

**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 immigration detention for a cumulative period of more than 24 months (two years).

<b>Name</b>	Ms X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1994
<b>Ombudsman ID</b>	1002438-O
<b>Date of DIBP's report</b>	29 June 2016
<b>Total days in detention</b>	731 (at date of DIBP's report)

**Detention history**

1 May 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia with her brother <sup>1</sup> aboard Suspected Illegal Entry Vessel 322 <i>Abbey</i> . She was transferred to an Alternative Place of Detention (APOD), Christmas Island.
18 May 2012	Transferred to Darwin Airport Lodge APOD.
22 August 2012	Transferred to community detention.
9 October 2012	Granted a Bridging visa and released from community detention.
9 December 2014	Re-detained following the expiry of her Bridging visa. She was transferred to Facility B.
7 August 2015	Transferred to Facility C.
14 May 2016	Transferred to Facility B.
September 2016	Granted a Bridging visa and released from immigration detention.

**Visa applications/case progression**

29 May 2012	The former Minister lifted the bar under s 46A to allow Ms X to lodge a Protection visa application.
1 August 2012	Lodged a Protection visa application.
14 August 2012	The former Minister agreed to intervene under s 197AB to allow Ms X to reside in community detention with her brother.
5 October 2012	The former Minister agreed to intervene under s 195A to grant Ms X a Bridging visa. She was granted three consecutive Bridging visas, the last of which ceased on 3 October 2013.
29 October 2012	Protection visa application refused.
1 November 2012	Appealed to the Refugee Review Tribunal (RRT).

<sup>1</sup> Ms X's brother, Mr Y is the subject of a separate Ombudsman report.

28 June 2013	RRT affirmed original decision.
2 August 2013	Requested judicial review by the Federal Circuit Court (FCC).
13 August 2013 – 19 March 2015	Lodged four requests for ministerial intervention under ss 48B and 417, all of which were found not to meet the guidelines for referral to the Minister.
7 October 2014	FCC upheld original decision.
10 September 2015	Requested ministerial intervention under ss 195A and 46A. On 15 January 2016 Ms X was found not to meet the guidelines for referral to the Minister.
2 May 2016	Found to meet the guidelines for a community detention placement under s197AB.
29 June 2016	The Department of Immigration and Border Protection (DIBP) advised that Ms X was on a removal pathway and had been provided with information from the International Organization for Migration to assist her should she decide to return to Country A voluntarily.

### Health and welfare

International Health and Medical Services (IHMS) advised that Ms X received treatment for a range of physical health conditions including a heart murmur, for which she was reviewed by a specialist.

IHMS further advised that Ms X disclosed a history of torture and trauma and attended regular specialist counselling appointments. She was diagnosed with adjustment disorder, detention fatigue and depression and was prescribed with antidepressant medication and provided with supportive counselling as necessary.

### Other matters

Ms X married Mr Z in 2013. Mr Z was granted permanent residence in Australia prior to their marriage and their immigration cases are not related.

23 March 2015	The Australian Human Rights Commission (AHRC) notified DIBP of a complaint concerning Ms X. DIBP provided its response to the AHRC on 1 May 2015.  On 14 July 2015 the AHRC provided DIBP with a conciliation proposal and DIBP responded on 5 August 2015.
14 July 2015 and 20 June 2016	DIBP received two further complaints from the AHRC regarding Ms X and provided its response.
20 August 2015	Ms X and her brother lodged a complaint with the Ombudsman's office about being transferred to Facility C when they have significant family and community ties in City D. The complaint was investigated and ultimately Ms X and her brother were advised that the Australian Border Force had adhered to its policies and procedures when deciding to transfer them to Facility C.

### **Information provided by Ms X**

During an interview with Ombudsman staff at Facility C on 18 April 2016 Ms X advised that she was re-detained at Facility B for eight months after her Bridging visa expired and during this time she was studying. Ms X said that she was transferred to Facility C with no warning and no chance to say goodbye to her husband. The transfer was very traumatic for her and she claimed to have been handled very roughly by the Serco officers, resulting in her having a panic attack. She said that she has suffered from regular nightmares about the transfer ever since.

Ms X advised that she was very upset about being separated from her husband and said she had not been able to continue her studies as her health had deteriorated after her transfer. She suffers from anxiety and depression and said she did not take part in activities, preferring to stay in her room.

Ms X and her brother claimed they had been put under a lot of pressure to return to Country A, but said they cannot return because it is too dangerous and their mother, who is still in Country A, has told them to stay in Australia where they are safe.

### **Case status**

In September 2016 Ms X was granted a Bridging visa and released from immigration detention.