

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 Mr X and his family who have remained in immigration detention for more than 36 months (three years).

The first report 1001711 was tabled in Parliament on 4 March 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X (and family)
Citizenship	Country A, born in Country B
Year of birth	1974

Family details

Family members	Ms Y (wife)	Master Z (son)
Citizenship	Country A	Country A
Year of birth	1984	2004

Ombudsman ID	1002187
Date of DIBP's reports	14 January 2015 and 13 July 2015
Total days in detention	1,097 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002187), Mr X and his family¹ have remained in community detention.

Recent visa applications/case progression

20 March 2013	The Department of Immigration and Border Protection (DIBP) advised that Mr X and his son Master Z's citizenship information was updated from 'stateless' to Country A to reflect the finding made by the Refugee Review Tribunal.
24 December 2013	A Temporary Protection visa (TPV) application was lodged on behalf of Miss Q.
16 July 2014	Mr X and his family were issued with a letter inviting them to comment on the unintentional release of personal information through DIBP's website. ²

¹ Mr X and Ms Y's second child, Miss Q, was born in Australia in August 2013 but not detained until 2 May 2014. She has been in detention for less than two years and is not subject to reporting under s 486N. On 20 November 2015 DIBP advised that the time that elapsed between Miss Q's birth and the date on which she was detained was due to a delay in registering and receiving her birth certificate.

² 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.

21 July 2014	TPV application for Miss Q was refused as the bar under s 46A of the <i>Migration Act 1958</i> had not been lifted.
28 July 2014	Mr X and his family provided their response and DIBP advised that it was assessing whether they had raised further protection related claims as a result of the privacy breach.
12 January 2015	Mr X and his family were issued with a letter notifying them of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of their case engage Australia's <i>non-refoulement</i> obligations.
18 February 2015	Mr X provided further information in relation to the ITOA.
10 June 2015	Attended an interview in relation to the ITOA.
18 June 2015	DIBP finalised the ITOA and found that the family's case did not engage Australia's <i>non-refoulement</i> obligations.

Health and welfare

Mr X

26 August 2014	International Health and Medical Services (IHMS) advised that Mr X presented to an optometrist following complaints of poor vision. He was referred to an ophthalmologist for suspected glaucoma.
13 September 2014	Diagnosed with high iron levels following blood tests and was referred to a haematologist and for an abdominal ultrasound.
28 November 2014 – ongoing	IHMS noted that Mr X has a history of chronic back pain from a disc bulge. He was educated on back stretching exercises and continued to be monitored and prescribed with pain relief medication by his general practitioner (GP) as required.
January 2015	Following an appointment with an optometrist, Mr X was diagnosed with glaucoma. He was referred to an ophthalmologist for further review. IHMS advised that it had no documentation to confirm if Mr X had attended the specialist appointment, but he continued to be monitored by his GP.
9 July 2015	IHMS reported that Mr X had not presented with any mental health issues in the past 12-month period.

Ms Y

July 2014	A counsellor noted that Ms Y reported thoughts of self-harm.
17 July 2014	Ms Y was referred to a psychiatrist following limited improvement after she attended a specialist counselling service for ongoing anxiety with depression and post-traumatic stress disorder.
August 2014	Presented to a GP with a generalised body rash and infections on her skin. She was referred to a hospital dermatology department for further review. Ms Y was prescribed with multiple treatment options for her condition pending an appointment date with a dermatologist.

28 August 2014	The psychiatrist noted that Ms Y was irritable, nervous, experiencing nightmares and suffered from insomnia and diagnosed her with adjustment disorder with depressed mood. She was prescribed with antidepressant medication and it was recommended she undergo periodic psychiatric review.
28 November 2014	Referred to a psychiatrist for review of her prescribed antidepressant medication following continued feelings of depression and loneliness and because she did not feel counselling was helping her condition.
29 December 2014	Presented to her GP following gynaecological complaints. She was referred to a specialist for further review. She continued to be monitored and was prescribed with medication by her GP pending an appointment date with a specialist.
13 July 2015	IHMS advised that Ms Y remained on the waiting list for a dermatologist appointment. She continued to be monitored by her GP and prescribed with medication pending the specialist appointment.

Master Z

September 2014	Master Z was diagnosed with gastric reflux following a history of vomiting and nausea. Tests for a stomach infection returned a positive result. He was prescribed with medication and no further concerns were reported.
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Other matters

24 June 2015	DIBP advised that following legislative amendment it was seeking legal advice in relation to Mr X and Ms Y's daughter Miss Q's TPV application.
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Information provided by Mr X and Ms Y

During a telephone conversation with Ombudsman staff on 27 November 2015 Mr X advised that he lives in a two bedroom flat with his wife and two children aged two and three months. He said that his current accommodation was too small for his family and he had made a request to relocate to a larger property.

Ms Y said that their mental health is suffering. She sees a psychologist and a psychiatrist but is concerned for her husband, who she feels has become nervous around people and sometimes struggles to talk. She feels that his condition is worsening because he is not allowed to work and because of the family's unresolved visa status.

Case status

Mr X and his family have been found not to be owed protection under the Refugee Convention and the complementary protection criterion.

The family are awaiting the outcome of legal advice in relation to Miss Q's TPV application.