

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

Name	Mr X
Citizenship	Country A
Year of birth	1987
Ombudsman ID	1002572-O
Date of DIBP's reports	11 January 2017 and 12 July 2017
Total days in detention	912 (at date of DIBP's latest report)

Detention history

19 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea. He was transferred to Facility A.
22 March 2014	Transferred to Nauru Regional Processing Centre (RPC). ¹
15 November 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Facility B.
9 January 2015	Transferred to Facility C.
17 April 2015	Transferred to Nauru RPC.
14 January 2016	Returned to Australia and re-detained under s 189(1). He was transferred to Facility D.
17 January 2016	Transferred to Facility E.
10 March 2016	Transferred to 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 15 November 2014 and 14 January 2016.</p> <p>The department has advised that under current policy settings Mr X is not eligible to have his protection claims assessed by Australia and remains liable for transfer back to an RPC on completion of his treatment.</p>	
3 March 2016	The Minister intervened under s 197AB to allow Mr X to reside in community detention.
12 July 2017	The department advised that Mr X has been found to be a refugee by the government of Nauru.

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

<p>International Health and Medical Services (IHMS) advised that Mr X attended specialist counselling and was prescribed with medication for an adjustment disorder and chronic stress. He was regularly reviewed by a psychiatrist and the mental health team after presenting with symptoms of depression, frustration and detention fatigue. In March 2015 he was placed on Psychological Support Program observations following multiple incidents of self-harm. In May 2017 IHMS advised that a treating psychologist had recommended that Mr X attend ongoing counselling.</p> <p>IHMS further advised that Mr X received treatment for multiple physical health concerns, including a cardiac condition, chronic neck pain, abdominal pain and skin infections.</p>	
29 January 2014 – 25 February 2016	Incident Reports recorded that Mr X self-harmed on four occasions.
15 June 2016	An Incident Report recorded that Mr X was admitted to hospital due to heart palpitations.
18 February 2017	An Incident Report recorded that Mr X was admitted to hospital due to abdominal pain and underwent surgery.

Other matters

<p>Mr X resides in community detention with his aunt, Ms Y, and his cousin, Mr Z, who are the subjects of Ombudsman assessment 1002720-O.</p>

Ombudsman assessment/recommendation

<p>Mr X was detained on 19 August 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.</p> <p>Mr X was transferred to an RPC and returned to Australia for medical treatment. The department advised that because Mr X arrived after 19 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 Mr X has been found to be a refugee by the government of Nauru.</p> <p>The Ombudsman recommends that the department expedite the resolution of Mr X's immigration pathway.</p>
