

**REPORT BY THE COMMONWEALTH AND  
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

*Under s 486O of the Migration Act 1958*

This is the second s 486O report on Mr X who has remained in restricted immigration detention for more than 36 months (three years).

The first report 1002214-O was tabled in Parliament on 14 September 2016. This report updates the material in that report and should be read in conjunction with the previous report.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1989
<b>Ombudsman ID</b>	1002214-O1
<b>Date of DIBP's report</b>	2 November 2016
<b>Total days in detention</b>	1094 (at date of DIBP's latest report)

**Recent detention history**

Since the Ombudsman's previous report (1002214-O), Mr X remained at Wickham Point Alternative Place of Detention.	
11 May 2016	Transferred to Yongah Hill Immigration Detention Centre.

**Recent visa applications/case progression**

Mr X arrived in Australia by sea after 19 July 2013 and was transferred to a Regional Processing Centre (RPC). The Department of Immigration and Border Protection (the department) has advised that Mr X is barred under ss 46A and 46B of the <i>Migration Act 1958</i> from lodging a valid protection visa application as a result of his method of arrival and transfer to an RPC.  Mr X was returned to Australia for medical treatment on 9 November 2013.  The department has advised that it is exploring options to resolve Mr X's immigration status	
14 October 2016	Mr X's case was referred on a ministerial submission for consideration under s 197AB for a community detention placement.

**Health and welfare**

International Health and Medical Services advised that Mr X is receiving ongoing treatment for hepatitis B. Additionally Mr X was referred to a specialist for an abdominal ultrasound scheduled for 5 October 2016, with no further information provided.	
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### **Ombudsman assessment/recommendation**

Mr X was detained on 20 October 2013 after arriving in Australia by sea and has been held in restricted detention for a cumulative period of more than three 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 it is exploring options to resolve Mr X's immigration status.

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 that without an assessment of Mr X's claims it appears likely he will remain in restricted detention indefinitely.

The Ombudsman notes with concern that Mr X has a medical condition that requires ongoing treatment. Given the nature of Mr X's medical condition and ongoing detention the Ombudsman recommends that the referral to the Minister for consideration of a community detention placement be expedited.

The Ombudsman further recommends that the department expedite the resolution of Mr X's immigration status.