

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 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1976
Ombudsman ID	1003195
Date of DIBP's reports	5 August 2015 and 28 January 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

30 July 2013	Mr X was detained under s 189(1) of the <i>Migration Act 1958</i> after being located living in the community as an unlawful non-citizen. He was transferred to Villawood Immigration Detention Centre (IDC).
6 April 2014	Transferred to Yongah Hill IDC.

Visa applications/case progression

5 August 2012	Arrived in Australia as the holder of a Tourist visa valid until 5 November 2012.
13 August 2013	Lodged a Protection visa application with an associated Bridging visa application.
14 August 2013	Associated Bridging visa application refused.
29 August 2013	Attended an interview in relation to his Protection visa application.
12 September 2013	Lodged a Bridging visa application.
13 September 2013	Bridging visa application was considered invalid.
16 September 2013	Lodged an associated Bridging visa application.
18 September 2013	Associated Bridging visa application refused.
17 October 2013	Protection visa application refused, on the same day he appealed to the Refugee Review Tribunal (RRT).
17 January 2014	RRT affirmed original decision.
22 January 2014	Found not to meet the guidelines for referral to the former Minister under s 417.
5 February 2014	Requested judicial review by the Federal Circuit Court (FCC).
12 June 2014	FCC affirmed original decision.

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. ¹
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.
13 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.
21 January 2015	Mr X provided a response to the Department regarding the ITOA.
16 February 2015	Mr X was invited to provide further information relevant to the ITOA, on the same day he provided his response.
16 March 2015	Found not to be owed protection.
24 March 2015	Requested judicial review by the FCC of the negative ITOA outcome. Mr X was scheduled to attend a hearing on 16 February 2016 but since his case is affected by the judgment handed down by the FCC in connection with the ITOA, DIBP requested the hearing be adjourned until the outcome of DIBP's application to the High Court in relation to the data breach.

Health and welfare

International Health and Medical Services advised that Mr X has not required treatment for any major physical health issues.	
13 August 2013	Mr X disclosed a history of torture and trauma but declined specialist counselling.
3 April 2014	A DIBP Incident Report recorded that Mr X refused food and fluids as a form of protest. No further information was provided.
July 2015	Attended a mental health assessment and no mental health concerns were identified.

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. His case is also affected by the judgment handed down by the FCC in connection with the ITOA.

¹ 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.