

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O assessment on Ms X who has remained in immigration detention for a cumulative period of more than 36 months (three years). The previous assessment 1002550-O was tabled in Parliament on 29 November 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Ms X
Citizenship	Country A
Year of birth	1980
Ombudsman ID	1002550-01
Date of department's report	9 December 2017
Total days in detention	1,094 (at date of department's report)

Recent detention history

Since the Ombudsman's previous assessment, Ms X continued to be placed in the community. ¹	
28 August 2017	Granted a Final Departure Bridging visa.
5 September 2017	Re-detained under s 189(1) of the <i>Migration Act 1958</i> and placed in the community.

Recent visa applications/case progression

The Department of Home Affairs (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 a Regional Processing Centre (RPC) on completion of her treatment.	
28 August 2017	Granted a Final Departure Bridging visa with an associated Temporary Humanitarian Stay visa.
5 September 2017	Final Departure Bridging visa was cancelled at Ms X's request and she was returned to immigration detention in the community.
9 December 2017	The department advised that it is supporting the government of Nauru to finalise the Refugee Status Determination of Ms X while she remains temporarily in Australia for medical treatment.

¹ 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 Ms X was referred to a psychiatrist in June 2017 by a general practitioner (GP) under a mental health care plan after presenting with symptoms of depression, anxiety and insomnia. Ms X also attended psychological counselling in July and August 2017.

Ms X was confirmed to be pregnant in June 2017 and received antenatal care. She was also diagnosed with an ovarian cyst in June 2017 and her condition was monitored by a GP.

IHMS further advised that Ms X continued to receive treatment for physical health concerns, including an eye condition and hip pain.

Other matters

The department advised that Ms X is in a relationship with Mr Y, who resides in the community on a bridging visa.

Ombudsman assessment

Ms X was detained on 25 July 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 three years.

Ms X was transferred to an RPC and returned to Australia for medical treatment on 5 June 2015. 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 it is supporting the government of Nauru to finalise the Refugee Status Determination of Ms X while she remains temporarily in Australia for medical treatment.

The Ombudsman's previous assessment recommended that priority be given to resolving Ms X's immigration status.

On 29 November 2017 the Minister advised that under current legislation and policy settings, Ms X remains subject to return to an RPC on completion of her treatment.

The Ombudsman notes that under current policy settings Ms X is not eligible to have her protection claims assessed by Australia and that without an assessment of Ms X's claims it appears likely she will remain in detention for a prolonged period.

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. IHMS has advised that Ms X continues to receive treatment for mental health concerns under a mental health care plan and attended psychological counselling.

The Ombudsman also notes that Ms X was granted a Final Departure Bridging visa on 28 August 2017 and released from immigration detention. However, on 5 September 2017 Ms X's visa was cancelled at her request and she was returned to immigration detention in the community.