

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 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1986
Ombudsman ID	1002830
Date of DIBP's report	29 June 2015
Total days in detention	735 (at date of DIBP's report)

Detention history

19 May 2010	Mr X arrived in Australia as the holder of a Vocational Education and Training Sector (VETS) visa.
24 June 2013	Following expiry of his visa Mr X was located by State L police when charged with speeding, resisting arrest and escaping police custody. He was detained under s 189(1) of the <i>Migration Act 1958</i> and transferred to Villawood Immigration Detention Centre (IDC).

Visa applications/case progression

9 August 2012	Mr X's VETS visa expired and he became an unlawful non-citizen.
27 June 2013	Lodged a Protection visa application.
28 June 2013	Lodged an associated Bridging visa application.
2 July 2013	Associated Bridging visa application refused. On the same day he appealed to the Migration Review Tribunal (MRT).
12 July 2013	MRT affirmed original decision.
8 August 2013	Found not to be owed protection.
9 August 2013	Appealed Protection visa refusal to the Refugee Review Tribunal (RRT).
12 August 2013	Lodged a Bridging visa application.
14 August 2013	Bridging visa application refused.
15 August 2013	Appealed to the MRT.
26 August 2013	MRT affirmed Bridging visa refusal.
11 October 2013	RRT affirmed original decision.
5 December 2013	Mr X requested ministerial intervention under s 417.
12 December 2013	Ministerial intervention request under s 417 was referred to the former Minister as part of a schedule.
24 January 2014	Lodged a second Bridging visa application.

28 January 2014	Bridging visa application refused.
29 January 2014	Appealed to the MRT.
7 February 2014	MRT affirmed Bridging visa refusal.
8 February 2014	Found not to meet the guidelines under s 417.
12 February 2014	Requested judicial review of the RRT's decision by the Federal Circuit Court (FCC).
7 March 2014	Lodged a Combined Partner visa application. On the same day Mr X's Combined Partner visa application was refused.
20 March 2014	FCC dismissed judicial review.
31 March 2014	Requested judicial review of the FCC's decision by the High Court.
22 April 2014	Lodged a third Bridging visa application.
24 April 2014	Bridging visa application refused. On the same day Mr X appealed this decision to the MRT.
6 May 2014	MRT 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
25 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.
18 September 2014	Lodged a fourth Bridging visa application.
22 September 2014	Bridging visa application refused.
23 September 2014	Appealed Bridging visa refusal to the MRT.
2 October 2014	MRT affirmed original decision.
17 November 2014	Lodged a fifth Bridging visa application.
19 November 2014	Bridging visa application refused.
20 November 2014	Appealed Bridging visa refusal to the MRT.
28 November 2014	MRT affirmed original decision.
5 February 2015	Lodged a sixth Bridging visa application.
9 February 2015	Bridging visa application refused. On the same day Mr X appealed to the MRT.
10 February 2015	Appealed Combined Partner visa refusal to the MRT.
11 February 2015	Mr X lodged an application with the FCC seeking an injunction to prevent his removal from Australia.
18 February 2015	MRT affirmed Bridging visa refusal.

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.

19 February 2015	The High Court dismissed judicial review.
23 February 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. On the same day Mr X provided a response to DIBP in relation to the ITOA.
25 February 2015	MRT informed Mr X that it did not have jurisdiction to review his Combined Partner visa refusal.
4 March 2015	Mr X filed a notice of discontinuance with the FCC.

Criminal matters

24 June 2013	Mr X was charged with speeding, resisting arrest and escaping police custody. On the same day he was released on bail. No further information was provided.
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Health and welfare

June 2013 – November 2014	International Health and Medical Services (IHMS) did not record any health summary information during this 17-month period.
25 December 2013	A DIBP Incident Report recorded that an ambulance was requested as Mr X appeared to be very ill. No further information was provided.
30 January 2014	A DIBP Incident Report recorded that Mr X threatened self-harm after receiving a negative decision from DIBP.
24 December 2014	Diagnosed with an adjustment disorder with anxious and depressed mood. IHMS advised that he is monitored and supported by the mental health team.

Information provided by Mr X

During an interview with Ombudsman staff at Villawood IDC on 29 July 2015 Mr X advised that his lawyer provided DIBP with a submission in relation to the ITOA outlining the reasons why he could not return to Country A.

Mr X said that he is married to an Australian citizen and she visits him every day. He said that he is confused about why he has not been released into the community to live with his wife and family.

Mr X stated that he has no criminal convictions and does not have a criminal record.

He advised that he does not participate in activities as he does not feel comfortable doing so. He said he is concerned for his safety due to the current cohort of detainees in his compound. He has friends in a separate compound of Villawood IDC and has requested a transfer to be located with them.

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 reassessment of his protection claims as part of an ITOA.