

**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 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1986
<b>Ombudsman ID</b>	1002274-O
<b>Date of DIBP's reports</b>	30 December 2015 and 27 June 2016
<b>Total days in detention</b>	913 (at date of DIBP's latest report)

**Detention history**

13 September 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 847 <i>Empire</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
15 September 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
26 September 2013	Transferred to Manus Island Regional Processing Centre (RPC). <sup>1</sup>
6 December 2013	Returned to Australia and re-detained under s 189(1). He was transferred to Northern IDC.
14 March 2014	Transferred to Wickham Point APOD.
28 June 2014	Transferred to Manus Island RPC.
2 August 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Wickham Point APOD.
11 May 2016	Transferred to Facility B.

**Visa applications/case progression**

6 December 2013	Mr X was transferred from Manus Island RPC to Australia for medical treatment.
13 March 2014	The Department of Immigration and Border Protection (DIBP) notified Mr X of the unintentional release of personal information <sup>2</sup> and advised that the privacy breach would be taken into account when considering his protection claims.

<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.

<sup>2</sup> 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.

28 June 2014	Mr X was transferred to Manus Island RPC following the completion of his medical treatment.
2 August 2014	Mr X was transferred from Manus Island RPC to Australia for medical treatment.
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.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X receives specialist counselling for major depression and a history of self-harm and suicidal ideation. He was placed on supportive monitoring and engagement observations following threats of self-harm and is regularly reviewed by a psychiatrist and the mental health team. In its latest review dated 19 May 2016, IHMS advised that Mr X's mental health would improve if he was placed in a less restrictive detention environment.

IHMS further advised that Mr X received treatment for multiple physical health conditions, including vision concerns. In February 2016 Mr X underwent a computed tomography scan and nasal abnormalities were identified. The general practitioner (GP) referred Mr X to an ear, nose and throat specialist in Darwin, however this referral was cancelled following his transfer to Facility B. IHMS advised that Mr X was awaiting a GP appointment for a new referral at the time of its latest review.

19 September 2013 and 26 September 2013	DIBP Incident Reports recorded that Mr X threatened self-harm.
5 September 2014	DIBP Incident Reports recorded that Mr X was admitted to hospital after he self-harmed by swallowing shards of a razor blade.

### Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 13 September 2013 after arriving in Australia aboard *SIEV Empire* and has been held in restricted detention for a cumulative period of over two and a half 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 Government's duty of care to detainees and the serious risk to mental and physical health prolonged detention may pose. Without an assessment of Mr X's claims to determine if he is found to engage Australia's protection obligations, it appears likely that he will remain in restricted detention for an indefinite period.

The Ombudsman further notes with concern Mr X's history of depression and self-harm and advice from IHMS that his mental health would improve if he was placed in a less restrictive detention environment.

In light of this advice, the Ombudsman recommends that consideration be given to placing Mr X in a less restrictive detention facility or community detention and that priority is given to exploring options to enable the resolution of his immigration status.