

## 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 remained in immigration detention for more than 24 months (two years).

|                      |                   |
|----------------------|-------------------|
| <b>Name</b>          | Mr X (and family) |
| <b>Citizenship</b>   | Country A         |
| <b>Year of birth</b> | 1972              |

### Family details

|                       |             |
|-----------------------|-------------|
| <b>Family members</b> | Ms Y (wife) |
| <b>Citizenship</b>    | Country A   |
| <b>Year of birth</b>  | 1981        |

|                       |   |                   |
|-----------------------|---|-------------------|
| <b>Family members</b> | Ms Z (relationship not defined by DIBP) | Miss Q (daughter) |
| <b>Citizenship</b>    | Country A                               | Country A         |
| <b>Year of birth</b>  | 1942                                    | 2000              |

|                       |                   |                |
|-----------------------|-------------------|----------------|
| <b>Family members</b> | Miss R (daughter) | Master S (son) |
| <b>Citizenship</b>    | Country A         | Country A      |
| <b>Year of birth</b>  | 2004              | 2006           |

|                       |                |                |
|-----------------------|----------------|----------------|
| <b>Family members</b> | Master T (son) | Master U (son) |
| <b>Citizenship</b>    | Country A      | Country A      |
| <b>Year of birth</b>  | 2006           | 2009           |

|                                |                  |
|--------------------------------|------------------|
| <b>Ombudsman ID</b>            | 1002849          |
| <b>Date of DIBP's report</b>   | 17 November 2014 |
| <b>Total days in detention</b> | Not provided     |

### Detention history

|                  |  |
|------------------|--|
| 17 November 2012 | Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 536 <i>Overland</i> . |
| 9 April 2015     | Granted Bridging visas with associated Temporary Humanitarian Stay (THS) visas and released from community detention.                            |

## Visa applications/case progression

|   |   |
|---|---|
| The Department of Immigration and Border Protection (DIBP) advised that prior to being released from detention, Mr X and his family were part of a cohort who had not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister had not lifted the bar under s 46A. |   |
| 9 April 2015  | Granted Bridging visas with associated THS visas. |

## Health and welfare

### Mr X

|                                   |   |
|-----------------------------------|---|
| 21 November 2012 – ongoing        | International Health and Medical Services (IHMS) advised that Mr X was diagnosed with type 2 diabetes and prescribed with medication. Prior to his release from detention, Mr X's condition was monitored by a general practitioner (GP), dietician, podiatrist and physiotherapist. IHMS advised that his condition was poorly controlled and Mr X had been provided with lifestyle education. |
| 18 December 2012 – 28 August 2014 | Disclosed a history of torture and trauma and attended psychological counselling for treatment of anxiety symptoms.   |
| 30 April 2014                     | Reviewed by a psychiatrist and received psychotherapy to improve his mood and anger management issues.  |

### Ms Y

|                         |   |
|-------------------------|---|
| February 2013 – ongoing | An ultrasound diagnosed cysts in Ms Y's breast tissue. She attended a follow-up review on 27 May 2014 and no changes were identified. Prior to her release from detention, her condition was monitored by her GP. |
|-------------------------|---|

### Ms Z

|                           |  |
|---------------------------|--|
| November 2012 – ongoing   | During her induction health assessment, Ms Z advised that she had previously been diagnosed with type 2 diabetes, hypertension and a blood disorder. She was prescribed with medication and referred to a podiatrist, optometrist, haematologist and dietician for assessment.<br><br>Ms Z disclosed that she had previously undergone a right mastectomy. She was reviewed by a GP and referred for a mammogram and ultrasound. |
| 15 January 2013 – ongoing | Ms Z was diagnosed with oesophagitis and prescribed with medication.   |
| 13 March 2013             | Ms Z was diagnosed with breast cancer and referred to a specialist.  |
| 23 May 2013 – ongoing     | Presented to a hospital emergency department following chest pain and was diagnosed with gastritis. An endoscopy was conducted and oesophageal varices were identified. She was referred to a gastroenterologist and continued to be monitored by her GP.  |
| 21 August 2013 – ongoing  | Ms Z was reviewed by a cardiologist and her medication was adjusted.   |

|                           |   |
|---------------------------|---|
| 22 August 2013 – ongoing  | Admitted to hospital for a left mastectomy. Prior to her release from detention, her condition and medication continued to be monitored by her GP.  |
| 22 January 2014 – ongoing | Reviewed by a haematologist who reported that her blood disorder was stable. She was advised to undergo regular pathology testing.  |
| 19 March 2014             | Presented to her GP with symptoms of stress and depression. She was referred for psychological counselling, however IHMS was unable to confirm her attendance.  |
| 26 May 2014 – ongoing     | IHMS advised that Ms Z was diagnosed with liver cancer. She was scheduled to commence chemotherapy in July 2014, however her cardiologist advised against the treatment. Prior to her release from detention, her condition continued to be monitored by a multidisciplinary team and ongoing pathology testing indicated that her condition remained stable. |

*Miss Q, Master S, Master T and Master U*

IHMS advised that Miss Q, Master S, Master T and Master U did not require treatment for any major physical or mental health issues.

*Miss R*

DIBP did not provide an IHMS Health Summary Report for Miss R.

**Ombudsman assessment/recommendation**

Mr X and his family were granted Bridging visas with associated THS visas on 9 April 2015 and released from immigration detention.

The Ombudsman notes that Mr X and his family were detained on 17 November 2012 after arriving in Australia and were held in detention for over two years before being granted Bridging visas. The Ombudsman further notes that, at the time of DIBP's review, processing of the family's claims for protection had not commenced.

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.