

## REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the second s 486O report on Mr X who has remained in restricted immigration detention for a cumulative period of more than 36 months (three years).

The first report 1002320-O was tabled in Parliament on 14 September 2016. This report updates the material in that report and should be read in conjunction with the previous report.

<b>Name</b>	Mr X
<b>Citizenship</b>	Stateless (claimed), born in Country A
<b>Year of birth</b>	1974
<b>Ombudsman ID</b>	1002320-O1
<b>Date of DIBP's reports</b>	17 August 2016 <sup>1</sup> and 6 December 2016
<b>Total days in detention</b>	1094 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous report (1002320-O), Mr X remained at Wickham Point Alternative Place of Detention.	
11 May 2016	Transferred to Yongah Hill Immigration Detention Centre.

### Recent visa applications/case progression

<p>Mr X arrived in Australia by sea after 19 July 2013 and was transferred to a Regional Processing Centre (RPC). The Department of Immigration and Border Protection (the department) has advised that Mr X is barred under ss 46A and 46B of the <i>Migration Act 1958</i> from lodging a valid protection visa application as a result of his method of arrival and transfer to an RPC.</p> <p>Mr X was returned to Australia for medical treatment on 10 December 2013.</p> <p>The department has advised that it is exploring options to resolve Mr X's immigration status.</p>
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### Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X has regular health checks and specialist review to monitor his chronic hepatitis B and high cholesterol. Mr X has also attended regular review with an eye specialist for ongoing vision concerns and possible glaucoma.</p> <p>IHMS further advised that Mr X engages with the mental health team as required for the management of anxiety, low mood, situational stress and detention fatigue. Mr X disclosed a history of torture and trauma and ongoing worry regarding his family.</p>
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<sup>1</sup> The department advised that it did not meet its statutory obligations in relation to Mr X due to an administrative error which precluded normal reporting procedures from being followed. The department advised that this issue is being investigated.

**Other matters**

28 November 2016	The Australian Human Rights Commission requested further information from the department regarding a complaint lodged in November 2015. The matter remains ongoing.
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**Ombudsman assessment/recommendation**

Mr X was detained on 27 November 2013 after arriving in Australia by sea and has been held in restricted detention for a cumulative period of more than three 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 and apparently indefinite detention may pose. The Ombudsman notes that without an assessment of Mr X's claims it appears likely he will remain in restricted detention indefinitely.

The Ombudsman notes with concern that Mr X has ongoing mental health concerns and a medical condition that requires ongoing treatment. The Ombudsman recommends that Mr X be referred to the Minister for consideration of a community detention placement.

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