

**ASSESSMENT (ABRIDGED) BY THE COMMONWEALTH OMBUDSMAN  
FOR TABLING IN PARLIAMENT**

*Under s 486O of the Migration Act 1958*

This is the first s 486O assessment 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 / Country B (dual citizenship)
<b>Year of birth</b>	1989
<b>Ombudsman ID</b>	2000015-O
<b>Date of DIBP's report</b>	8 June 2017
<b>Total days in detention</b>	730 (at date of DIBP's report)

**Detention history**

11 November 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea.
16 November 2013 – 14 June 2015	Transferred to Nauru Regional Processing Centre (RPC) and subsequently returned to Australia and re-detained under s 189(1).
29 March 2017	Placed in the community. <sup>1</sup>
28 August 2017	Granted a Final Departure Bridging visa and released from immigration detention.

**Visa applications/case progression**

<p>Ms X arrived in Australia by sea after 19 July 2013 and was transferred to an RPC. The Department of Immigration and Border Protection (the department) has advised that Ms X is barred under ss 46A and 46B from lodging a valid protection visa application in Australia as a result of her method of arrival and transfer to an RPC.</p> <p>Ms X was returned to Australia from an RPC for medical treatment on 14 June 2015.</p> <p>The department has advised that under current policy settings Ms X is not eligible to have her protection claims assessed in Australia and remains liable for transfer back to an RPC on completion of her treatment.</p>	
27 March 2017	The Minister intervened under s 197AB to grant Ms X a community placement.
8 June 2017	The department advised that Ms X was found to be a refugee by the government of Nauru on 20 January 2015.

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<sup>1</sup> Ms X was granted a placement in the community under s 197AB and remained in immigration detention.

## Health and welfare

International Health and Medical Services (IHMS) advised that in June 2015 Ms X underwent counselling following an incident of sexual assault. IHMS further advised that she was regularly reviewed by a psychiatrist for complex mental health concerns, including post-traumatic stress disorder, major depression and anxiety, and a history of torture and trauma.

Ms X was placed under Supportive Monitoring and Engagement and Psychological Support Program observations on multiple occasions and was admitted to a psychiatric hospital following incidents of self-harm. In July 2016 a treating psychiatrist reported that Ms X was suffering from ongoing distress due to her prolonged detention and recommended that she be released from an immigration detention facility. In January 2017 a psychiatrist noted that her condition had improved but she continued to be adversely affected by her detention. Since being placed in the community Ms X continued to be monitored by a general practitioner for her ongoing mental health concerns.

IHMS further advised that Ms X received treatment for multiple physical health concerns, including ear issues, headaches and palpitations related to anxiety.

28 June 2015 – 17 March 2016	Incident Reports recorded that Ms X self-harmed on three occasions.
29 June 2015 – 20 June 2016	Admitted to a psychiatric hospital on four occasions.
29 April 2016 – 4 May 2016	An Incident Report recorded that Ms X refused food and fluid as a form of protest regarding the possibility of being returned to Nauru RPC.
19 June 2016 – 20 August 2016	Incident Reports recorded that Ms X threatened self-harm on two occasions.

## Ombudsman assessment/recommendation

Ms X was detained on 11 November 2013 after arriving in Australia by sea and remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than two years.

Ms X was transferred to an RPC and returned to Australia for medical treatment. The department advised that because Ms X arrived after 19 July 2013 she remains liable for transfer back to an RPC on completion of her treatment.

The department further advised that Ms X was found to be a refugee by the government of Nauru.

Ms X was granted a Final Departure Bridging visa on 28 August 2017 and was released from immigration detention.

The Ombudsman notes with serious concern advice from IHMS that Ms X suffers from significant mental health concerns that require ongoing monitoring and treatment.

1. In light of these concerns, the Ombudsman recommends that the department explore options to provide further access to support and medical services while Ms X remains in the community on a Final Departure Bridging visa for better management of her ongoing mental health concerns.
2. The Ombudsman further notes that Ms X has been found to be a refugee by the government of Nauru and recommends that the department expedite the resolution of her immigration pathway.