

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 immigration detention for a cumulative period of more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1985
Ombudsman ID	1002683
Date of DIBP's reports	18 June 2015 and 9 December 2015
Total days in detention	916 (at date of DIBP's latest report)

Detention history

22 November 2011	Mr X was detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 279 <i>Weedon</i> .
23 November 2011	Transferred to Christmas Island Immigration Detention Centre (IDC).
24 November 2011	Transferred to Wickham Point IDC.
2 July 2012	Transferred to community detention.
12 February 2013	Granted a Bridging visa and released from detention.
28 August 2014	Re-detained under s 189(1) and transferred to Villawood IDC.
3 September 2014	Transferred to Wickham Point Alternative Place of Detention (APOD). ¹

Visa applications/case progression

26 March 2012	Protection Obligations Evaluation found Mr X was not owed protection.
25 October 2012	Independent Protection Assessment found he was not owed protection.
24 December 2012	Requested judicial review by the Federal Magistrates Court (FMC).
12 February 2013	The former Minister intervened under s 195A and granted Mr X a Bridging visa with an associated Temporary Humanitarian Concern visa.

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.

12 August 2013	Mr X's Bridging visa ceased and he became an unlawful non-citizen.
28 November 2013	The Federal Circuit Court (formerly FMC) dismissed the application for judicial review.
16 July 2014	The former Minister intervened under s 195A and granted Mr X a further Bridging visa.
12 August 2014	Mr X requested ministerial intervention under s 91K to allow him to make a valid Protection visa application. The Department of Immigration and Border Protection (DIBP) assessed his case against the ministerial guidelines for consideration of post-review protection claims. Mr X's request was not referred to the former Minister as his case did not meet the guidelines.
27 August 2014	Mr X's Bridging visa ceased and he became an unlawful non-citizen.
28 August 2014	Re-detained and transferred to Villawood IDC.
18 June 2015	Mr X had no outstanding matters before DIBP, the courts or tribunals and is on a removal pathway. DIBP advised that Mr X did not wish to leave Australia voluntarily and the Country A Embassy would not issue a travel document to facilitate the involuntary removal of a Country A national.

Health and welfare

December 2011 – ongoing	International Health and Medical Services (IHMS) advised that Mr X was reviewed by the mental health team (MHT) after he presented with sleep concerns, reduced mood and anxiety related to previous trauma.
1 May 2012	A history of torture and trauma was identified and he was referred to a specialist counselling service.
June 2012	Commenced counselling with a specialist counselling service.
16 July 2012	A DIBP Incident Report recorded that Mr X was taken to a hospital emergency department because of a swollen eye. He received treatment for an infection.
29 August 2014	A DIBP Incident Report recorded that Mr X had been accommodated in an observation area for over 24 hours. No further information was provided.
17 September 2014	Mr X was reported to have had an episode of acute anxiety. Cardiac tests were conducted with no abnormalities identified. Mr X was reviewed by the MHT and attended psychiatric and psychological counselling sessions. Medication was prescribed at the time for management of symptoms.
20 October 2014	Epigastric pain identified and he was referred to a gastroenterologist.
20 January 2015	A DIBP Incident report recorded that Mr X refused food and fluids as a form of protest. No further information was provided.
28 January 2015 – 20 February 2015	Mr X refused food and fluid. He was reviewed by IHMS daily for monitoring of his weight and mental health.

4 February 2015	A DIBP Incident Report recorded that Mr X made threats of self-harm during an interview with his case manager.
4 March 2015	Mr X attended an appointment with a gastroenterology specialist at a hospital in relation to his epigastric pain. He was subsequently reviewed by the general practitioner (GP) and was prescribed with medication to manage his symptoms.
17 April 2015	Mr X presented with low mood because he had been re-detained. The psychologist noted that while Mr X was coping adequately, prolonged detention could potentially adversely affect his mental health in the long term.
22 June 2015	Mr X was referred for diagnostic testing after he presented with symptoms of tuberculosis.
August 2015	During a mental health review, Mr X presented with frustration, sleep issues and reduced appetite related to his ongoing immigration situation.
10 August 2015	A spectrum test and chest x-ray were conducted with no abnormalities identified. He was referred to a specialist clinic for ongoing management.
6 October 2015	Mr X was reviewed at a chest clinic and provided with education. He was discharged with advice to attend regular chest x-rays as per state policy and self-refer as required.
8 October 2015	During a mental health review, Mr X presented with sleep issues and anxiety and expressed frustration that he was not able to be transferred to single room accommodation.

Other matters

3 February 2015	Mr X lodged a complaint with the Australian Human Rights Commission (AHRC). DIBP provided its response to the AHRC on 24 March 2015. This matter remained outstanding.
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Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. He has no matters before DIBP, the courts or tribunals and is on a removal pathway.