

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth 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 1579/13 was tabled in Parliament on 4 December 2013, the second report 1001414 was tabled in Parliament on 25 June 2014 and the third report 1001701 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.

Name	Mr X (and family)
Citizenship	Country A
Year of birth	1986
Total days in detention	1,654 (at date of DIBP's latest report)

Family details

Family members	Ms Y (wife)	Master Z ¹ (son)
Citizenship	Country A	Country A, born in Australia
Year of birth	1989	2011
Total days in detention	1,654 (at date of DIBP's latest report)	1,335 (at date of DIBP's latest report)

Ombudsman ID	1002181
Date of DIBP's reports	12 January 2015 and 22 July 2015

Recent detention history

Since the Ombudsman's previous report (1001701), Mr X and Ms Y and their three children² remained in community detention.

Recent visa applications/case progression

14 August 2014	The Refugee Review Tribunal affirmed original decision.
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¹ Master Z was born in Australia in 2011 and was subject to an individual report under s 486N. He was previously reported on in Ombudsman report 1001562 and is now included in his family's report.

² Master Q was born in Australia in February 2014 and detained on 15 May 2014. He has been in detention for less than two years and is not subject to reporting under s 486N.

In November 2015, Mr X advised Ombudsman staff of the birth of their third child.

17 September 2014	Mr X and Ms Y provided their response to the Department of Immigration and Border Protection's (DIBP) invitation to comment on the unintentional release of personal information. ³ At the time of its latest report DIBP advised it was assessing whether they have raised further protection claims.
9 January 2015	Mr X and Ms Y contacted DIBP to advise that they wished to voluntarily return to Country A.
15 January 2015	Mr X and Ms Y advised their case manager that they no longer wished to return to Country A. DIBP commenced a reassessment of the International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of the family's case engage Australia's <i>non-refoulement</i> obligations.
27 May 2015	Mr X and Ms Y provided additional information to DIBP in relation to an ITOA.
3 July 2015	DIBP finalised the ITOA and found that Mr X and Ms Y's case did not engage Australia's <i>non-refoulement</i> obligations.
22 July 2015	DIBP advised that it is seeking clarification on a referral under s 195A for consideration of the grant of a Bridging visa.

Health and welfare

Mr X

7 July 2014	International Health and Medical Services (IHMS) advised that Mr X was referred for counselling with a psychologist following low mood. However, IHMS could not confirm if Mr X had attended the appointment.
19 November 2014	Mr X reportedly made threats of self-harm. He was reviewed by a case worker and offered counselling. He advised that the threat was not serious and he declined counselling.

Ms Y

6 January 2014	Ms Y reported symptoms of tiredness and lethargy during her pregnancy. She was referred for testing following a history of gestational diabetes. She was diagnosed with high cholesterol and low levels of vitamin D and was prescribed with treatment for these conditions.
19 August 2014	Attended an appointment with her GP following symptoms of shortness of breath, hyperventilation and a mild fever. She advised her GP that the symptoms occurred after she received news about her immigration pathway. She was admitted to a hospital emergency department for further review and was diagnosed with anxiety and a viral illness.
9 December 2014	IHMS approved four sessions with a psychologist.

³ 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.

15 January 2015	IHMS advised that following blood tests, Ms Y's fasting blood sugar level returned a high result. Her GP reinforced a healthy lifestyle and she continued to be monitored by her GP.
17 January 2015 – 9 March 2015	Attended four psychologist appointments. She continued to be monitored by her psychologist and GP.
February 2015	Returned a positive pregnancy test with an expected due date in October 2015. She was referred for an ultrasound and continued to be monitored by her GP.

Master Z

14 July 2015	IHMS advised that Master Z has not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.
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Information provided by Mr X and Ms Y

During a telephone conversation with Ombudsman staff on 27 November 2015 Mr X and Ms Y advised that they currently reside in a two bedroom unit with their three children aged four, two and two months. It is a small unit and the family feel that they are living on top of each other.

Ms Y advised that their unit is old and unhygienic and that in the past her husband has tried to clean the carpets with little result. She has requested larger accommodation following the birth of her third child. Ms Y advised that her request has been sent to DIBP and she hopes to receive a favourable outcome.

Mr X advised that he has become more forgetful during his time in detention and has had to depend more heavily on his wife to remember things.

Case status

Mr X and his family have been found not to be owed protection under the Refugee Convention and the complementary protection criterion.

In July 2015 DIBP advised that it was seeking clarification on a referral under s 195A for the consideration of the grant of a Bridging visa.