

# 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 30 months (two and a half years).

The first report 1001864<sup>1</sup> was tabled in Parliament on 18 March 2015. This report updates the material in that report and should be read in conjunction with the previous report.

|                      |                   |
|----------------------|-------------------|
| <b>Name</b>          | Mr X (and family) |
| <b>Citizenship</b>   | Country A         |
| <b>Year of birth</b> | 1981              |

## Family details

|                       |             |                |
|-----------------------|-------------|----------------|
| <b>Family members</b> | Ms Y (wife) | Master Z (son) |
| <b>Citizenship</b>    | Country A   | Country A      |
| <b>Year of birth</b>  | 1982        | 2008           |

|                                |               |
|--------------------------------|---------------|
| <b>Ombudsman ID</b>            | 1003268       |
| <b>Date of DIBP's report</b>   | 23 March 2015 |
| <b>Total days in detention</b> | Not provided  |

## Detention history

|   |   |
|---|---|
| Since the Ombudsman's previous report (1001864), Mr X and his family remained in community detention. |   |
| 22 April 2015   | Granted Bridging visas and released from detention. |

## Visa applications/case progression

|   |                         |
|---|-------------------------|
| The Department of Immigration and Border Protection (DIBP) advised that prior to being released from detention, 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 the Minister had not lifted the bar under s 46A of the <i>Migration Act 1958</i> . |                         |
| 22 April 2015   | Granted Bridging visas. |

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<sup>1</sup> Mr X and his family were previously reported on in a group report of people who arrived on Suspected Illegal Entry Vessel 433 *Nutmeg* and were detained on 9 September 2012.

## Health and welfare

Mr X

|   |   |
|---|---|
| International Health and Medical Services (IHMS) provided details of Mr X's health and welfare. No significant ongoing mental health concerns were noted. |   |
| 10 September 2012   | During his induction health assessment Mr X reported that he had previously undergone back surgery and experiences chronic lower back pain.<br><br>IHMS advised that he was reviewed by a general practitioner (GP) on multiple occasions and was provided with exercises. On 7 January 2013 he was referred for physiotherapy. |
| 10 January 2013 –<br>15 January 2013  | Attended five physiotherapy appointments.   |
| 18 April 2013   | Referred to an orthopaedic specialist and a neurologist following ongoing back pain.  |
| 30 April 2013   | Presented to his GP with ongoing back pain and requested a referral for hydrotherapy. IHMS advised that he was referred to a physiotherapist for further investigation.   |
| 10 May 2013 –<br>13 July 2014   | Attended eight physiotherapy sessions and three hydrotherapy sessions. Following the completion of his treatment on 13 July 2014, it was recommended that he attend further sessions. IHMS advised that this request was declined as it fell outside of community healthcare standards.   |
| 11 April 2014   | Reviewed by a neurosurgical specialist and referred to a pain specialist for further treatment. IHMS advised that no surgical procedure was recommended and he was advised to continue attending physiotherapy.   |
| 28 November 2014  | Reviewed by a pain specialist and received physiotherapy treatment. It was noted that his condition had improved and it was recommended that he receive anaesthetic injections in his lower back for pain management.   |

Ms Y

|   |   |
|---|---|
| IHMS provided details of Ms Y's health and welfare. No significant ongoing physical health concerns were noted. |   |
| 14 October 2012   | Disclosed a history of torture and trauma but declined specialist counselling. She was advised to self-refer to the mental health team as required. |

Master Z

|  |   |
|--|---|
| IHMS advised that Master Z did not require treatment for any major physical or mental health issues. |   |
| 22 November 2012   | A DIBP Incident Report recorded that welfare providers were notified after Master Z presented with grazes to his face. No further information was provided. |

### **Ombudsman assessment/recommendation**

Mr X and his family were granted Bridging visas on 22 April 2015 and released from immigration detention.

The Ombudsman notes that Mr X and his family were detained on 9 September 2012 after arriving in Australia, and were held in detention for over two and a half years before being granted Bridging visas. The Ombudsman further notes that, at the time of DIBP's review, processing of the family's claims for protection had not commenced.

The Ombudsman recommends that the Minister lift the bar under s 46A and processing of the family's protection claims commence as soon as possible.