

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

*Under s 486O of the Migration Act 1958*

This is the third s 486O report on Mr X and his family who have remained in immigration detention for more than 54 months (four and a half years).

The first report 1001345 was tabled in Parliament on 28 May 2014 and the second report 1001563 was tabled in Parliament on 18 March 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

<b>Name</b>	Mr X (and family)
<b>Citizenship</b>	Country A, born in Country B
<b>Year of birth</b>	1955

### Family details

<b>Family members</b>	Ms Y (wife)	Miss Z (daughter)
<b>Citizenship</b>	Country A, born in Country B	Country A
<b>Year of birth</b>	1964	1995

<b>Ombudsman ID</b>	1002546
<b>Date of DIBP's reports</b>	21 May 2015 and 19 November 2015
<b>Total days in detention</b>	1640 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous report (1001563), Mr X and his family have remained in community detention.

The Department of Immigration and Border Protection (DIBP) advised that Mr X's eldest daughter, Ms Q, and her son resided with the family in community detention until they were granted Temporary Humanitarian Stay visas on 22 April 2015. They are the subjects of Ombudsman report 1001564.

### Recent visa applications/case progression

15 January 2015	DIBP requested additional information from Mr X and his family in relation to an International Treaties Obligations Assessment (ITOA). A response was provided on 19 February 2015.
20 March 2015	The family was invited to comment and provide further information for the ITOA. A response was provided on 9 April 2015.
6 May 2015	DIBP finalised the ITOA, determining the family's case did not engage Australia's <i>non-refoulement</i> obligations.

22 July 2015	Requested judicial review by the Federal Circuit Court.
19 November 2015	DIBP advised that Mr X and his family's case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) <sup>1</sup> which found that the ITOA process was procedurally unfair.
21 March 2016	The Minister filed a notice in the High Court (HC) to appeal the FFC's decision.
13 April 2016	The Minister lifted the bar under s 46A to allow the family to lodge a temporary visa application.
21 April 2016	DIBP invited the family to lodge a temporary visa application.

## Health and welfare

### *Mr X*

International Health and Medical Services (IHMS) advised that Mr X's conditions of chest pain, diabetes and high cholesterol continue to be monitored by a general practitioner (GP).

### *Ms Y*

IHMS advised that Ms Y has not required treatment for any major mental health issues and her symptoms of depression and anxiety are considered to be resolved.

IHMS further advised that Ms Y's previously reported condition of thyroid cancer continues to be treated with medication and she is monitored by a specialist and GP.

### *Miss Z*

IHMS advised that Miss Z has not required treatment for any major physical or mental health issues.

## Information provided by Mr X

The Ombudsman's office tried to contact Mr X on several occasions to discuss his community detention circumstances but was unsuccessful.

## Case status

Mr X and his family were detained on 22 November 2011 after arriving in Australia aboard Suspected Illegal Entry Vessel *Weedon* and have been held in detention for over four and a half years.

On 13 April 2016 the Minister lifted the bar under s 46A to allow the family to apply for a temporary visa and on 21 April 2016 DIBP invited the family to apply.

The family's case is also affected by the FFC's judgment of 2 September 2015, which found that the ITOA process undertaken by DIBP was procedurally unfair. On 21 March 2016 the Minister filed a notice in the High Court (HC) to appeal the FFC's decision.

<sup>1</sup> *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.