa application refused. On the same day Mr X appealed to the MRT.
22 January 2014	MRT affirmed original decision.
28 April 2014	RRT affirmed original decision.
29 April 2014	Found not to meet the guidelines for referral to the former Minister under s 417.
14 July 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. ²
17 July 2014	Mr X provided his response and DIBP advised that it was assessing whether he had raised further protection related claims as a result of the privacy breach.
14 January 2015	Mr X was issued with a letter notifying him of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
11 February 2015	DIBP invited Mr X to comment on information relating to the ITOA. He did not provide a response.
16 March 2015	Found not to be owed protection.
24 March 2015	Requested judicial review of the negative ITOA by the Federal Circuit Court.

Health and welfare

3 April 2014	A DIBP Incident Report recorded that Mr X refused food and fluids. No further information was provided.
3 May 2014 – ongoing	International Health and Medical Services advised that blood test results confirmed Mr X is a hepatitis B carrier. He receives follow-up care from his general practitioner as required.

Detention incidents

28 August 2015	A DIBP Incident Report recorded that Mr X allegedly assaulted a Serco officer. The incident was referred to the Northern Territory Police for further investigation. On 2 September 2015 the Northern Territory Police advised it would not be investigating the incident further.
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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.

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.