

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fifth s 486O report on Ms X who has remained in restricted immigration detention for more than 60 months (five years). The previous reports are:

1001233 tabled in Parliament on 19 March 2014
 1001482 tabled in Parliament on 29 October 2014
 1001906 tabled in Parliament on 18 March 2015
 1002364 tabled in Parliament on 2 March 2016

This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Ms X
Citizenship	Country A
Year of birth	1976
Ombudsman ID	1000885-O
Date of DIBP's reports	21 March 2016 and 19 September 2016
Total days in detention	1822 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002364), Ms X remained at Facility P.	
4 May 2016	Transferred to Facility Q.

Recent visa applications/case progression

29 September 2015	The Federal Court remitted Ms X's Protection visa application for reconsideration.
28 October 2015	Ms X's Protection visa application was referred to the Visa Applicant Character Consideration Unit (VACCU) for consideration for refusal under s 501 of the <i>Migration Act 1958</i> . Ms X lodged a Bridging visa application on the same day.
30 October 2015	Bridging visa application deemed invalid.
6 November 2015	Found not to meet the guidelines for referral to the Minister under s 195A for the grant of a Bridging visa.
11 November 2015	The Department of Immigration and Border Protection (DIBP) issued Ms X with a Notice of Intention to Consider Refusal of her Protection visa application.
21 March 2016	DIBP advised that Ms X was considered a person of interest.
9 May 2016	Lodged a Bridging visa application.
10 May 2016	Bridging visa application deemed invalid.

23 August 2016	Protection visa application refused under s 501. DIBP advised that the Minister indicated that he would consider alternative management options for Ms X.
24 August 2016	Requested judicial review by the Federal Court. The matter was listed for final hearing on 19 October 2016.
19 September 2016	DIBP advised that Ms X's case was being assessed against the guidelines under ss 195A and 197AB for a Return Pending Bridging visa or a community detention placement.

Health and welfare

International Health and Medical Services (IHMS) advised that Ms X received treatment and specialist counselling for recurrent depression, anxiety and insomnia related to her prolonged detention and separation from her family. On 10 February 2016 IHMS advised that Ms X's mental health would improve if she was placed in a less restrictive detention facility and on 11 May 2016 the IHMS psychiatrist advised that Ms X's mental health would further deteriorate if she remains in restricted detention. IHMS advised that she had been referred for torture and trauma counselling and continued to take prescription anti-depressant medication.

IHMS further advised that Ms X received treatment for multiple physical health concerns, including osteoarthritis and a gynaecological condition. On 5 July 2016 she was referred to an obstetrics and gynaecology specialist for ongoing management.

29 April 2016	DIBP Incident Reports recorded that Ms X was admitted to hospital following an incident of self-harm. She was placed on Supportive Monitoring and Engagement observations until 9 May 2016 and monitored by the IHMS mental health team.
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Information provided by Ms X

During an interview with Ombudsman staff at Facility P in April 2016 Ms X advised that she was found to be owed protection in 2014 and her case was currently being assessed by the VACCU.

Ms X said that she felt helpless, frustrated and unmotivated in restricted detention and no longer participated in activities. She said that she had not seen her children in 10 years.

Ombudsman assessment/recommendation

Ms X has been found to be owed protection under the complementary protection criterion. At the time of DIBP's latest review Ms X was awaiting the outcome of judicial review.

The Ombudsman notes that on 19 September 2016 DIBP advised that Ms X's case was being assessed against the guidelines under ss 195A and 197AB for a Return Pending Bridging visa or a community detention placement.

The Ombudsman notes with concern the reported impact prolonged restricted immigration is having on Ms X's mental health. The Ombudsman notes advice from IHMS that Ms X's mental health will further deteriorate if she remains in restricted detention and that her mental health would improve if she were placed in a less restrictive detention facility or community detention.

Given this advice, the Ombudsman recommends that the assessments under ss 195A and 197AB be expedited and consideration be given to placing Ms X in a less restrictive environment while she awaits the resolution of her immigration status.