

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the first s 486O assessment on Ms X and Mr Y who remained in immigration detention for more than 24 months (two years).

Family members	Ms X (and husband)	Ms Y (husband)
Citizenship	Country A	Country A
Year of birth	1961	1957

Ombudsman ID	1002663-O
Date of department's report	6 May 2017
Total days in detention	730 (at date of department's report)

Detention history

7 May 2015	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community. They were transferred to Brisbane Immigration Transit Accommodation (ITA).
9 May 2015	Transferred to Wickham Point Alternative Place of Detention.
4 May 2016	Transferred to Melbourne ITA.
27 October 2017	Granted bridging visas and released from immigration detention.

Visa applications/case progression

Ms X and Mr Y arrived in Australia on 19 December 2014 on visitor visas.	
19 March 2015	Visitor visas expired.
13 July 2015	Lodged a Protection visa application that was found to be invalid on 20 July 2015.
17 August 2015	Lodged a second Protection visa application. Ms X and Mr Y were determined to be ineligible to receive the Primary Application Information Service to assist them with lodging a visa application.
13 July 2016	Protection visa application refused.
19 July 2016	Applied to the Administrative Appeals Tribunal (AAT) for merits review.
1 September 2016	AAT affirmed original decision.
23 September 2016	Applied to the Federal Circuit Court (FCC) for judicial review. A hearing was held on 15 March 2017.

Health and welfare

Ms X

International Health and Medical Services (IHMS) advised that Ms X received treatment for shoulder concerns, high cholesterol and gastro-oesophageal reflux disease. In December 2015 Ms X presented to a general practitioner (GP) with shoulder pain and was referred for physiotherapy. In March 2016 the physiotherapist noted limited improvement and Ms X was referred for investigative testing. An ultrasound identified an inflammatory condition and a GP recommended ongoing physiotherapy and a cortisone injection. Ms X presented to a GP with further pain in May and December 2016 and in January 2017 she underwent an ultrasound guided injection. She was awaiting a computed tomography scan at the time of IHMS's report.

IHMS further advised that Ms X disclosed a history of torture and trauma in May 2015 and presented with symptoms of stress but declined a referral for specialist counselling.

Mr Y

IHMS advised that Mr Y received treatment for high blood pressure and a benign eye growth. He was reviewed by an ophthalmologist and placed on a surgical waiting list in October 2016.

Information provided by Ms X and Mr Y

During an interview with Ombudsman staff on 21 June 2017 Ms X and Mr Y advised that they were awaiting the outcome of judicial review in the FCC where they are self-representing.

They stated that their daughter and granddaughter live in Hobart and that they had put in a request to visit them. They stated that the request had been rejected and that they did not receive any visitors.

Mr Y stated that he had eye problems and required an operation. He said that he had been waiting for more than a year for the operation and that he had been told that there was a long waiting list. He advised that he was concerned that his condition was deteriorating.

Other matters

The Department of Home Affairs advised that Ms X and Mr Y hold valid Country A passports.

Case status

Ms X and Mr Y were detained on 7 May 2015 after living unlawfully in the community and remained in an immigration detention facility for more than two years.

Ms X and Mr Y were granted bridging visas on 27 October 2017 and released from immigration detention.