

**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 restricted immigration detention for more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	26 October 1989
Ombudsman ID	1003401
Date of DIBP's reports	3 September 2015 and 3 March 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

3 September 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community. He was transferred to Villawood Immigration Detention Centre.
8 April 2014	Transferred to Wickham Point Alternative Place of Detention.
1 June 2016	Granted a Bridging visa and released from detention.

Visa applications/case progression

18 May 2007	Arrived in Australia as the holder of a School Sector visa valid until 15 March 2010.
21 November 2008	Mr X's visa was cancelled under s 137J due to non-attendance and he remained in the community unlawfully.
16 March 2010	Following the Federal Court's decision ¹ Mr X's visa cancellation was reversed under s 20.
12 September 2013	Lodged a Bridging visa application.
13 September 2013	Bridging visa application refused.
8 October 2013	Lodged a Protection visa application with an associated Bridging visa application.
10 October 2013	Associated Bridging visa application deemed invalid.
23 October 2013	Attended an interview in relation to his Protection visa application.
14 November 2013	Protection visa application refused.
22 November 2013	Appealed to the Refugee Review Tribunal (RRT).
24 January 2014	RRT affirmed original decision.

¹ *Hossain v Minister for Immigration and Citizenship* [2010] FCA 161.

30 January 2014	Found not to meet the guidelines for referral to the former Minister under s 417.
18 February 2014	Requested judicial review by the Federal Circuit Court (FCC).
2 June 2014	FCC affirmed original decision.
14 January 2015	Mr X was identified as being affected by the unintentional release of personal information ² and DIBP commenced an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of Mr X's case engage Australia's <i>non-refoulement</i> obligations.
7 July 2015	DIBP finalised the ITOA, determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
13 July 2015	Requested judicial review by the FCC in relation to the ITOA.
21 August 2015	Appeared before the FCC in relation to the judicial review.
12 November 2015	The FCC adjourned Mr X's case pending the outcome of the Minister's application for special leave to appeal the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ³ which found that the ITOA process in relation to the privacy breach was procedurally unfair.
21 March 2016	The Minister filed an application in the High Court (HC) for special leave to appeal the FFC's decision.
1 June 2016	Granted a Bridging visa.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X did not require treatment for any major mental health issues.	
3 – 4 April 2014	A DIBP Incident Report recorded that Mr X refused food and fluid as a form of protest.
9 May 2014	IHMS advised that he was diagnosed with hepatitis B following routine pathology testing. An abdominal ultrasound identified no abnormalities and he was monitored by a general practitioner.

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.

Mr X was granted a Bridging visa on 1 June 2016 and released from immigration detention.

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. On 21 March 2016 the Minister filed an application in the HC for special leave to appeal the FFC's decision.

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.

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