

**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	1987
Ombudsman ID	1002474-O
Date of DIBP's reports	17 August 2016 and 15 February 2017
Total days in detention	912 (at date of DIBP's latest report)

Detention history

21 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 837 <i>Unalaska</i> . He was transferred to an Alternative Place of Detention, Christmas Island.
24 August 2013	Transferred to Christmas Island Immigration Detention Centre.
27 June 2014	Transferred to Nauru Regional Processing Centre (RPC).
24 June 2015	Returned to Australia and transferred to Brisbane Immigration Transit Accommodation (ITA).
28 July 2016	Transferred to Melbourne ITA.
29 November 2016	Transferred to Brisbane ITA.

Visa applications/case progression

<p>Mr X arrived in Australia by sea after 19 July 2013 and was transferred to an RPC. The Department of Immigration and Border Protection (the department) has 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 transfer to an RPC.</p> <p>Mr X was returned to Australia for medical treatment on 24 June 2015.</p> <p>The department has 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.</p>	
21 December 2016	Found not to meet the guidelines for referral to the Minister under s 197AB for consideration of a community detention placement.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was returned to Australia for urgent cardiology review. Mr X required transportation to hospital on two occasions due to recurrent chest pains and required extensive cardiac investigation, with no significant cardiac abnormalities identified. A follow up appointment with a specialist was scheduled for 19 January 2017. Mr X was prescribed with medication and continues to be monitored by a general practitioner.

Mr X disclosed a history of torture and trauma however he declined specialist counselling and was reviewed by a psychiatrist. On 31 December 2016 Mr X reported an incident of self-harm associated with his lengthy detention and heightened stress levels over the holiday period. He continues to be monitored and supported by the mental health team.

Other matters

19 February 2016	Mr X lodged a complaint with the Ombudsman's office regarding his potential return to Nauru RPC. He expressed concern that his medical condition cannot be effectively managed at Nauru RPC and that he hoped to be granted a community detention placement.
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Ombudsman assessment/recommendation

Mr X was detained on 21 August 2013 after arriving in Australia by sea and has been held in restricted detention for a cumulative period of more than two and a half years with no processing of his protection claims.

Mr X was transferred to an RPC and returned to Australia for medical treatment. The department advised that because Mr X arrived after 19 July 2013 he remains liable for transfer back to an RPC on completion of his treatment.

The Ombudsman notes the advice from IHMS that Mr X has a medical condition that requires ongoing monitoring and prescription medication.

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 with concern that Mr X self-harmed as a result of his lengthy detention and associated situational stress.

The Ombudsman notes that under current policy settings Mr X is not eligible to have his protection claims assessed in Australia and that without an assessment of Mr X's claims it appears likely he will remain in restricted detention indefinitely.

Given Mr X's ongoing medical condition and mental health concerns the Ombudsman recommends that his case be reassessed for a community detention placement and priority be given to resolving his immigration status.