

**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 immigration detention for a cumulative period of more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1982
Ombudsman ID	1002525-O
Date of DIBP's report	11 October 2016
Total days in detention	730 (at date of DIBP's report)

Detention history

5 August 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland ¹ aboard Suspected Illegal Entry Vessel (SIEV) 822 <i>Firebaugh</i> . He was transferred to Northern Immigration Detention Centre (IDC).
6 August 2013	Transferred to Christmas Island IDC.
4 September 2013	Transferred to Manus Island Regional Processing Centre (RPC). ²
11 November 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Brisbane Immigration Transit Accommodation (ITA).
16 June 2015	Transferred to Wickham Point Alternative Place of Detention (APOD).
9 February 2016	Transferred to Brisbane ITA.
1 March 2016	Transferred to Wickham Point APOD.
11 May 2016	Transferred to Melbourne ITA.
7 June 2016	Transferred to community detention.

Visa applications/case progression

11 November 2014	Mr X was transferred from Manus Island RPC to Australia for medical treatment.
16 March 2016	The Department of Immigration and Border Protection (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.

¹ Following legislative amendment on 20 May 2013, all unauthorised maritime arrivals, including those who arrived on the Australian mainland or an 'excised offshore location' were barred from lodging a Protection visa application under s 46A.

² Time spent at an RPC is not counted towards time spent in immigration detention in Australia for the purposes of reporting under s 486N.

27 May 2016	The Minister intervened under s 197AB to allow Mr X to reside in community detention.
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Health and welfare

<p>International Health and Medical Services (IHMS) advised Mr X presented on multiple occasions with chest pain. He was referred for specialist investigations, which concluded his chest pain was non-cardiac related and was possibly a manifestation of his underlying anxiety.</p> <p>Mr X has also been referred for a minor surgical procedure for a skin condition on his eyelids and is awaiting notification of an appointment date.</p> <p>IHMS further advised that upon his return to Australia from Manus Island RPC Mr X was diagnosed as being depressed and suicidal. He was admitted to a psychiatric hospital for seven weeks for treatment of depression and post-traumatic stress disorder and a DIBP Incident Report recorded that Mr X attempted suicide during this time. Mr X has also been diagnosed with a chronic adjustment disorder.</p> <p>In June 2015, Mr X was placed on a modified Psychological Support Program after displaying significant symptoms of trauma, with readmission to a psychiatric hospital recommended should his condition deteriorate further. Since then Mr X has attended regular psychiatric and medication reviews.</p> <p>In May 2016, Mr X's psychiatrist advised that while Mr X displays no suicidal thought he was at chronic risk of self-harm and was not amenable to psychotherapy. He has recommended Mr X be referred for counselling. Mr X is awaiting notification of a counselling appointment date.</p>	
12 August 2013	A DIBP Incident Report recorded that Mr X refused food and fluids for approximately 36 hours as part of a group protest against the change in immigration policy requiring them to be processed offshore.
28 November 2014 – 8 December 2014 16 December 2014 – 9 January 2015 9 February 2016 – 21 February 2016	Admitted to a psychiatric hospital.
8 December 2014	A DIBP Incident Report recorded that Mr X attempted to commit suicide while he was an inpatient at a psychiatric hospital.
16 July 2015 and 10 August 2015	DIBP Incident Reports recorded that Mr X was transported to a hospital for investigations after presenting with chest pains.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 5 August 2013 after arriving in Australia aboard SIEV 822 *Firebaugh* and has been held in detention for a cumulative period of over two years with no processing of his protection claims.

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 detention for an indefinite period.

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