

ASSESSMENT 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).

Name	Ms X
Citizenship	Country A, born in Country B
Year of birth	1968
Ombudsman ID	1002783-O
Date of department's report	16 October 2017
Total days in detention	776 (at date of department's report)

Detention history

6 January 2012	Detained under s 189(1) of the <i>Migration Act 1958</i> following the cancellation of her student guardian visa. She was transferred to Facility C.
8 January 2012	Removed from Australia.
3 September 2015	Re-detained under s 189(1) following the cancellation of her bridging visa. She was transferred to Facility C.
20 September 2016	Transferred to Facility D.
14 October 2016	Transferred to a correctional facility. ¹
6 September 2017	Transferred to Facility C.
October 2017	Voluntarily departed Australia.

Visa applications/case progression

<p>Ms X first arrived in Australia on 8 March 2009 on an Electronic Travel Authority (ETA) visa. She subsequently departed and returned to Australia on nine occasions and was granted multiple tourist and student visas.</p> <p>Ms X was granted a student guardian visa on 2 May 2011 on the basis that she was a guardian of her daughter, Ms Z, who resided in the community on a student visa. Ms X's student guardian visa was cancelled on 6 January 2012 after she breached her visa conditions and she was removed from Australia.</p> <p>Ms X arrived again in Australia on 10 May 2012 on an ETA visa. She was subsequently granted multiple bridging visas.</p>	
10 August 2012	Lodged a combined partner visa application with her daughter included as a dependent.
16 February 2014	Ms X married an Australian citizen. Lodged a second combined partner visa application with her daughter included as a dependent and subsequently withdrew her first application.

¹ The department advised that Ms X continued to be detained under s 189(1) while she was placed in a correctional facility serving a custodial sentence.

10 April 2014	Combined partner visa application was refused.
29 September 2014	The Migration Review Tribunal affirmed the Department of Home Affairs' (the department) decision to refuse her combined partner visa application.
27 October 2014	Requested ministerial intervention under s 351 for the Minister to substitute a more favourable decision. On 6 October 2015 the Minister indicated that he was not inclined to consider Ms X's case under s 351.
3 September 2015	Issued with a Notice of Intention to Consider Cancellation of her bridging visa under s 116. Ms X's bridging visa was cancelled on the same day.
11 September 2015	The Administrative Appeals Tribunal affirmed the department's decision to cancel Ms X's bridging visa.
6 January 2016	Issued with a Criminal Justice Stay Certificate (CJSC).
28 January 2016	The department found that Ms X did not meet the criteria for the grant of a Criminal Justice Stay visa.
8 September 2017	Requested removal from Australia.
19 September 2017	CJSC was cancelled. Ms X lodged a bridging visa application which was deemed invalid.

Criminal history

January 2015	Convicted of driving offences and fined \$600.
October 2016	Convicted of two drug offences and sentenced to one year and four months imprisonment.

Health and welfare

International Health and Medical Services advised that Ms X received treatment for multiple physical health concerns, including insomnia, dental issues and lower back pain, while she remained in an immigration detention facility. In January 2016 Ms X underwent investigative testing which identified osteoarthritis and she frequently attended physiotherapy.

Following her transfer to a correctional facility, Ms X's health and welfare was managed by Corrective Services, State E.

Other matters

Ms X's daughter and sister reside lawfully in the community. Ms X's husband is serving a term of imprisonment for drug related offences.

Case status

Ms X was detained on 6 January 2012 and 3 September 2015 following the cancellation of her visa and remained in an immigration detention facility for a cumulative period of more than two years.

Ms X was released from immigration detention when she voluntarily departed Australia in October 2017.