

**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 48 months (four years).

The first report 1001675 was tabled in Parliament on 3 December 2014 and the second report 1002162 was tabled in Parliament on 3 February 2016. 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
<b>Year of birth</b>	1972

**Family details**

<b>Family members</b>	Ms Y (wife)	Mr Z (son)	Master Q (son)
<b>Citizenship</b>	Country A	Country A	Country A
<b>Year of birth</b>	1973	1998	2001

<b>Ombudsman ID</b>	1001037-O
<b>Date of DIBP's reports</b>	26 December 2015 and 25 June 2016
<b>Total days in detention</b>	1458 (at date of DIBP's latest report)

**Recent detention history**

Since the Ombudsman's previous report (1002162), Mr X and his family have remained in community detention.
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**Recent visa applications/case progression**

26 December 2015	The Department of Immigration and Border Protection (DIBP) advised that the family's case was affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) <sup>1</sup> which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair.  The Federal Circuit Court adjourned the review of the family's ITOA pending the outcome of any appeal against the FFC's decision.
13 April 2016	The Minister lifted the bars under ss 46A and 48B of the <i>Migration Act 1958</i> to allow the family to lodge a temporary visa application.
25 June 2016	DIBP advised it was yet to invite the family to apply for a temporary visa.
27 July 2016	The Minister appealed the FFC decision and the High Court (HC) found that the ITOA process was not procedurally unfair. <sup>2</sup>

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

<sup>2</sup> *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.

## Health and welfare

### Mr X

<p>International Health and Medical Services (IHMS) advised that Mr X received treatment for shoulder pain and was referred to an orthopaedic specialist to review numbness in his hands.</p> <p>IHMS further advised that Mr X commenced a mental health care plan and attended multiple psychology appointments for the management of depression. He reported to his general practitioner that he was stressed and had difficulty coping with his family's circumstances.</p>	
22 September 2015	A DIBP Incident Report recorded that Mr X allegedly threatened to harm himself and his family.
24 September 2015	A DIBP Incident Report recorded that Mr X threatened self-harm.

### Ms Y

<p>IHMS advised that Ms Y continues to be monitored and treated for stress and depression under a mental health care plan and attends regular psychological counselling sessions.</p>
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### Mr Z

<p>IHMS advised that Mr Z reported a history of migraines affecting his daily activities and sleep. He was referred to a neurologist after attending a hospital emergency department for a migraine and it was recommended the GP prescribe him with medication. He also attended allergy testing at anaphylaxis and immunology clinics.</p> <p>IHMS further advised that Mr Z continues to be provided with counselling and support for anxiety symptoms related to his immigration status.</p>
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### Master Q

<p>IHMS advised that Master Q has not required treatment for any major physical or mental health issues.</p>
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## Case status

<p>Mr X and his family have been found not to be owed protection under the Refugee Convention and complementary protection criterion. The family's case is affected by the HC judgment of 27 July 2016 and DIBP advised it is considering the implications of this judgment.</p> <p>On 13 April 2016 the Minister lifted the bars under ss 46A and 48B to allow the family to apply for a temporary visa. At the time of DIBP's latest review the family was awaiting an invitation to lodge an application.</p>
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