

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	1969
Ombudsman ID	1003446
Date of DIBP's report	24 September 2015
Total days in detention	735 (at date of DIBP's report)

Detention history

19 September 2013	Mr X was detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community and transferred to Villawood Immigration Detention Centre (IDC).
20 January 2015	Transferred to Yongah Hill IDC.

Visa applications/case progression

17 July 1998	Arrived in Australia as the holder of a Student visa valid until 15 March 2000.
8 October 1998	Lodged an application for another Student visa. On the same day he was granted an associated Bridging visa.
10 June 1999	Granted a Student visa valid until 2 June 2001.
19 September 2013	Mr X remained in the community as an unlawful non-citizen until he was located by authorities and detained under s 189(1).
3 October 2013	Lodged a Protection visa application with an associated Bridging visa application.
4 October 2013	Associated Bridging visa application refused.
9 October 2013	Appealed to the Migration Review Tribunal (MRT).
17 October 2013	MRT affirmed original decision.
11 November 2013	Protection visa application refused.
18 November 2013	Appealed to the Refugee Review Tribunal (RRT).
19 November 2013	Lodged a Bridging visa application.
21 November 2013	Bridging visa application refused.
25 November 2013	Appealed Bridging visa refusal to MRT.
3 December 2013	MRT affirmed original decision.
8 January 2014	RRT affirmed original decision.

10 January 2014	Found not to meet the guidelines for referral to the former Minister under s 417.
29 January 2014	Requested judicial review of the RRT decision by the Federal Circuit Court (FCC).
17 February 2014	Lodged a Bridging visa application.
19 February 2014	Bridging visa application refused.
26 March 2014	Mr X lodged an application for an injunction preventing removal from Australia with the FCC.
29 May 2014	FCC affirmed original decision.
19 June 2014	Requested judicial review by the Full Federal Court (FFC).
27 June 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
2 July 2014 and 11 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.
9 December 2014	FFC overturned the FCC decision.
18 December 2014	Matter remitted to the RRT.
16 January 2015	Lodged a Bridging visa application.
19 January 2015	Mr X withdrew his application for an injunction with the FCC.
20 January 2015	Bridging visa application refused.
21 January 2015	Appealed to MRT.
28 January 2015	MRT affirmed original decision.
26 February 2015	RRT affirmed original decision.
27 February 2015	Found not to meet the guidelines for referral to the former Minister under s 417.
2 March 2015	Requested judicial review of the RRT decision by the FCC.
26 March 2015	FCC affirmed original decision.
8 April 2015	Appealed to the FFC.
16 July 2015	Matter remitted to FCC for reconsideration.

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.

Health and welfare

30 October 2013 – ongoing	International Health and Medical Services (IHMS) advised that Mr X presented with a persistent rash. He was prescribed with medication which he reported did not provide relief. He was reviewed by a dermatologist on four occasions and a biopsy identified that the rash was caused by protein deposits. Mr X was prescribed with further topical medication and was awaiting a further specialist review after his transfer to Yongah Hill IDC.
13 November 2013	Disclosed a history of torture and trauma and was referred for specialist counselling.
3 December 2013 – 14 January 2015	Attended 21 specialist counselling sessions.
23 January 2015	Mr X presented to IHMS with difficulty swallowing. He was prescribed with medication for gastric issues and was referred to a specialist.
3 March 2015	Attended an appointment with a gastroenterologist. A gastroscopy identified no abnormal results.
26 June 2015	Mr X was reviewed by an IHMS psychiatrist who noted that he did not have a psychiatric disorder.

Detention incidents

12 March 2015 – 20 September 2015	DIBP Incident Reports recorded that Mr X was allegedly aggressive towards Serco officers on three occasions.
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Other matters

DIBP advised that Mr X is the holder of an expired Country A passport.
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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.
