

**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).

Name	Mr X
Citizenship	Country A
Year of birth	1995
Ombudsman ID	1002325-O
Date of DIBP's reports	24 February 2015 and 24 August 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

20 October 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 860 <i>Rosemead</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
22 October 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
24 October 2013	Transferred to Manus Island Regional Processing Centre (RPC). ¹
1 March 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Northern IDC.
14 March 2014	Transferred to Christmas Island IDC.
29 April 2015	Transferred to Wickham Point APOD.
11 May 2016	Transferred to Yongah Hill IDC.

Visa applications/case progression

Mr X arrived in Australia by sea after 19 July 2013 and was transferred to an RPC. The Department of Immigration and Border Protection (DIBP) have advised that Mr X is barred under ss 46A and 46B from lodging a valid protection visa application as a result of his method of arrival and his transfer to an RPC.

Mr X was returned to Australia for medical treatment on 1 March 2014.

DIBP have advised that under current policy settings Mr X is not eligible to have his protection claims assessed in Australia and remains liable for transfer back to an RPC on completion of his treatment.

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

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X presented to the general practitioner on multiple occasions with recurring symptoms of depression and insomnia. On 18 February 2016 he was diagnosed with adjustment disorder and prescribed with anti-depressant medication. He continues to attend supportive counselling and group therapy and is monitored by the mental health team.

IHMS further advised that Mr X was diagnosed with hepatitis B and identified as a tuberculosis contact. He was monitored as per state policy with no further review required.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 20 October 2013 after arriving in Australia aboard *SIEV Rosemead* 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 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 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.