

# 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 a cumulative period of more than 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1996
<b>Ombudsman ID</b>	1002233-O
<b>Date of DIBP's report</b>	21 November 2015
<b>Total days in detention</b>	730 (at date of DIBP's report)

## Detention history

22 September 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia as an unaccompanied minor aged 16 aboard Suspected Illegal Entry Vessel (SIEV) 851 <i>Irving</i> . He was transferred to Christmas Island Immigration Detention Centre (IDC).
11 October 2013	Transferred to Nauru Regional Processing Centre (RPC). <sup>1</sup>
23 November 2013	Returned to Australia and re-detained under s 189(1). He was transferred to Northern IDC.
28 November 2013	Transferred to Berrimah House Alternative Place of Detention (APOD).
29 November 2013	Transferred to Christmas Island APOD.
10 February 2014	Transferred to Christmas Island IDC.
28 August 2014	Transferred to Wickham Point APOD.
29 August 2014	Transferred to Brisbane Immigration Transit Accommodation (ITA)
30 August 2014	Transferred to Pine Rivers Hospital.
29 October 2014	Transferred to Brisbane ITA.
28 November 2014	Transferred to Wickham Point APOD.

## Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that Mr X is part of a cohort who have not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister has not lifted the bar under s 46A.

<sup>1</sup> Time spent at an RPC is not counted towards time spent in immigration detention in Australia for the purposes of reporting under s 486N.

16 March 2016	DIBP confirmed that detainees who arrived in Australia after 19 July 2013 who were transferred to an RPC but returned to immigration detention in Australia for medical reasons remain liable for transfer back to an RPC on completion of their treatment.
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### Health and welfare

20 November 2013	International Health and Medical Services (IHMS) advised that Mr X was identified to have major depressive disorder and post-traumatic stress disorder (PTSD).
23 November 2013	DIBP advised that Mr X was transferred back to Australia from Nauru RPC for medical treatment.
29 May 2014	A DIBP Incident Report recorded that Mr X refused food and fluid.
11 July 2014 – 11 August 2014	DIBP Incident Reports recorded that Mr X threatened self-harm on three occasions.
9 August 2014	A DIBP Incident Report recorded that Mr X self-harmed by banging his head against a door.
30 August 2014 – 29 October 2014	IHMS advised that Mr X was admitted to a psychiatric hospital with a major depressive disorder and symptoms of PTSD. He was prescribed with antidepressant medication and received cognitive behavioural therapy and transcranial magnetic stimulation therapy. Mr X's psychiatrist advised that his depression would be likely to relapse if he was transferred back to Christmas Island or an RPC.
Early - mid 2015	IHMS advised that Mr X ceased taking his antidepressant medication and declined to see the mental health team (MHT).
3 September 2015	Mr X attended a mental health assessment and admitted that he was experiencing visual hallucinations. He was closely monitored by the MHT, but declined to attend appointments.

### Detention incidents

15 December 2013	A DIBP Incident Report recorded that Mr X was involved in a minor physical altercation with another unaccompanied minor detainee.
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### Information provided by Mr X

Mr X was offered the opportunity to discuss his detention circumstances with Ombudsman staff on 19 April 2016 and 12 May 2016 but declined to do so.
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### **Ombudsman assessment/recommendation**

The Ombudsman notes that Mr X was detained on 22 September 2013 after arriving in Australia as an unaccompanied minor aged 16 aboard SIEV *Irving* and has been held in restricted detention for a cumulative period of over two years with no processing of his protection claims.

The Ombudsman notes DIBP's advice that because Mr X was transferred to an RPC but returned to immigration detention in Australia for medical reasons he remains liable for transfer back to an RPC on completion of his treatment.

The Ombudsman notes with concern the advice from IHMS that Mr X was admitted to a psychiatric hospital for two months with PTSD and major depression following his return from Nauru RPC and the advice from his psychiatrist that Mr X's conditions would likely relapse if he were returned to an RPC.

In light of Mr X's significant mental health concerns, the Ombudsman recommends that consideration be given to placing him in community detention.

The Ombudsman further recommends that priority is given to exploring options to enable the resolution of Mr X's immigration status.