

## 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 Ms X who has remained in immigration detention for more than 36 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>	Ms X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1981
<b>Ombudsman ID</b>	1003422
<b>Date of DIBP's reports</b>	23 March 2015 and 8 September 2015
<b>Total days in detention</b>	1,094 (at date of DIBP's latest report)

### Detention history

9 September 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 433 <i>Nutmeg</i> . She was transferred to an Alternative Place of Detention (APOD), Christmas Island.  Ms X arrived with her husband, Mr Y. He is the subject of Ombudsman report 1003270.
27 October 2012	Transferred to Inverbrackie APOD with Mr Y.
8 March 2013	Transferred to community detention with Mr Y.  Mr Y's community detention placement was revoked on 29 June 2015 and at the time of DIBP's review he was detained at Wickham Point APOD. <sup>2</sup>

### Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, Ms X was 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.	
6 September 2013	Ms X's husband, Mr Y, lodged a Protection visa application which included Ms X and their daughter, Miss Z. <sup>3</sup>

<sup>1</sup> Ms X was previously reported on in a group report of people who arrived on SIEV 433 *Nutmeg*.

<sup>2</sup> Wickham Point was designated an APOD on 11 July 2013. DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point APOD is comprised of three compounds. One of these compounds is used to house single adult males and is considered a higher security compound than the compounds used to house families and children. Mr X is accommodated in the single adult male compound at Wickham Point APOD.

<sup>3</sup> Miss Z was born in Australia in July 2013 and detained on 12 March 2014. She has been in detention for less than two years and is not subject to reporting under s 486N. In December 2015 DIBP advised that the time that elapsed between Miss Z's birth and the date on which she was detained was due to a delay in developing and finalising new policy guidelines for the detention of babies born to parents in community detention.

29 September 2013	The Protection visa application was invalid as Ms X and Mr Y were subject to the bar under s 46A.
13 March 2014	DIBP notified Ms X of the unintentional release of personal information <sup>4</sup> and advised that the privacy breach would be taken into account when considering her protection claims.
25 May 2015	Referred for ministerial intervention under s 46A.
26 May 2015	The Minister intervened to lift the bar under s 46A to allow Ms X to lodge a Temporary Protection visa (TPV) application.
30 June 2015	Ms X was again referred for ministerial action under s 46A. On the same day, the Minister lifted the bar under s 46A to allow her to lodge a TPV or Safe Haven Enterprise visa application.
16 July 2015	DIBP invited Ms X to apply for a temporary visa.
27 August 2015	Ms X lodged a TPV application which included her husband, Mr Y, and their daughter, Miss Z.
2 September 2015	DIBP notified Ms X that she was eligible for the Primary Application Information Services to assist her with lodging a temporary visa application.

### Health and welfare

12 November 2012	International Health and Medical Services (IHMS) reported that Ms X complained of chronic lower back pain to the general practitioner (GP). She was prescribed with pain relief medication and provided with self-care advice.
13 November 2012	She collapsed from her lower back pain and was admitted to a hospital for assessment. She was provided with treatment and discharged on 16 November 2012 with a referral for physiotherapy. During her admission, it was identified that she was pregnant. She was referred for antenatal care.
19 November 2012 – 7 December 2012	She attended six physiotherapy sessions.
15 January 2013 – ongoing	She saw the mental health team for supportive counselling after expressing frustration with her situation. IHMS advised that after being transferred into community detention, Ms X was referred to a psychologist for support with stress, relationship difficulties with her husband, Mr Y, and the dislike of her community detention residence.
11 March 2013	She attended a hospital emergency department following a fall. She was assessed and discharged the same day with no reported concerns.

<sup>4</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.

3 April 2013 – 24 November 2014	She attended 23 sessions with a psychologist. On 4 November 2014 Ms X attended a session with Mr Y for support with their relationship difficulties.
July 2013	She gave birth to her daughter without complication.
4 November 2013	She was diagnosed with post-natal depression, low motivation, anhedonia, low energy and social withdrawal. She was prescribed with antidepressant medication and referred to a psychiatrist.
6 November 2013 – 2 February 2015	She attended 10 psychiatrist appointments. On 9 December 2013 Ms X reported an improvement in her mood and on 24 March 2014 the psychiatrist increased her antidepressant medication. On 2 February 2015 the psychiatrist reported that Ms X had attempted to cease her medication for a two-week period but recommenced after noticing that she was relapsing.
18 November 2013	A spinal computed tomography scan identified some degenerative changes.
28 November 2013	An occupational therapist attended the community detention property for assessment and recommended that minor changes be made.
29 November 2013 – 10 January 2014	She attended five physiotherapy sessions.
10 March 2014	She was referred to a dietician following the GP's concerns with her chronic lower back pain and raised body mass index.
2 May 2014	She self-harmed by scratching her wrist and was taken to a hospital emergency department with her 10-month old child for assessment. She was seen by the hospital mental health team and discharged that evening with a community mental health nurse appointment scheduled for 4 May 2014.
10 May 2014	She attended a hospital emergency department with severe back pain. A magnetic resonance imaging (MRI) scan identified a bulging disc and she was prescribed with pain relief medication. She was discharged the following day with a referral for physiotherapy.
12 May 2014	A DIBP Incident Report recorded that Ms X was taken to hospital by ambulance to assess her severe lower back pain. No further information was provided.
30 September 2014 – 27 March 2015	IHMS advised that there had been no reported concerns related to Ms X's chronic back pain
30 September 2014	IHMS advised that following her self-harm incident on 2 May 2014 Ms X continued to attend scheduled psychiatrist appointments. She was compliant with her medication and there were no further reported episodes of self-harm.
21 January 2015	She complained of left ear pain to the GP. She was prescribed with antibiotic ear drops and on 4 February 2015 she was referred for an audiology assessment. No further information was provided.

6 May 2015	The psychiatrist reported that Ms X continued to experience low self-esteem, low energy, increased sleep and social withdrawal. Her antidepressant medication was adjusted.
21 May 2015	She presented with further left ear pain to the GP and was treated for a respiratory tract infection. On 25 May 2015 after complaining of hearing loss, she was referred for an MRI and to an ear, nose and throat (ENT) specialist.
22 June 2015	Her situational stress was exacerbated following further relationship issues with Mr Y related to alleged domestic violence and his subsequent return to restricted detention following charges for driving offences.
10 July 2015 – 11 July 2015	She presented to a hospital emergency department with chest pain. She was assessed and it was determined that an aggravation of her depression because of situational stressors was the cause of her pain. It was recommended that she continue attending her scheduled psychology and psychiatry sessions. She was discharged the following day.
20 August 2015	IHMS advised that Ms X continues to engage with her psychologist and psychiatrist and that an MRI appointment remains outstanding.

#### **Detention incidents**

2 February 2014	A DIBP Incident Report recorded that an ambulance and the police were called to Ms X's community detention residence following a burglary and an alleged domestic violence incident.
31 March 2014	A DIBP Incident Report recorded that Child Safety Services visited Ms X and Mr Y's community detention residence following an alleged domestic violence incident on 2 February 2014.
15 December 2014	A DIBP Incident Report recorded that Ms X allegedly requested separation from Mr Y because of ongoing domestic violence issues.
6 June 2015	A DIBP Incident Report recorded that Ms X allegedly disclosed to her case manager that Mr Y had thrown hot water on her during an argument.

#### **Other matters**

2 February 2013	Ms X and Mr Y were allegedly involved in an incident of domestic violence. DIBP advised that State B Police investigated and finalised the matter without charge.
27 February 2014	Mr Y was issued with a Domestic Violence Order by the State B Magistrates court, which ceased on 27 August 2014.

**Case status**

Ms X was detained on 9 September 2012 after arriving in Australia aboard SIEV *Nutmeg* and has been held in detention for over three years.

On 30 June 2015 the Minister lifted the bar to allow Ms X to apply for a temporary visa. On 27 August 2015 Ms X lodged a TPV application which included her husband, Mr Y, and their daughter, Miss Z, and they are awaiting the outcome.