

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the first s 486O report on Ms X who remained in restricted immigration detention for more than 24 months (two years).

Name	Ms X
Citizenship	Country A
Year of birth	1990
Ombudsman ID	1003371
Date of DIBP's report	27 August 2015
Total days in detention	735 (at date of DIBP's report)

Detention history

22 August 2013	Detained under s 189 of the <i>Migration Act 1958</i> after living unlawfully in the community and was transferred to Facility B.
2 December 2015	Granted a Bridging visa and released from detention.

Visa applications/case progression

26 June 2007	Ms X arrived in Australia on a Schools Sector visa valid until 28 June 2010.
18 July 2007	Applied for a Schools Sector visa with work rights which was granted that day and was valid until 28 June 2010.
28 January 2009	Ms X's Schools Sector visa was automatically cancelled under s 137J. On the same day Ms X voluntarily approached the Department of Immigration and Citizenship (DIAC) and wrote to the former Minister seeking revocation of the automatic visa cancellation. She also lodged an application for a Bridging visa which was granted that day.
5 May 2009	DIAC decided not to revoke the cancellation of Ms X's Schools Sector visa.
22 May 2009	Ms X sought review of the decision with the Migration Review Tribunal (MRT).
18 September 2009	The MRT affirmed the cancellation.
27 October 2009	Ms X's Bridging visa ceased and she remained unlawfully in the community.
16 March 2010	As a result of the decision of the Federal Court of 2 March 2010, ¹ the decision to cancel Ms X's visa was reversed.
28 June 2010	Ms X's Schools Sector visa ceased and she remained in the community unlawfully.

¹ *Hossain v Minister for Immigration and Citizenship* [2010] FCA 161.

22 August 2013	DIAC located Ms X in the community and she was detained under s 189.
19 September 2013	Lodged a Protection visa application with an associated Bridging visa application.
23 September 2013	Bridging visa application was refused.
29 October 2013	Ms X withdrew her Protection visa application, and was included as a dependant on her stepfather, Mr Y's Protection visa application, along with her mother, Ms Z.
7 November 2013	Ms X's associated Bridging visa application was refused.
9 December 2013	Ms X lodged a further Bridging visa application.
11 December 2013	Bridging visa application was refused.
28 April 2014	Found not to meet the guidelines for referral to the former Minister under s 417.
29 April 2014	Ms X was refused a Protection visa because she did not satisfy the criterion of being a member of the family unit of the primary applicants.
30 April 2014	Ms X was included in an application lodged with the Refugee Review Tribunal (RRT) seeking review of the refusal of the Protection visa application.
26 August 2014	The RRT affirmed the original decision to refuse the Protection visa application but did find Ms X to be a member of the family unit.
18 September 2014	Ms X was included in an application to the Federal Circuit Court (FCC) seeking review of the RRT decision.
17 October 2014	Lodged a Bridging visa application.
21 October 2014	Bridging visa application was refused.
8 May 2015	The FCC dismissed the application seeking review of the RRT decision.
27 May 2015	Ms X was included in an appeal to the Federal Court against the decision of the FCC.
2 December 2015	Granted a Bridging visa.

Health and welfare

International Health and Medical Services (IHMS) advised that Ms X did not require treatment for any major physical health issues.	
3 April 2014	A Department of Immigration and Border Protection (DIBP) Incident Report recorded that Ms X was allegedly involved in a mass protest involving food and fluid refusal.
16 December 2014	A DIBP Incident Report recorded that Ms X self-harmed in various ways, including banging her head on the floor and pulling her hair. Use of force was needed to prevent Ms X from further harming herself. On the same day she also threatened self-harm during a telephone conversation to her case manager.

17 December 2014	A DIBP Incident Report recorded that a medical emergency was called when Ms X did not respond to verbal stimuli or touch. No further information was provided.
18 December 2014	A DIBP Incident Report recorded that Ms X was self-harming by banging her head against a wall and pulling her hair. Use of force was needed to prevent Ms X from further harming herself. IHMS advised that Ms X was diagnosed with situational anxiety. She was reviewed by the general practitioner and mental health team and prescribed with medication to manage her symptoms.
11 August 2015	IHMS advised that Ms X attended group therapy sessions on a regular basis.

Detention incidents

DIBP Incident Reports recorded that Ms X was involved in a number of alleged minor disturbances and incidents of abusive/aggressive behaviour towards Serco staff and other detainees.

Other matters

DIBP advised that Ms X's mother, Ms Z, and her stepfather, Mr Y, are residing lawfully in the community on Bridging visas.

Information provided by Ms X

During an interview with Ombudsman staff at Facility B on 10 November 2015 Ms X advised that she intended to lodge an appeal with the FC against the FCC's decision. She also advised that her case manager had asked her to apply for a Bridging visa and had explained the process to her, which she found helpful.

Ms X said she did not find IHMS responsive to her health needs. She was under a lot of psychological pressure and had stopped attending English classes because she could no longer concentrate.

Ms X said that she did not sleep well and found it difficult to get out of bed. She said that sharing accommodation did not help her situation.

Ms X stated that she had been at Facility B for more than two years and did not understand why she could not be released from restricted detention.

Case status

Ms X was granted a Bridging visa on 2 December 2015 and released from immigration detention.

Ms X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. At the time of DIBP's report Ms X was awaiting the outcome of judicial review.