

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 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1965
Ombudsman ID	1002880
Date of DIBP's report	3 July 2015
Total days in detention	736 (at date of DIBP's report)

Detention history

27 June 2013	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).
2 December 2015	Granted a Bridging visa and released from detention.

Visa applications/case progression

17 February 2008	Mr X arrived in Australia on a Student Guardian visa valid until 31 July 2009. He arrived with his son who held a School Sector visa.
9 May 2009	Mr X's son's School Sector visa was cancelled on the grounds of non-attendance.
18 May 2009	Mr X's Student Guardian visa was cancelled under s 140 as a result of his son's visa being cancelled.
1 July 2013	Lodged a Protection visa application.
10 July 2013	Associated Bridging visa refused.
27 August 2013	Protection visa application refused.
29 August 2013	Appealed to the Refugee Review Tribunal (RRT).
23 October 2013	RRT affirmed original decision.
24 October 2013	Mr X's partner, Ms Y, lodged a Protection visa application which included Mr X as a dependant.
25 October 2013	Found not to meet the guidelines for referral to the former Minister under s 417.
28 October 2013	Mr X's application for an associated Bridging visa was refused.
29 October 2013	Appealed the Bridging visa refusal to the Migration Review Tribunal (MRT).
5 November 2013	MRT affirmed the original decision.

13 December 2013, 31 January 2014 and 20 March 2014	Three further Bridging visa applications refused.
23 December 2013, 12 February 2014 and 1 April 2014	MRT affirmed the original decisions to refuse the Bridging visa applications.
12 March 2014	The Department of Immigration and Border Protection (DIBP) informed Mr X of the unintentional release of personal information through DIBP's website. ¹
19 March 2014	Ms Y's Protection visa application, in which Mr X was included as a dependant, was refused.
9 April 2014	Ms Y appealed to the RRT.
5 August 2014	The RRT affirmed the decision to refuse Ms Y's Protection visa application. On the same day Mr X's case was found not to meet the guidelines for referral to the former Minister under s 417.
22 August 2014	Ms Y requested judicial review by the Federal Circuit Court (FCC) of the RRT's decision.
20 January 2015	DIBP invited Mr X to comment on the privacy breach. At the date of DIBP's report he had not responded.
13 May 2015	The FCC dismissed Ms Y's application for judicial review.
29 May 2015	Ms Y appealed to the Full Federal Court against the decision of the FCC, and Mr X was awaiting the hearing.
2 December 2015	Granted a Bridging visa.

Health and welfare

29 June 2013 – 1 July 2015	International Health and Medical Services (IHMS) advised that Mr X was treated and monitored for multiple health issues including a stomach disorder, a back condition, and migraines. He attended a number of specialist appointments and associated tests and scans and was prescribed with medication.
2 October 2013	A DIBP Incident Report recorded that Mr X made threats of self-harm, stating that he would kill himself if he were returned to Country A. No further information was provided.
3 April 2014	A DIBP Incident Report recorded that Mr X advised he was pursuing food and fluid refusal. No further information was provided.
30 March 2015 – 2 June 2015	Attended eight physiotherapy sessions to treat his back condition.

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.

May 2015	Mr X underwent an endoscopy and was diagnosed with an inflammatory intestinal condition. He was due to attend a review appointment in July 2015.
----------	--

Other matters

3 July 2015	DIBP advised that Mr X's partner, Ms Y, was granted a Bridging visa on 1 September 2014. It further advised that Mr X's son is no longer in Australia.
-------------	--

Information provided by Mr X

During an interview with Ombudsman staff at Villawood IDC on 10 November 2015 Mr X advised his immigration case was currently being considered by the Federal Court.

Mr X said that he had health problems including a dental condition and liver pain for which he had difficulties obtaining pain relief. He also had sleeping problems and relied on medication every night.

He said that he took part in activities during the day to pass the time, mainly attending the gym and English classes. His wife visited him every week, but he was worried about her as she lived in the community on her own. He wanted to be granted a Bridging visa so he could be with her.

Case status

Mr X was granted a Bridging visa on 2 December 2015 and released from immigration detention.

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. At the time of DIBP's report he was awaiting the outcome of judicial review.