

## 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 remained in restricted immigration detention for more than 24 months (two years).

<b>Name</b>	Ms X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1983
<b>Ombudsman ID</b>	1003189
<b>Date of DIBP's report</b>	6 August 2015
<b>Total days in detention</b>	730 (at date of DIBP's report)

### Detention history

6 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 816 <i>Wetumpka</i> . She was transferred to Facility F.
18 August 2013	Transferred to Facility B.
13 November 2013	Transferred to Facility C.
17 November 2013	Transferred to Facility D.
12 May 2014	Transferred to Facility E.
23 August 2014	Transferred to Facility F.
8 October 2014	Transferred to Facility E.
2 January 2015	Transferred to Facility D.
26 February 2015	Transferred to Facility E.
26 November 2015	Granted a Bridging visa and released from detention.

### Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to being released from detention, Ms X was part of a cohort who had not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister had not lifted the bar under s 46A.	
10 March 2015	Ms X's case was referred for ministerial intervention under ss 195A and 197AB.
26 March 2015	The Minister declined to intervene and stated that he would reconsider her case in six months.
26 November 2015	Granted a Bridging visa.

### **Criminal history**

16 February 2015	Ms X was convicted of assaulting a Serco officer, fined \$300 and placed on a six month good behaviour bond.
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### **Health and welfare**

28 August 2013	International Health and Medical Services (IHMS) advised that Ms X had reported a history of cardiac health issues which had been treated prior to her arrival in Australia. The general practitioner referred her for further investigation and all tests showed no abnormalities. No further follow up was required.
28 December 2013 – January 2014	Ms X was diagnosed with gestational diabetes during the last trimester of her pregnancy. She was prescribed with medication and on 9 January 2014 she was provided with education about her condition.
January 2014	Ms X gave birth to her son. <sup>1</sup>
6 March 2014 – ongoing	Identified with gynaecological issues and was reviewed in May 2014 by specialists. She was referred for physiotherapy.
17 April 2014 – 8 July 2015	Attended five physiotherapy sessions.
21 May 2014 – 11 July 2014	Attended three sessions with a specialist counselling service.
7 August 2014 – ongoing	Ms X was identified with low mood, social issues and insomnia. IHMS advised that she received support from the mental health team (MHT) on a regular basis for anger management and parenting advice.
13 August 2014	Ms X self-harmed and was transferred to the hospital emergency department. IHMS reported that she was discharged the same day and was placed on constant security watch for her safety. She remained under supervision with regular mental health reviews until she could guarantee her safety. It further reported that Ms X's reason for self-harming was related to a pending transfer to Facility F and her protracted detention.
16 August 2014	A DIBP Incident Report recorded that Ms X attempted self-harm. No further information was provided.

### **Detention incidents**

A DIBP Incident Report recorded that Ms X was allegedly involved in numerous incidents of abusive and aggressive behaviour against detention centre staff.
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<sup>1</sup> Master Y was born in Australia in January 2014 and detained on 19 February 2014. He was in detention for less than two years and is not subject to reporting under s 486N.

## Other matters

11 May 2015	Ms X lodged a complaint with the Australian Human Rights Commission (AHRC). On 6 August 2015 DIBP advised that it was preparing a response to the AHRC.
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## Information provided by Ms X

During a telephone conversation with Ombudsman staff on 13 November 2015 and 16 November 2015 Ms X advised that she understood she had remained in restricted detention because she had been on a Good Behaviour Bond for six months. She said she understood that once this ceased in September 2015 she was going to be reconsidered for transfer to the community or the grant of a visa. She stated that her case manager had recently told her that she had to wait for the Minister to make a decision.

Ms X said she was very worried about her son's psychological well-being and the impact of detention conditions on his development. She said that while she had no concerns with IHMS providing physical health services, she felt that she did not receive the support she and her son needed from the MHT.

## Ombudsman assessment/recommendation

Ms X was granted a Bridging visa on 26 November 2015 and released from immigration detention.

The Ombudsman notes that Ms X was detained on 6 August 2013 after arriving in Australia and was held in restricted detention for over two years before being granted a Bridging visa. The Ombudsman further notes that, at the time of DIBP's review, processing of Ms X's claims for protection had not commenced.

The Ombudsman recommends that the Minister lift the bar under s 46A and processing of Ms X's protection claims commence as soon as possible.