

**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	Stateless (claimed), born in Country A
Year of birth	1992
Ombudsman ID	1002265-O
Date of DIBP's reports	15 December 2015 and 8 June 2016
Total days in detention	906 (at date of DIBP's latest report)

Detention history

6 December 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 868 <i>Zionsville</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
8 December 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
10 December 2013	Transferred to Nauru Regional Processing Centre (RPC). ¹
19 December 2013	Returned to Australia and re-detained under s 189(1). He was transferred to Christmas Island IDC.
29 April 2015	Transferred to Wickham Point APOD.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that Mr X is part of a cohort who have not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister has not lifted the bar under s 46A.	
12 March 2014	DIBP notified Mr X of the unintentional release of personal information. ²
8 June 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.

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.

² 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.

Health and welfare

13 December 2013 – ongoing	International Health and Medical Services (IHMS) advised that Mr X was identified to have hepatitis B. He was provided with education and referred for an ultrasound and to a liver clinic.
19 December 2013	DIBP advised that Mr X was transferred to Australia from Nauru RPC for medical treatment.
30 January 2014	Disclosed a history of torture and trauma and accepted specialist counselling.
11 October 2014	Mr X attended an appointment at a liver clinic. Ongoing surveillance of his hepatitis B was recommended.
31 October 2014	An IHMS general practitioner (GP) noted that Mr X met the criteria for hepatitis B treatment. Management of his condition was to be confirmed by a liver clinic.
30 November 2014	Attended a specialist counselling session.
August 2015	Mr X attended a mental health assessment. He advised that he was able to self-manage his stress.
15 December 2015	IHMS advised that Mr X attended a review at a liver clinic and received medication. His hepatitis B is monitored by IHMS with blood tests and ultrasounds. A review is scheduled for June 2016.

Information provided by Mr X

During an interview with Ombudsman staff at Wickham Point APOD on 20 April 2016 Mr X advised he had been transferred to Nauru RPC for a short period of time but was returned to Australia for medical treatment. He said Nauru RPC was extremely hot during the day and he was bitten by mosquitoes at night.

Mr X expressed concern other detainees who were transferred from Nauru RPC to Australia at the same time as him have been transferred into the community and he does not understand why he has not been considered for transfer to community detention.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 6 December 2013 after arriving in Australia aboard *SIEV Zionsville* 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.