

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the sixth s 486O assessment on Miss X who has remained in immigration detention for a cumulative period of more than 78 months (six and a half years). The previous assessment 1001170-O was tabled in Parliament on 10 May 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Miss X
Citizenship	Country A
Year of birth	2005
Ombudsman ID	1001170-O1
Date of department's reports	8 May 2017 and 30 October 2017
Total days in detention	2,365 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Miss X has continued to be placed in the community.¹

Recent visa applications/case progression

8 May 2017 and 30 October 2017	The Department of Home Affairs (the department) advised that it continued to prepare a submission under s 46A of the <i>Migration Act 1958</i> for the Minister to consider lifting the bar to allow Miss X to lodge a Temporary Protection visa (TPV) or Safe Haven Enterprise visa (SHEV) application.
The department advised that Miss X will not be considered for the grant of a bridging visa while she is a minor.	

Health and welfare

International Health and Medical Services advised that Miss X attended multiple dentist appointments for the management of an orthodontic condition and continued to be monitored by a general practitioner.	
4 February 2017	An Incident Report recorded that Miss X had an allergic reaction and was treated in a hospital emergency department.

Other matters

Miss X's half-brother, Mr Y, is the subject of Ombudsman assessment 2000008-O and voluntarily departed Australia in August 2017.

¹ Miss X was granted a placement in the community under s 197AB and remains in immigration detention.

Ombudsman assessment/recommendation

Miss X was detained on 10 May 2011 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for more than six and a half years.

Miss X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion through a non-statutory process.

The Ombudsman's previous assessment recommended that reconsideration of Miss X's protection claims be expedited.

On 10 May 2017 the Minister advised that the department was preparing a submission for his consideration of Miss X's case under s 46A to lift the bar to allow her to lodge a TPV or SHEV application.

On 8 May 2017 and 30 October 2017 the department advised that it was preparing a submission under s 46A for the Minister to consider lifting the bar to allow Miss X to lodge a TPV or SHEV application.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose.

The Ombudsman also notes that the department has been preparing a submission under s 46A for the Minister's consideration since its 66 month report, dated 3 November 2016.

In light of these concerns, the Ombudsman recommends that the Minister considers Miss X's case under s 46A and lifts the bar to enable her to lodge a TPV or SHEV application.