

# 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).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1979
<b>Ombudsman ID</b>	1002895
<b>Date of DIBP's report</b>	8 May 2015
<b>Total days in detention</b>	Not provided

## Detention history

1 May 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 683 <i>Jersey</i> .
The Department of Immigration and Border Protection (DIBP) advised that Mr X is currently located at Facility B.	

## Visa applications/case progression

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(2).	
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## Health and welfare

15 May 2013	International Health and Medical Services (IHMS) advised that Mr X had undergone heart surgery during his childhood for treatment of congenital heart disease. He was referred for cardiac testing after reporting that he was experiencing chest pain related to emotional events.
20 May 2013	Disclosed a history of torture and trauma but declined specialist counselling.
April 2014 – ongoing	Cardiac testing identified mild abnormalities, however no treatment was required. In September 2014 he attended an appointment with a cardiologist who noted no concerns.  IHMS advised that Mr X regularly expressed concern and frustration related to his heart condition, despite advice from the medical team that his chest pain was unrelated.
18 August 2014	A DIBP Incident Report recorded that Mr X commenced voluntary starvation as a form of protest. No further information was provided.

22 November 2014	Attended a routine mental health assessment with a psychiatrist who noted no mental health concerns. IHMS advised that Mr X attends group counselling sessions but declined individual mental health support.
March 2015	Mr X reported recurring chest pain and was reviewed by a cardiologist. The specialist noted that the pain was not related to his heart condition. He was advised to attend a follow-up review in 2017.

### **Ombudsman assessment/recommendation**

The Ombudsman notes that Mr X was detained on 1 May 2013 after arriving in Australia aboard SIEV *Jersey* and has been held in restricted detention for 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 notes the Minister's recent Statements to Parliament, in which he advises that DIBP is progressing the substantial caseload of maritime arrivals, and will provide him with advice to assist his consideration of whether to lift the bar to allow these people to lodge a Temporary Protection visa application.

The Ombudsman recommends that the Minister lift the bar under s 46A and processing of Mr X's protection claims commence as soon as possible.