

**REPORT BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

This is the third s 486O report on Mr X and his family who have remained in immigration detention for more than 48 months (four years).

The first report 1001711 was tabled in Parliament on 4 March 2015 and the second report 1002187 was tabled in Parliament on 16 March 2016. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X (and family)
Citizenship	Country A, born in Country B
Year of birth	1974
Total days in detention	1458 (at date of DIBP's latest report)

Family details

Family members	Ms Y (wife)	Master Z (son)	Miss P ¹ (daughter)
Citizenship	Country A	Country A	Stateless (claimed), born in Australia
Year of birth	1984	2004	2013
Total days in detention	1458 (at date of DIBP's latest report)		798 (at date of DIBP's latest report)

Ombudsman ID	1001044-O
Date of DIBP's reports	11 January 2016 and 8 July 2016

Recent detention history

Since the Ombudsman's previous report (1002187), Mr X and his family remained in community detention.	
June 2016	The Department of Immigration and Border Protection (DIBP) advised that Mr X and Ms Y separated and Ms Y, Master Z and Miss P moved to a separate community detention address.
19 October 2016	Ms Y, Master Z and Miss P were granted Bridging visas and released from detention. Mr X remained in community detention.

Recent visa applications/case progression

20 July 2015	Mr X requested ministerial intervention under ss 417 and 48B of the <i>Migration Act 1958</i> .
29 September 2015	Found not to meet the guidelines for referral to the Minister under ss 417 or 48B.

¹ Miss P was born in Australia in August 2013 and was subject to an individual report under s 486N. She was reported on in Ombudsman report 1002388-O and is now included in her family's report.

11 January 2016	DIBP advised that Mr X, Ms Y and Master Z's case was affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ² which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair.
13 April 2016	The Minister lifted the bars under ss 46A and 48B to allow Mr X, Ms Y and Master Z to lodge a temporary visa application.
16 May 2016	DIBP notified Mr X and Ms Y that it had incorrectly assessed Miss P's Protection visa application lodged on 24 December 2013 to be invalid. It advised that Miss P's application was now assessed to be a valid Temporary Protection visa (TPV) application.
27 May 2016	The Minister lifted the bar under s 46A to allow Miss P to lodge a new TPV application or a Safe Haven Enterprise visa (SHEV) application.
27 July 2016	The Minister appealed the FFC decision and the High Court (HC) found that the ITOA process was not procedurally unfair. ³ DIBP advised that it is considering the implications of this judgment.
19 October 2016	Ms Y, Master Z and Miss P were granted Bridging visas.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X continued to be monitored and treated for glaucoma and chronic back pain. He was referred for routine glaucoma reviews and physiotherapy after reporting his back pain was radiating down his leg.	
14 May 2016	A DIBP Incident Report recorded that Mr X allegedly threatened to harm himself and Ms Y during an argument.

Ms Y

IHMS advised that Ms Y continues to be monitored and treated for a skin condition and gynaecological concerns and was prescribed with medication as required. She also received ongoing treatment for depression, anxiety and a chronic adjustment disorder.	
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Master Z and Miss P

IHMS advised that Master Z and Miss P have not required treatment for any significant physical or mental health issues.	
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² SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125.

³ Minister for Immigration and Border Protection & Anor v SZSSJ & Anor [2016] HCA 29.

Case status

Mr X, Ms Y and Master Z have been found not to be owed protection under the Refugee Convention and the complementary protection criterion. Their case was affected by the HC judgment of 27 July 2016 and DIBP advised that it was considering the implications of this judgment.

On 13 April 2016 the Minister lifted the bars under ss 46A and 48B to allow Mr X, Ms Y and Master Z to lodge a temporary visa application. At the date of DIBP's latest review they were awaiting an invitation to apply for a temporary visa.

Miss P's Protection visa application lodged on 24 December 2013 has now been assessed to be a valid application for a TPV. On 27 May 2016 the Minister lifted the bar under s 46A to allow Miss P to lodge a new TPV application or a SHEV application.

On 19 October 2016 Ms Y, Master Z and Miss P were granted Bridging visas and released from detention. Mr X remains in community detention.