

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 Mr X and his family who remained in immigration detention for more than 42 months (three and a half years).

The first report 1001838¹ was tabled in Parliament on 3 December 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X (and family)
Citizenship	Country A
Year of birth	1970

Family details

Family members	Ms Y (wife)	Master Z (son)	Master Q (son)
Citizenship	Country A	Country A	Country A
Year of birth	1970	2003	2006

Ombudsman ID	1003243
Date of DIBP's reports	25 February 2015, 28 August 2015 and 23 February 2016
Total days in detention	1,277 (at date of DIBP's latest report)

Detention history

25 August 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 422 <i>Coriander</i> . The family was transferred to Construction Camp Alternative Place of Detention (APOD), Christmas Island.
7 October 2012	Transferred to Inverbrackie APOD.
18 January 2013	Transferred to community detention.
19 April 2016	Granted Bridging visas and released from detention.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, Mr X and his family were part of a cohort who had not had their protection claims assessed as they arrived in Australia after 13 August 2012 and were subject to the bar under s 46A.	
18 January 2013	The former Minister intervened under s 197AB to allow Mr X and his family to reside in community detention.

¹ Mr X and his family were previously reported on in a group report of people who arrived on SIEV 422 *Coriander*.

13 March 2014	DIBP notified Mr X and his family of the unintentional release of personal information. ²
7 November 2014	Lodged a Protection visa application. DIBP considered the application to be invalid as the family were barred from applying for a visa under s 46A.
30 June 2015	The Minister lifted the bar under s 46A to allow the family to apply for a temporary visa.
9 July 2015	Ms Y was notified that she was eligible to receive the Primary Application Information Service (PAIS) to assist her with lodging a temporary visa application.
14 July 2015	DIBP invited Mr X and his family to lodge a temporary visa application.
18 July 2015	Ms Y accepted the PAIS offer. DIBP advised that a provider had been assigned to assist her with lodging a temporary visa application.
18 September 2015	Mr X and his family lodged a Safe Haven Enterprise visa (SHEV) application which triggered an associated Bridging visa application.
20 October 2015	DIBP invited Mr X to attend an interview in relation to his family's SHEV application.
4 November 2015	Associated Bridging visa was considered invalid.
5 November 2015	Mr X attended an interview in relation to his family's SHEV application.
8 February 2016	The family's case was included on a first stage ministerial submission under s 195A for consideration of the grant of a Bridging visa.
23 February 2016	DIBP advised that Mr X was considered to be a person of interest for his alleged involvement in people smuggling activities. DIBP further advised that processing of the family's claims for protection have commenced, however security and character assessments had not yet been requested.
19 April 2016	Granted Bridging visas.

² In a media release dated 19 February 2014 the former Minister advised that an immigration detention statistics report was released on DIBP's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as DIBP became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by DIBP.

Health and welfare

Mr X

26 August 2012 – ongoing	<p>International Health and Medical Services (IHMS) reported that Mr X was identified as a tuberculosis (TB) contact and monitored as per state policy.</p> <p>He was also treated for chronic lower back pain with pain relief medication and physiotherapy sessions. Spinal computed tomography scans conducted in 2014 and 2015 identified no abnormalities and he was awaiting an orthopaedic specialist appointment.</p>
27 August 2012	<p>He disclosed a history of torture and trauma and agreed to attend specialist counselling.</p>
3 September 2012 – ongoing	<p>He presented to IHMS with symptoms of depression and anxiety. In February 2013 the general practitioner (GP) referred him to a psychiatrist and in June 2013 he was referred to a psychologist.</p>
30 January 2013 – 9 February 2015	<p>He was treated for chronic knee pain resulting from a sports injury and was referred to an orthopaedic specialist in August 2013.</p>
14 August 2013 – 23 June 2014	<p>He attended six psychology appointments. IHMS advised that Ms Y also attended some of these sessions.</p>
7 September 2015	<p>He presented with depressed mood and was trialled on antidepressant medication.</p>
9 September 2015 – ongoing	<p>He presented to the GP with right ankle pain following a fracture some months prior. An ultrasound identified an abnormality. He attended several podiatry and physiotherapy sessions.</p>
16 October 2015	<p>He complained of difficulty swallowing to the GP. He was prescribed with medication and provided with dietary advice. IHMS reported that Mr X remained on a waiting list for an endoscopy.</p>

Ms Y

26 August 2012 – ongoing	<p>IHMS advised that Ms Y has a congenital heart valve condition which is monitored by a GP. Between 28 January 2015 and 22 April 2015 she attended several cardiologist appointments but did not require surgical intervention.</p> <p>She also disclosed a history of depression with an inability to cope, a history of self-flagellation and a history of torture and trauma. She declined specialist counselling but in February 2013 the GP referred her to a psychiatrist because of her ongoing depression and post-traumatic stress disorder (PTSD).</p>
10 October 2012	<p>She disclosed a history of trauma and self-harm but declined specialist counselling.</p>

29 November 2012 – ongoing	She attended a hospital emergency department and was diagnosed with neck stiffness. An x-ray identified no abnormalities and she was referred for physiotherapy.
3 December 2012 – 15 January 2013	Attended regular physiotherapy sessions.
29 May 2013 – 30 July 2014	Attended regular psychiatrist appointments.
November and December 2013	Minor neck abnormalities were identified and IHMS approved a cervical collar to assist with pain.
10 September 2014	She reported to the psychiatrist that she was experiencing side effects from the prescription medication and ongoing depression. The psychiatrist planned to continue monitoring and providing further support on a regular basis.
29 January 2015	She was transferred to hospital for blood transfusions because of low iron levels. IHMS advised that she continued to be monitored by the GP and prescribed with iron supplements.
23 February 2015	A scan identified minimal disc bulging and mild joint degenerative changes in her lower back. She was prescribed with pain relief medication and attended physiotherapy sessions.
14 August 2015 – ongoing	A cervical spine x-ray identified disc degeneration following complaints of further neck pain. She attended five physiotherapy and acupuncture sessions and was referred to a specialist at her request.
25 January 2016	IHMS advised that Ms Y continued to be prescribed medication for her heart condition and required annual echocardiograms.

Master Z

27 August 2012	During a mental health review it was identified that Master Z had a history of torture and trauma but his parents declined a referral for specialist counselling. IHMS advised that following the family's transfer to community detention, his parents requested a specialist review as he had presented as depressed and frustrated and was experiencing nightmares.
17 August 2013 and 24 August 2013	He attended two sessions with a psychologist.
September 2013	The psychologist reported that Master Z's problems were directly related to his past history of trauma and that his adjustment problems were a consequence of his parent's mental health issues. IHMS advised that five psychology sessions were approved and no further concerns had been reported.
25 November 2013	He was identified as a TB contact and monitored as per state policy.
4 February 2014 – 7 August 2014	Master Z was treated for foot problems and referred to a podiatrist.

13 February 2014	He presented to the GP with a swollen and painful left foot following a fall. An x-ray identified a fracture. His leg was placed in a cast and he was referred to a fracture clinic for review.
8 January 2015	He received emergency medical treatment for a fractured wrist.
13 August 2015 – 25 January 2016	IHMS advised that Master Z did not require treatment for any major physical or mental health issues during this reporting period.

Master Q

27 August 2012	Master Q's parents disclosed that he had a history of torture and trauma but they declined an offer of specialist counselling for him.
9 November 2012 – ongoing	He was identified as a TB contact and monitored as per state policy. In August 2014 the GP was directed to arrange a referral to a TB specialist paediatrician but IHMS advised it had no record that the review took place.
21 February 2013	His parents reported concerns to the GP about Master Q's wellbeing and he was referred to a psychiatrist and psychologist.
6 July 2013	The psychologist diagnosed Master Q with attention-deficit disorder symptoms, disruptive (conduct) behaviour disorder, tic disorder symptoms and sleeping issues. Combination therapy was recommended to manage his symptoms.
15 September 2014	He was referred to a child psychiatrist following displays of an involuntary tic movement, poor appetite and mood symptoms.
2 October 2014 – 7 January 2015	The psychiatrist diagnosed Master Q with multiple tic disorder, obsessive compulsive disorder, hair-pulling, PTSD, anxiety and depression. It was recommended that he attend ongoing therapy with a child psychiatrist to reduce his anxiety. He was prescribed with antidepressant medication which was monitored by the GP.
12 August 2015 – 25 January 2016	IHMS advised that Master Q did not require treatment for any major physical or mental health issues during this reporting period.

Detention incidents

11 December 2013	A Community Detention Incident Report recorded that the community detention service provider met with Master Z's parents to discuss a school incident. The school confirmed it would submit a report to the Department of Community Services and the service provider advised Master Z's parents to report the incident to the police. No further information was provided.
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Case status

Mr X and his family were granted Bridging visas on 19 April 2016 and released from immigration detention.

Mr X and his family were detained on 25 August 2012 after arriving in Australia aboard SIEV *Coriander* and were held in detention for over three years before being granted Bridging visas.

On 30 June 2015 the Minister lifted the bar under s 46A to allow Mr X and his family to apply for a temporary visa. On 18 September 2015 the family lodged a SHEV application.