

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

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A, born in Country B
<b>Year of birth</b>	1953
<b>Ombudsman ID</b>	1002231-O
<b>Date of DIBP's reports</b>	20 November 2015 and 20 May 2016
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

**Detention history**

9 September 2013	Mr X was detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia with his wife, Ms Y, and children, Ms Z, Mr Q and Master R, <sup>1</sup> aboard Suspected Illegal Entry Vessel (SIEV) 845 <i>Calvert</i> .  Mr X and his family were transferred to an Alternative Place of Detention (APOD), Christmas Island.
13 September 2013	Mr X and his family were transferred to Nauru Regional Processing Centre (RPC). <sup>2</sup>
29 September 2013	Mr X was returned to Australia and re-detained under s 189(1). He was transferred to Brisbane Immigration Transit Accommodation (ITA).
8 December 2013	Mr X was transferred to Nauru RPC.
2 February 2014	Mr X was returned to Australia and re-detained under s 189(1). He was transferred to Brisbane ITA.
5 July 2014	Mr X's family were transferred to Brisbane ITA and reunited with Mr X.
8 July 2014	Mr X and his family were transferred to Inverbrackie APOD.
3 December 2014	Mr X and his family were transferred to Bladin APOD.
26 February 2015	Mr X and his family were transferred to Wickham Point APOD.
8 September 2015	Mr X and his family were transferred to community detention.

**Visa applications/case progression**

29 September 2013	Mr X was returned to Australia from Nauru RPC for medical treatment.
2 February 2014	Mr X was returned to Australia from Nauru RPC for further medical treatment.

<sup>1</sup> Mr X's wife and children have been in immigration detention for less than two years and are not yet subject to reporting under s 486N.

<sup>2</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.

31 August 2015	The Minister intervened under s 197AB to allow Mr X and his family to reside in community detention.
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.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received psychiatric and psychological counselling for an adjustment disorder, depression and cognitive impairment related to detention fatigue. Following his transfer to community detention, he continued to be monitored by a general practitioner and was prescribed with antidepressant medication. He declined a referral for further psychological counselling.

IHMS further advised that Mr X receives treatment for multiple complex physical health conditions, including ischemic heart disease, coronary artery disease, type 2 diabetes, peripheral vascular disease, hypertension, hearing loss and vertigo. He requires a wheelchair and walking frame for mobility and continues to be monitored by a multidisciplinary team including a neurologist, vitreoretinal specialist, physiotherapist and cardiologist and is regularly reviewed at a diabetic clinic.

DIBP Incident Reports recorded that Mr X was transferred to hospital by ambulance on multiple occasions after collapsing or experiencing chest pain.

### Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 9 September 2013 after arriving in Australia aboard SIEV *Calvert* and has been held in detention for a cumulative period of over two and a half 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.