

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	1994
Ombudsman ID	1003399
Date of DIBP's report	7 September 2015
Total days in detention	734 (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).
13 November 2014	Transferred to Wickham Point IDC.
9 January 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 July 2011	Arrived in Australia as the holder of a Schools Sector visa.
24 December 2011	Mr X's Schools Sector visa was cancelled under s 137J as he did not comply with his visa conditions.
13 September 2013	Lodged a Protection visa application with an associated Bridging visa application.
17 September 2013	Associated Bridging visa application refused.
23 September 2013	The Department of Immigration and Citizenship became aware that the cancellation of Mr X's Student visa was not in accordance with the <i>Migration Act 1958</i> . It was deemed that Mr X's Student visa had never been cancelled and his visa was reinstated. The next day his Schools Sector visa was cancelled under s 116(1)(b) and he was re-detained under s 189(1).
8 October 2013	Protection visa application refused.
11 October 2013	Appealed to the Refugee Review Tribunal (RRT).

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.

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.
15 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
23 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.
16 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.
23 March 2015	DIBP invited Mr X to comment on information relating to the ITOA. Mr X did not provide a response.
13 April 2015	Found not to be owed protection.
17 April 2015	Requested judicial review of the negative ITOA by the Federal Circuit Court.

Health and welfare

International Health and Medical Services advised that Mr X has not required treatment for any major physical or mental health issues.	
3 April 2014	A DIBP Incident Report recorded that Mr X refused food and fluids. No further information was provided.

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.

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.