

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O report on Mr X who has remained in restricted immigration detention for more than 66 months (five and a half years).

The first report 812/12 was tabled in Parliament on 22 August 2012, the second report 1000880 was tabled in Parliament on 19 March 2014 and the third report 1001845 was tabled in Parliament on 18 March 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X
Citizenship	Country A
Year of birth	1986
Ombudsman ID	1002309
Date of DIBP's reports	10 March 2015 and 8 September 2015
Total days in detention	2,008 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001845), Mr X has remained at Villawood Immigration Detention Centre (IDC).

Recent visa applications/case progression

25 July 2014	The Department of Immigration and Border Protection (DIBP) commenced an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of Mr X's case engaged Australia's <i>non-refoulement</i> obligations.
16 September 2014	The former Minister declined to intervene to lift the s 46A bar to allow Mr X to lodge a valid Partner (Combined) visa application.
23 September 2014	Mr X was invited to comment on the unintentional release of personal information through DIBP's website. ¹
29 September 2014	Mr X provided his response.
18 November 2014	Mr X was invited to attend an interview on 3 December 2014 in relation to the ITOA.
18 February 2015	DIBP finalised the ITOA with a determination that <i>non-refoulement</i> obligations were not raised in Mr X's case.
26 February 2015	Requested judicial review by the Federal Circuit Court (FCC) of the ITOA decision.
3 March 2015	The Minister declined to intervene under s 46A to allow Mr X to lodge a valid application for a Temporary Protection visa.

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.

17 March 2015	Mr X lodged a request for the Minister to consider allowing him to make a valid visa application under s 46A.
7 July 2015	Found not to meet the guidelines for referral to the Minister under s 46A.
14 July 2015	Mr X's judicial review proceedings were scheduled for hearing on 11 November 2015.

Health and welfare

8 October 2014	International Health and Medical Services (IHMS) advised that Mr X was seen by a psychiatrist who reported no changes to the previous diagnosis of adjustment disorder with anxious and depressed mood.
5 November 2014	The psychologist noted that Mr X's condition was unchanged and that he appeared flat with low mood and presented as anxious.
1 April 2015	Prescribed with medication.
9 April 2015 – 24 August 2015	Attended 12 specialist counselling appointments.
14 August 2015	Mr X was seen for a periodic mental health assessment. He advised that insomnia was still a problem and that he was having intrusive thoughts related to the uncertainty of his situation.
17 August 2015	IHMS advised that Mr X continued to attend specialist counselling and the counsellor had documented that Mr X would benefit from being placed in a less restrictive environment. IHMS further advised that Mr X continued to take his prescribed medication.

Other matters

26 November 2013	DIBP advised that Mr X's identity as a national of Country A was confirmed.
11 March 2014	DIBP received a preliminary view from the Australian Human Rights Commission (AHRC) in respect of the complaint that Mr X had previously lodged with the AHRC.
12 August 2014	DIBP received a final view from the AHRC and advised that AHRC had closed the investigation of the complaint.
8 September 2015	DIBP stated that Mr X continued to be a person of interest due to past criminal matters in Australia.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. Mr X was awaiting the outcome of judicial review at the time of the latest report from DIBP.