

# 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 his family who have remained in immigration detention for more than 30 months (two and a half years).

<b>Name</b>	Mr X (and family)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1982

## Family details

<b>Family members</b>	Ms Y (wife)	Master Z (son)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	1988	2012

<b>Ombudsman ID</b>	1002587
<b>Date of DIBP's reports</b>	4 June 2015 and 24 November 2015
<b>Total days in detention</b>	912 (at the time of DIBP's latest report)

## Detention history

26 May 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving at an excised offshore location <sup>1</sup> on Ashmore Island, Australia aboard Suspected Illegal Entry Vessel (SIEV) 714 <i>Tetbury</i> . They were transferred to Darwin Airport Lodge Alternative Place of Detention (APOD).
29 May 2013	Transferred to Northern Immigration Detention centre.
15 June 2013	Transferred to Darwin Airport Lodge APOD.
17 July 2013	Transferred to Bladin APOD.
17 September 2013	Transferred to community detention.

## Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that, prior to ministerial intervention, 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 were subject to the bar under s 46A.

<sup>1</sup> Following legislative amendment on 20 May 2013, all unauthorised maritime arrivals, including those who arrived on the Australian mainland or an 'excised offshore location' were barred from lodging a Protection visa application under s 46A.

13 March 2014	Mr X and Ms Y were issued with a letter inviting them to comment on the unintentional release of personal information through DIBP's website. <sup>2</sup>
25 September 2015	Mr X and his family's case was referred on a ministerial intervention submission for consideration to lift the bar under s 46A to allow the family to lodge a temporary visa application.
29 September 2015	The Minister lifted the bar under s 46A.
11 November 2015	Mr X and his family were invited to lodge a temporary visa application.

## Health and welfare

### *Mr X*

28 May 2013 – ongoing	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma but declined specialist counselling.
12 June 2013	A DIBP Incident Report recorded that Mr X threatened self-harm. No further information was provided.
22 October 2013	Mr X was diagnosed with a past hepatitis C infection. He was provided with education and continues to be monitored by a general practitioner (GP).

### *Ms Y*

IHMS provided details of Ms Y's health and welfare while in detention. No significant ongoing physical health concerns were noted.	
24 February 2014	Referred to a psychologist following ongoing domestic violence concerns.
22 March 2014 and 31 March 2014	Ms Y attended specialist counselling and was diagnosed with depression, stress and anxiety. IHMS advised that she declined further counselling after reporting that she found it difficult to discuss her past. Her mental health continues to be monitored by her GP.

### *Master Z*

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

<sup>2</sup> 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.

**Other matters**

16 November 2013	DIBP advised that a police investigation regarding alleged child abuse by Ms Y was finalised and no further investigation was required. No further information was provided.
4 December 2013	A DIBP Incident Report recorded that a Temporary Protection Order was enforced by police following a verbal and physical altercation between Mr X and Ms Y. No further information was provided.
12 October 2014	A DIBP Incident Report recorded that Ms Y allegedly physically abused her husband which resulted in a minor injury. No further information was provided.
24 November 2015	DIBP advised that Mr X was previously a person of interest following his alleged involvement in criminal matters.

**Case status**

Mr X and his family were detained on 26 May 2013 after arriving in Australia aboard SIEV *Tetbury* and have been held in detention for over two and a half years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X and his family to apply for a temporary visa and on 11 November 2015 DIBP invited the family to apply.