

**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 more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1990
Ombudsman ID	1002523-O
Date of DIBP's report	10 October 2016
Total days in detention	730 (at date of DIBP's report)

Detention history

25 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 808 <i>Kinston</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
29 July 2013	Transferred to Christmas Island Immigration Detention centre (IDC).
13 August 2013	Transferred to Manus Island Regional Processing Centre (RPC). ¹
30 October 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Melbourne Immigration Transit Accommodation.
30 August 2016	Transferred to Maribyrnong IDC.
21 September 2016	Transferred to Christmas Island IDC.

Visa applications/case progression

30 October 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.

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 IMHS clinic on Manus Island RPC with neck pain following exercise and was transferred to Australia for medical treatment after displaying worsening symptoms. He was referred for neurosurgical review and underwent spinal surgery in February 2015. In April 2016, Mr X was admitted to hospital due to an exacerbation of his neck pain. He was discharged on the same day. Mr X's condition continues to be managed through physiotherapy and pain relief medication.

Mr X has been diagnosed with an adjustment disorder, mixed anxiety and depression and insomnia. He was prescribed with medication and advised to attend psychological counselling. IHMS advised that Mr X required close monitoring at times as a result of his refusal to take medication and subsequent stockpiling of it.

IMHS further advised that Mr X was diagnosed with an inherited blood disorder and advised to seek genetic counselling before having children.

Detention incidents

DIBP Incident Reports recorded that Mr X has allegedly been involved in numerous minor behavioural incidents while in detention, including aggressive behaviour towards detention centre staff, creating disturbances and the possession of contraband.

Ombudsman recommendation/assessment

The Ombudsman notes that Mr X was detained on 25 July 2013 after arriving in Australia aboard SIEV *Kinston* and has been held in restricted detention for a cumulative period of over two 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.