

## 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>	1982

### Family details

<b>Family members</b>	Ms Y (wife)	Miss Z (daughter)	Miss Q (daughter)
<b>Citizenship</b>	Country A	Country A	Country A
<b>Year of birth</b>	1987	2007	2009

<b>Ombudsman ID</b>	1002134
<b>Date of DIBP's report</b>	30 November 2014
<b>Total days in detention</b>	Not provided

### Detention history

30 November 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 552 <i>Evante</i> .
25 February 2015	Granted Bridging 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(2).	
25 February 2015	Granted Bridging visas.

### Health and welfare

*Mr X*

30 November 2012 – ongoing	International Health and Medical Services (IHMS) reported that Mr X has diabetes. He was prescribed with medication and his condition was managed by IHMS while he was in restricted detention, and by his general practitioner (GP) when he was transferred to community detention.
30 December 2012	Disclosed a history of torture and trauma. IHMS advised he accepted a referral for specialist counselling, but it had no record whether he attended any appointments.

7 January 2013 – ongoing	Mr X sustained an ankle injury while playing sport. The IHMS GP referred him for an urgent x-ray and provided pain relief medication. No fracture was identified but due to ongoing pain, a plaster cast was applied to his leg and he underwent further diagnostic tests. The tests identified osteoarthritis. No further concerns were reported.
7 March 2013	Diagnosed with bursitis of the shoulder. He was referred to physiotherapy and prescribed with pain relief medication.
18 March 2013 – 22 March 2013	Attended physiotherapy during this period.
13 February 2014 – 10 November 2014	He complained to his community GP of ongoing shoulder pain. The GP recommended physiotherapy.
12 December 2014	IHMS reported that while Mr X was in immigration detention he was treated for multiple health concerns including kidney stones, migraine, knee pain, and mild asthma. He was regularly monitored by the GP and provided with treatment when required.

*Ms Y*

27 December 2012 – 12 December 2014	Presented to the IHMS clinic complaining of kidney pain. She attended hospital on 5 June 2013 and an ultrasound identified kidney stones. IHMS advised it was awaiting a follow up report.
17 February 2013	She was taken to a hospital emergency department with chest pains. She was diagnosed with reflux, prescribed with medication and discharged the same day.
16 August 2013 – 12 December 2014	Ms Y reported to IHMS that she was feeling stressed and lonely. She also reported a history of body tremors with associated hand shaking and advised IHMS that her mother suffers from multiple sclerosis. She further advised that she had undergone investigations in Country A but nothing significant was found.  IHMS organised an appointment for a magnetic resonance imaging scan on 24 April 2014 but no results were received.
11 November 2013	Assessed by a psychologist who reported that Ms Y's symptoms supported her alleged claims that she had been persecuted by Country A authorities. The psychologist recommended psychotherapy as part of a treatment plan.

*Miss Z*

19 December 2012 – 12 December 2014	IHMS reported that Miss Z was under the care of a renal specialist because of a chronic ureteric reflux and urinary tract infections. She underwent renal ultrasounds every six months. IHMS reported that Ms Y had advised that in Country A, it had been recommended that Miss Z undergo renal surgery, but Ms Y refused because she thought Miss Z had been too young for surgery.
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<p>23 April 2013 – 12 December 2014</p>	<p>While in restricted detention Ms Y refused to allow Miss Z to have a diphtheria, tetanus and pertussis vaccination. Ms Y claimed that Miss Z had previously had an allergic reaction to the vaccination. IHMS reported that the GP discussed Ms Y's concerns with her but she still refused to give consent.</p> <p>IHMS reported that following transfer to community detention, Miss Z's parents discussed vaccination issues with their GP and on 21 June 2013 she was referred to a hospital immunisation clinic for further review and management. GP notes confirmed that Miss Z's immunisations were up to date.</p>
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*Miss Q*

<p>27 February 2013 and 11 April 2013</p>	<p>Ms Y reported to the GP that Miss Q appeared to have hearing problems. Miss Q was diagnosed with a middle ear infection on two occasions and prescribed with antibiotics for treatment.</p>
<p>4 April 2013</p>	<p>Ms Y requested advice from an IHMS counsellor about how to manage Miss Q's behaviour. At review, two weeks later, Ms Y advised the counsellor that she was using the techniques the counsellor had taught her and was confident in managing her daughter's behaviour.</p>
<p>24 May 2013 – 12 December 2014</p>	<p>Referred to an ear, nose and throat (ENT) specialist because of ongoing ear related issues. IHMS advised that it was unclear when Miss Q first saw the ENT specialist but as of 4 August 2014 she remained under specialist care and was undergoing further tests.</p>
<p>9 September 2013</p>	<p>Admitted to a hospital emergency department following a fall. She was treated for a fractured right arm and a plaster cast was applied. The cast was removed three weeks later.</p>

**Ombudsman assessment/recommendation**

<p>Mr X and his family were granted Bridging visas on 25 February 2015 and released from immigration detention.</p> <p>The Ombudsman notes that Mr X and his family were detained on 30 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.</p> <p>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.</p>
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