

**REPORT BY THE COMMONWEALTH AND  
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

*Under s 486O of the Migration Act 1958*

This is the second s 486O report on Ms X who has remained in restricted immigration detention for a cumulative period of more than 36 months (three years).

The first report 1002236-O was tabled in Parliament on 14 September 2016. This report updates the material in that report and should be read in conjunction with the previous report.

<b>Name</b>	Ms X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1989
<b>Ombudsman ID</b>	1002236-O1
<b>Date of DIBP's report</b>	23 May 2016 and 19 November 2016
<b>Total days in detention</b>	1094 (at date of DIBP's latest report)

**Recent detention history**

Since the Ombudsman's previous report (1002236-O), Ms X remained at Melbourne Immigration Transit Accommodation (ITA).

The Department of Immigration and Border Protection (the department) advised in a report to the Ombudsman in March 2017 that Ms X had been transferred to community detention.

**Recent visa applications/case progression**

In Ms X's 24-month review, dated 25 November 2015, the department advised that she was transferred to Australia from a Regional Processing Centre (RPC) to investigate her identity and for medical treatment. This information was recorded in Ombudsman's report 1002236-O.

On 23 May 2016, the department advised that this was incorrect and that Ms X was transferred to Australia for the purpose of age determination only.

The department advised that Ms X has a medical condition for which she is receiving treatment and that under current policy settings she remains liable for transfer back to an RPC on completion of her treatment.

27 April 2016	The Minister declined to intervene under s 197AB of the <i>Migration Act 1958</i> to allow Ms X to reside in community detention.
23 May 2016	The department advised that Ms X remained a person of interest.
19 October 2016	Ms X's case was referred on a ministerial submission for consideration under s 197AB for a community detention placement.

**Other legal matters**

23 May 2016	The department advised that Ms X was a plaintiff in ongoing court proceedings.
-------------	--

## Health and welfare

International Health and Medical Services (IHMS) advised that Ms X received ongoing treatment for asthma, gynaecological concerns, headaches and generalised pains. A general practitioner noted that some of Ms X's pain concerns were stress related and she was referred to physiotherapy.

IHMS further advised that Ms X continues to receive treatment and attend counselling sessions for the management of post-traumatic stress disorder, adjustment disorder, anxiety and depression. She was placed on a mental health care plan and prescribed with medication. IHMS advised that a treating psychiatrist noted in March 2016 that ongoing detention contributes to Ms X's mental state. Additionally, IHMS reiterated advice from a treating psychiatrist in June 2015 that her risk of suicide is contingent on her situational stress and advised that her mental health was likely to be improved in community detention.

18 December 2015 and 3 March 2016	Incident Reports recorded that Ms X self-harmed on two occasions.
12 August 2016	An Incident Report recorded that Ms X was admitted to hospital following IHMS advice.
21 September 2016	An Incident Report recorded that Ms X threatened self-harm.
4 November 2016	An Incident Report recorded that Ms X was admitted to hospital following a panic attack.

## Recent detention incidents

4 December 2015	An Incident Report recorded that Ms X was involved in a major disturbance at Melbourne ITA. Spontaneous use of force was required to remove her from the disturbance.
-----------------	---

## Ombudsman assessment/recommendation

Ms X was detained on 22 September 2013 after arriving in Australia by sea and has been held in detention for a cumulative period of more than three years with no processing of her protection claims.

Ms X was transferred to an RPC and returned to Australia for age determination and medical treatment. The department advised that because Ms X arrived after 13 July 2013 she remains liable for transfer back to an RPC on completion of her treatment.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged and apparently indefinite detention may pose. The Ombudsman notes advice from IHMS that Ms X has a history of self-harm and significant ongoing mental health concerns.

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

The Ombudsman again recommends that priority is given to resolving Ms X's immigration status.