

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

Name	Ms X
Citizenship	Country A
Year of birth	1995
Ombudsman ID	1002227-O
Date of DIBP's reports	13 November 2015 and 13 May 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

14 September 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 849 <i>Garland</i> . She was transferred to an Alternative Place of Detention, Christmas Island.
24 September 2013	Transferred to Nauru Regional Processing Centre (RPC). ¹
23 November 2013	Returned to Australia and re-detained under s 189(1). She was transferred to Brisbane Immigration Transit Accommodation.
11 October 2014	Transferred to Villawood Immigration Detention Centre.
16 February 2015	Transferred to community detention.

Visa applications/case progression

23 November 2013	The Department of Immigration and Border Protection (DIBP) advised that Ms X was returned to Australia from Nauru RPC for medical treatment.
13 March 2014	DIBP notified Ms X of the unintentional release of personal information. ²
27 March 2014	Ms X's case was referred on a ministerial submission for consideration under s 197AB for a community detention placement.
19 June 2014	The former Minister declined to intervene under s 197AB.
3 February 2015	Ms X's case was referred on a ministerial submission for consideration under s 197AB for a community detention placement.

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.

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.

5 February 2015	The Minister intervened under s 197AB.
16 March 2016	DIBP confirmed that detainees who arrived in Australia after 19 July 2013 who were transferred to an RPC but returned to immigration detention in Australia for medical reasons remain liable for transfer back to an RPC on completion of their treatment.
13 May 2016	DIBP advised that because Ms X is receiving medical treatment, she is better supported in community detention than if she was residing in the community on a Bridging visa.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Ms X disclosed a history of torture and trauma and receives psychological and psychiatric counselling for post-traumatic stress disorder, depression, anxiety, chronic headaches, stress and insomnia.</p> <p>While held in restricted detention, Ms X was closely monitored by the mental health team and placed on Supportive Monitoring and Engagement observations following a deterioration in her mental health and multiple incidents of self-harm.</p> <p>On 2 September 2015 and 30 November 2015 the psychiatrist reported that the deterioration in Ms X's mental health was related to the uncertainty of her immigration pathway and fear of being returned to restricted detention. The psychiatrist reiterated that Ms X is isolated in community detention and would benefit from being transferred to shared accommodation closer to her support network.</p> <p>On 5 February 2016 the psychiatrist reported that Ms X expressed suicidal thoughts related to her immigration pathway and further advised that she would benefit from a transfer to shared accommodation.</p> <p>IHMS further advised that Ms X received treatment for neutropenia and abdominal and chest pain related to anxiety. She continues to attend counselling and is monitored by the general practitioner.</p>	
24 November 2013 – 24 February 2014	Ms X was admitted to a psychiatric hospital for treatment following multiple incidents of self-harm. She was diagnosed with depression and prescribed with antidepressant medication.

Ombudsman assessment/recommendation

The Ombudsman notes that Ms X was detained on 14 September 2013 after arriving in Australia aboard SIEV *Garland* and has been held in detention for a cumulative period of over two and a half years with no processing of her protection claims.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged detention may pose. Without an assessment of Ms X's claims to determine if she is found to engage Australia's protection obligations, it appears likely that she will remain in detention for an indefinite period.

The Ombudsman notes DIBP's advice that because Ms X was transferred to an RPC but returned to immigration detention in Australia for medical reasons she remains liable for transfer back to an RPC on completion of her treatment.

The Ombudsman further notes advice from IHMS that Ms X is isolated in community detention and would benefit from being transferred to shared accommodation. The Ombudsman recommends that consideration be given to transferring Ms X to an alternative community detention placement closer to her support network.

The Ombudsman further recommends that priority is given to exploring options to enable the resolution of Ms X's immigration status.