

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the third s 486O assessment on Ms X who has remained in immigration detention for a cumulative period of more than 48 months (four years). The previous assessment 1002275-01 was tabled in Parliament on 14 June 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Ms X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1970
<b>Ombudsman ID</b>	1002275-02
<b>Date of department's reports</b>	28 June 2017 and 28 December 2017
<b>Total days in detention</b>	1,459 (at date of department's latest report)

### Recent detention history

Since the Ombudsman's previous assessment, Ms X has continued to be placed in the community.<sup>1</sup>

### Recent visa applications/case progression

The Department of Home Affairs (the department) has advised that it is exploring options to resolve Ms X's immigration status.

### Health and welfare

International Health and Medical Services (IHMS) advised that Ms X continued to receive treatment for Human Immunodeficiency Virus (HIV). During a specialist review in February 2017 it was noted that Ms X was in good health and was not experiencing side effects from her HIV treatment.

IHMS further advised that Ms X underwent surgery to remove a benign lump from her shoulder on 8 April 2017.

### Recent detention incidents

30 June 2017 – 2 July 2017	An Incident Report recorded that Ms X allegedly absconded from her community placement.
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<sup>1</sup> Ms X was granted a placement in the community under s 197AB of the *Migration Act 1958* and remains in immigration detention.

### **Ombudsman assessment/recommendation**

Ms X was detained on 14 December 2013 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than four years with no processing of her protection claims.

The Ombudsman's previous assessment recommended that the department expedite the resolution of Ms X's immigration status.

On 14 June 2017 the Minister noted the recommendation and advised that the department continues to identify options to manage Ms X's immigration status.

The Ombudsman notes the department's advice that it is exploring options to resolve Ms X's immigration status.

The Ombudsman notes with concern that Ms X's return to an RPC is likely to be protracted due to her ongoing physical health concerns.

The Ombudsman further notes with concern that it appears likely that Ms X will remain in detention for a prolonged and uncertain period while she receives ongoing treatment for a medical condition. The Ombudsman further notes the government's duty of care to detainees and the serious risk to mental and physical health posed by a prolonged and uncertain period of detention.

The Ombudsman further notes that under current policy settings Ms X is only eligible to have her protection claims assessed by the government of Nauru.

The Ombudsman recommends that the department make arrangements for the processing of Ms X's protection claims.