

**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 immigration detention for a cumulative period of more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1987
<b>Ombudsman ID</b>	1002446-O
<b>Date of DIBP's reports</b>	12 July 2016 and 11 January 2017
<b>Total days in detention</b>	913 (at date of DIBP's latest report)

**Detention history**

21 October 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 858 <i>Pinchard</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
22 October 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
27 October 2013	Transferred to Nauru Regional Processing Centre (RPC). <sup>1</sup>
16 May 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Bladin APOD.
17 May 2014	Transferred to Wickham Point APOD.
7 June 2014	Transferred to Nauru RPC.
9 August 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Wickham Point APOD.
30 November 2015	Transferred to Brisbane Immigration Transit Accommodation.
16 January 2016	Transferred to Wickham Point APOD.
8 July 2016	Transferred to Villawood Immigration Detention Centre.
20 December 2016	Transferred to community detention.

**Visa applications/case progression**

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.

Mr X was returned to Australia for medical treatment on 16 May 2014 and 9 August 2014.

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.

<sup>1</sup> Time spent at an RPC is not counted towards time spent in immigration detention in Australia for the purposes of reporting under s 486N.

12 December 2016	The Minister intervened under s 197AB to allow Mr X to reside in community detention.
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### Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X was closely monitored by the mental health team while in restricted detention for the management of depression, anxiety, post-traumatic stress disorder, and episodes of psychosis and was prescribed with antipsychotic medication. He disclosed a history of torture and trauma and was referred for specialist counselling. He attempted suicide three times in 2015 and required emergency hospital treatment. A treating psychiatrist expressed concern in relation to the doses of antipsychotic medication that had been prescribed and noted Mr X may have a tendency to over-report his symptoms.</p> <p>IHMS further advised that Mr X has received treatment for intermittent knee and back pain. He was transferred to Australia on two occasions for urology review and hospital treatment associated with kidney concerns. Mr X also underwent a range of scans and reviews due to ongoing headaches and episodes of psychosis with no abnormalities identified. It was advised that the headaches may be a result of sleep disturbance and he was referred for further specialist review.</p>	
16 April 2015 – 25 October 2016	Incident Reports recorded that Mr X threatened self-harm and self-harmed requiring emergency hospital treatment on multiple occasions.
30 November 2015 – 15 January 2016	Admitted to a psychiatric hospital.

### Other matters

18 September 2014	The Australian Human Rights Commission (AHRC) notified the department of a complaint from Mr X. The department provided responses on 15 October 2014 and 20 April 2015. On 5 May 2016 the AHRC advised the department the investigation was deferred. The matter remains ongoing.
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### Ombudsman assessment/recommendation

<p>Mr X was detained on 21 October 2013 after arriving in Australia by sea and has been held in detention for a cumulative period of more than two and a half years with no processing of his claims.</p> <p>Mr X was transferred to an RPC and returned to Australia for medical treatment twice. The department advised that because Mr X arrived after 13 July 2013 he remains liable for transfer back to an RPC on completion of his treatment.</p> <p>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.</p> <p>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 detention indefinitely.</p> <p>The Ombudsman recommends that priority is given to resolving Mr X’s immigration status.</p>
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