

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 24 months (two years).

Name	Mr X (and family)
Citizenship	Country A
Year of birth	1985

Family details

Family members	Ms Y (wife)	Master Z (son)
Citizenship	Country A	Stateless (claimed), born in Country A
Year of birth	1989	2011

Ombudsman ID	1003005
Date of DIBP's report	13 July 2015
Total days in detention	726 (at date of DIBP's report)

Detention history

17 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 794 <i>Oneonta</i> .
The Department of Immigration and Border Protection (DIBP) advised that Mr X and his family are currently residing in community detention.	

Visa applications/case progression

DIBP advised that Mr X and his family are part of a cohort who have not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister has not lifted the bar under s 46A(2).
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Health and welfare

Mr X

January 2014	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma but declined specialist counselling.
3 March 2014	Mr X was diagnosed with post-traumatic stress disorder, stress, anxiety and situational depression related to his past experiences. He attended individual and group counselling and was prescribed with antidepressant medication.

17 April 2014	Transferred to a hospital emergency department following chest pain. Tests did not detect any abnormalities. He was provided with pain relief medication and discharged from hospital the same day.
June 2015	Attended an appointment with a general practitioner (GP) following mental health concerns. His condition is monitored by his GP.

Ms Y

18 July 2014	An x-ray was conducted following right knee pain and joint swelling was identified. Ms Y did not report any further concerns.
11 December 2014	Ms Y's pregnancy was confirmed and she was referred for routine antenatal care.
June 2015	Ms Y was diagnosed with gestational diabetes. She was provided with lifestyle education and attended regular follow-up appointments to monitor her condition.

Master Z

28 February 2014	<p>Master Z was reviewed by his GP following concerns about his appetite and slow weight gain. His parents were provided with lifestyle education and Master Z was referred to a dietician and for pathology testing.</p> <p>IHMS advised that he was unable to attend this appointment following his transfer into community detention. His condition continues to be monitored by his GP.</p>
3 June 2015	Referred for an ultrasound after tests returned an abnormal result. IHMS advised that it was awaiting the results at the time of its report.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X and his family were detained on 17 July 2013 after arriving in Australia aboard SIEV *Oneonta* and have been held in detention for over two years with no processing of their protection claims.

The Ombudsman notes with concern that without an assessment of Mr X and his family's claims to determine if they are found to engage Australia's protection obligations, it appears likely that they will remain in detention for an indefinite period.

The Ombudsman notes the Minister's recent Statements to Parliament, in which he advises that DIBP is progressing the substantial caseload of maritime arrivals, and will provide him with advice to assist his consideration of whether to lift the bar to allow these people to lodge a Temporary Protection visa application.

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.