

**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 Ms X who has remained in restricted immigration detention for more than 30 months (two and a half years).

Name	Ms X
Citizenship	Country A
Year of birth	1967
Ombudsman ID	1002297-O
Date of DIBP's reports	18 January 2016 and 18 July 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

18 January 2014	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community. She was transferred to Villawood Immigration Detention Centre.
11 April 2014	Transferred to Wickham Point Alternative Place of Detention (APOD).
4 May 2016	Transferred to Melbourne Immigration Transit Accommodation.

Visa applications/case progression

Ms X arrived in Australia on 12 December 2007 as a dependant on her husband's Higher Education Sector visa. Her husband's visa ceased on 15 March 2010 and Ms X remained unlawfully in the community. ¹ She applied for a further visa in June 2012 and was granted an associated Bridging visa valid until 30 August 2013. Ms X's visa application was ultimately denied and she remained unlawfully in the community until 18 January 2014 when she was located by authorities and detained under s 189(1).	
13 March 2014	The Department of Immigration and Border Protection (DIBP) notified Ms X of the unintentional release of personal information ² and advised that the privacy breach would be taken into account when considering her protection claims.
20 June 2014	DIBP invited Ms X to provide information in relation to the data breach and on 8 July 2014 she provided her response.
1 July 2014	Lodged a Protection visa application with an associated Bridging visa application.
3 July 2014	Associated Bridging visa application refused.

¹ Ms X's husband departed Australia on 13 August 2009 and Ms X advised that they are now divorced.

² In a media release dated 19 February 2014 the former Minister advised that an immigration detention statistics report was released on DIBP's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as DIBP became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by DIBP.

11 August 2014	Protection visa application refused.
18 August 2014	Appealed to the Refugee Review Tribunal (RRT).
17 October 2014	RRT affirmed original decision.
5 January 2015	The Government of Country A issued Ms X with an Emergency Certificate valid until 4 February 2015 after DIBP requested a passport on her behalf.
20 January 2015	DIBP notified Ms X that she would be removed from Australia under s 198(5).
22 January 2015	Ms X lodged an application for an injunction preventing her removal from Australia with the Federal Circuit Court. The application was dismissed on 23 January 2015.
23 January 2015	Ms X requested judicial review by the Full Federal Court (FFC) and an injunction against removal was granted pending hearing of the appeal. The hearing was adjourned on three occasions and finally placed on hold pending the Minister's appeal to the High Court (HC) of the FFC judgement in relation to the privacy breach. ³
27 July 2016	The HC handed down its decision.

Health and welfare

International Health and Medical Services (IHMS) advised that Ms X received treatment for multiple physical health conditions including thyroid dysfunction and gynaecological issues. IHMS advised that Ms X has a history of depression and has been prescribed with antidepressant medication as well as medication to assist with sleeping difficulties.

Information provided by Ms X

During an interview with Ombudsman staff at Wickham Point APOD on 21 April 2016 Ms X advised that the food provided at Wickham Point APOD did not meet her dietary requirements. Ms X said she felt depressed, found it difficult to pass time in detention and was not sleeping well. She advised that she was receiving medication for these concerns.

Case status

Ms X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. She is awaiting the outcome of judicial review.

³ *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.