

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the first s 486O assessment on Mr X who 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>	Stateless, born in Country A
<b>Year of birth</b>	1985
<b>Ombudsman ID</b>	1002600-O
<b>Date of DIBP's reports</b>	9 February 2017 and 10 August 2017
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

### Detention history

19 December 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea. He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
21 December 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
23 December 2013	Transferred to Nauru Regional Processing Centre (RPC). <sup>1</sup>
14 February 2015	Returned to Australia and re-detained under s 189(1). He was transferred to Wickham Point APOD.
16 February 2015	Transferred to Villawood IDC.
26 February 2017	Transferred to community detention.
28 August 2017	Granted a Final Departure Bridging visa and released from community detention.

### 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 in Australia as a result of his method of arrival and transfer to an RPC.</p> <p>Mr X was returned to Australia from an RPC for medical treatment on 14 February 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>	
13 February 2017	The Minister intervened under s 197AB to allow Mr X to reside in community detention.
10 August 2017	The department advised that it is supporting the government of Nauru to finalise the Refugee Status Determination of Mr X while he remains temporarily in Australia for medical treatment.

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<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.

## Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X received treatment for chronic back pain and reflux concerns. He underwent spinal surgery in August 2015 with limited success and as a result his ongoing pain was managed with prescribed medication and physiotherapy.</p> <p>IHMS further advised that Mr X attended specialist counselling and was prescribed with medication for the management of an adjustment disorder and a history of trauma and torture. He regularly engaged with the mental health team and reported feelings of demoralisation and hopelessness. A psychiatrist advised that Mr X's mental health would deteriorate if he was returned to Nauru and recommended that he be placed in the community. Following placement in community detention, Mr X initially reported improvement in his condition, but in May 2017 reported experiencing nightmares, flashbacks and feelings of anxiety. A general practitioner recommended that Mr X resume specialist counselling and an appointment was pending at the time of IHMS's latest report.</p>	
30 October 2016 and 11 December 2016	Incident Reports advised that Mr X self-harmed on two occasions.

## Case status

Mr X was granted a Final Departure Bridging visa on 28 August 2017 and was released from community detention.
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