

**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 Mr X and Ms Y who have remained in restricted immigration detention for more than 30 months (two and a half years).

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| Name | Mr X (and wife) |
| Citizenship | Country A |
| Year of birth | 1985 |

Family details

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| Family members | Ms Y (wife) |
| Citizenship | Country A |
| Year of birth | 1987 |

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| Ombudsman ID | 1002335-O |
| Date of DIBP's reports | 7 March 2016 and 5 September 2016 |
| Total days in detention | 912 (at date of DIBP's latest report) |

Detention history

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| 8 March 2014 | Mr X and Ms Y were detained under s 189(1) of the <i>Migration Act 1958</i> at Perth International Airport after living unlawfully in the community. They were transferred to Perth Immigration Detention Centre. |
| 19 April 2014 | Transferred to Wickham Point Alternative Place of Detention. |
| 4 May 2016 | Transferred to Melbourne Immigration Transit Accommodation. |

Visa applications/case progression

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| 20 January 2010 | Ms Y arrived in Australia on an Electronic Travel Authority (ETA) valid until 20 April 2010. |
| 3 February 2010 | Mr X arrived in Australia on an ETA valid until 5 May 2010. |
| 8 March 2014 | Mr X and Ms Y were detained under s 189(1) after living unlawfully in the community. |
| 19 March 2014 | Lodged a Protection visa application with an associated Bridging visa application. On 31 March 2014 the associated Bridging visa application was refused. |
| 12 June 2014 | Protection visa application refused. |
| 19 June 2014 | Appealed to the Refugee Review Tribunal (RRT). On 25 July 2014 the RRT affirmed the original decision. |

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| 18 August 2014 | Requested judicial review by the Federal Circuit Court (FCC). The FCC affirmed the original decision on 6 March 2015. |
| 12 November 2014 | Lodged a Bridging visa application. The Bridging visa application was refused on 17 November 2014. |
| 17 November 2014 | Appealed to the Migration Review Tribunal (MRT). The MRT affirmed the original decision on 26 November 2014. |
| 6 January 2015 | Lodged a second Bridging visa application. The Bridging visa application was refused on 8 January 2015. |
| 13 January 2015 | Appealed to the MRT. On 22 January 2015 the MRT affirmed the original decision in Mr X's case and remitted Ms Y's application with direction. |
| 27 January 2015 | Ms Y's second Bridging visa application was refused following reconsideration. |
| 11 March 2015 – 15 December 2015 | Lodged a further four Bridging visa applications, all of which were refused. Mr X and Ms Y appealed to the MRT on two occasions and the original decisions were affirmed. |
| 26 March 2015 | Appealed the FCC's decision to the Federal Court (FC). On 11 June 2015 the FC remitted Mr X and Ms Y's Protection visa application to the RRT. |
| 4 September 2015 | The Administrative Appeals Tribunal (AAT) ¹ affirmed the original decision. |
| 16 September 2015 | Requested judicial review by the FCC. On 21 January 2016 the FCC remitted Mr X and Ms Y's Protection visa application to the AAT. |
| 27 January 2016 | Mr X and Ms Y requested ministerial intervention under s 417. On 5 February 2016 DIBP informed Mr X and Ms Y that while the Minister had the power to intervene in their case, because of their outstanding review application at the AAT, it would be inappropriate for him to do so at that time. |
| 16 April 2016 | Mr X and Ms Y requested ministerial intervention under s 417. On 19 April 2016 the request was finalised without referral to the Minister. |
| 3 May 2016 | Mr X and Ms Y each lodged further Bridging visa applications which were refused on 5 May 2016. The AAT affirmed DIBP's decisions on 16 May 2016. |
| 2 August 2016 | AAT affirmed the decision to refuse the PV application. |
| 18 August 2016 | Requested judicial review by the FCC. |

¹ On 1 July 2015 the MRT and RRT were merged into the AAT.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X received treatment for multiple complex physical health concerns, including a lung cyst, dermatitis, hyperuricemia and ankle pain. Mr X's condition continues to be monitored by the IHMS medical team and he is awaiting an appointment with a dermatologist.

Ms Y

IHMS advised that Ms Y was diagnosed with a previous hepatitis B infection following pathology testing. She is currently immune and non-infectious and no further follow-up is required.

IHMS further advised that Ms Y presented with symptoms of depression related to detention fatigue and her history of torture and trauma. She was referred for specialist counselling and continues to be monitored by the IHMS mental health team.

Case status

Mr X and Ms Y have been found not to be owed protection under the Refugee Convention and the complementary protection criterion. At the time of the Department of Immigration and Border Protection's latest review Mr X and Ms Y were awaiting the outcome of judicial review.