

**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	1967
Ombudsman ID	1002363-O
Date of DIBP's reports	6 April 2016 and 7 October 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

7 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 823 <i>Gadsen</i> . He was transferred to Christmas Island Immigration Detention Centre.
6 September 2013	Transferred to Manus Island Regional Processing Centre (RPC). ¹
8 May 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Brisbane Immigration Transit Accommodation (ITA).
31 October 2014	Transferred to Wickham Point Alternative Place of Detention.
29 June 2015	Transferred to Brisbane ITA.

Visa applications/case progression

8 May 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.
12 April 2016	Mr X's case was referred on a ministerial submission for consideration under s 197AB for a community detention placement. On 26 April 2016 the Minister declined to intervene.
7 October 2016	DIBP advised that assessment of Mr X's protection claims would be progressed when he returned to Manus Island as he was not eligible to have his claims assessed in Australia.

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 has a history of post-traumatic stress disorder and depressive psychosis and had required two psychiatric hospital admissions. Following his discharge he had reported episodes of mood fluctuations, anxiety and perceptual disturbances.

A psychiatrist reviewed him and referred him for a magnetic resonance imaging scan of his head to rule out any pathological reasons for his deteriorating mental health. A normal result was returned.

Mr X was placed under Supportive Monitoring and Engagement observations on a number of occasions when he was unable to guarantee his safety or made threats of self-harm or suicide.

At an appointment with a psychiatrist on 4 December 2015 it was noted that he was not manifesting any signs of psychosis but continued to report night-time anxiety. On 14 January 2016 a psychiatrist documented that Mr X should not be transferred back to Manus Island as it was likely he would become chronically psychotic in that environment. The psychiatrist recommended placement in the community with mental health follow up and support.

In July 2016 Mr X was followed up by a psychiatrist who noted Mr X's mental state was stable at that time despite refusal to take several of his antidepressant medications. However, he agreed to remain on his antipsychotic medication.

IHMS further advised that Mr X received treatment for physical health concerns including renal colic and calculi, a cataract and back pain.

8 May 2014 – 3 June 2014 and 29 June 2015 - 10 August 2015	Admitted to a psychiatric hospital.
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Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 7 August 2013 after arriving in Australia aboard SIEV *Gadsen* 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.