

## 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 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1949
<b>Ombudsman ID</b>	1003183
<b>Date of DIBP's report</b>	3 August 2015
<b>Total days in detention</b>	731 (at date of DIBP's report)

### Detention history

25 December 2011	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 294 <i>Nimrod</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
27 December 2011	Transferred to Christmas Island Immigration Detention Centre (IDC).
29 February 2012	Transferred to Curtin IDC.
26 June 2012	Granted a Bridging visa and released from detention.
28 January 2014	Mr X was re-detained under s 189(1) following the expiry of his Bridging visa and was transferred to Villawood IDC.
11 April 2014	Transferred to Wickham Point IDC.
9 January 2015	Transferred to Wickham Point APOD. <sup>1</sup>

### Visa applications/case progression

15 March 2012	The former Minister lifted the bar under s 46A to allow him to lodge a Protection visa application.
18 April 2012	Lodged a Protection visa application.
24 May 2012	Protection visa application refused.
31 May 2012	Appealed to the Refugee Review Tribunal (RRT).
21 June 2012	Granted a Bridging visa valid until 22 February 2013.
24 January 2013	RRT affirmed original decision.
3 April 2013	Granted a Bridging visa valid until 3 July 2013.
18 July 2013	Granted a Bridging visa valid until 18 August 2013.

<sup>1</sup> 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.

29 July 2013	Found not to meet the guidelines for referral to the former Minister under ss 48B and 417.
3 September 2013	Granted a Bridging visa valid until 3 October 2013.
4 September 2013	Found not to meet the guidelines for referral to the former Minister under s 417.
4 February 2014	Mr X's case was found not to meet the guidelines for referral to the former Minister under ss 48B and 417. On the same day, he requested judicial review of his negative Protection visa application by the Federal Circuit Court (FCC).  The Department of Immigration and Border Protection (DIBP) advised that the High Court imposed an injunction preventing Mr X's removal until his judicial review was heard by the FCC.
10 December 2014	FCC dismissed the case and the High Court injunction ceased.
12 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.
9 February 2015	Mr X was invited to provide further information in relation to the ITOA.
7 July 2015	Found not to be owed protection.
13 July 2015	Requested judicial review by the FCC.

### Health and welfare

February 2014 – ongoing	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma. He was regularly reviewed by the mental health team and attended supportive psychological counselling.
4 February 2014	A DIBP Incident Report recorded that Mr X threatened self-harm. No further information was provided.
20 February 2014 – ongoing	Mr X attended a brain computed tomography scan after he reported experiencing headaches and memory loss. The scans identified a cerebral cyst and he was referred to a specialist neurology team. IHMS advised that this appointment remained outstanding at the time of its report.
25 March 2014	A DIBP Incident Report recorded that Mr X threatened self-harm during an interview with detention centre staff. No further information was provided.
27 May 2014 – ongoing	Mr X was diagnosed with type 2 diabetes and prescribed with medication. He was referred to a podiatrist and optometrist for ongoing management and was provided with specialist education on 15 August 2014.
December 2014	Mr X was diagnosed with anxiety and depression and prescribed with medication. IHMS advised that Mr X was not consistent in taking his medication and was provided with education.

**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.