

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).

Name	Mr X (and family)
Citizenship	Country A
Year of birth	1980

Family details

Family members	Ms Y (wife)	Master Z (son)
Citizenship	Country A	Country A
Year of birth	1982	2007

Ombudsman ID	1002965
Date of DIBP's report	31 March 2015
Total days in detention	Not provided

Detention history

24 March 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 623 <i>Xsara</i> .
22 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.	
22 April 2015	Granted Bridging visas with associated THS visas.

Health and welfare

Mr X

March 2013	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma but declined specialist counselling. He was advised to self-refer to the mental health team (MHT) as required.
16 May 2014 – ongoing	Mr X presented with insomnia and was prescribed with medication. IHMS advised that he was referred to a psychiatrist and for specialist counselling. Prior to his release from detention, Mr X continued to attend regular appointments with a psychologist and psychiatrist.

Ms Y

29 March 2013	During her induction health assessment, Ms Y advised that she had previously been diagnosed with rheumatic heart disease and had undergone heart surgery in her home country. An echocardiogram identified an irregular heartbeat.
29 April 2013	A DIBP Incident Report recorded that Ms Y was transported to a hospital emergency department after reporting she had difficulty breathing. She was diagnosed with left-sided heart failure.
13 May 2013	Ms Y was admitted to hospital for heart surgery. She was discharged with advice to attend a review with the hospital cardiology clinic and a haematologist.
11 September 2013 – ongoing	Reviewed at the hospital cardiology clinic with no abnormalities identified. Prior to her release from detention her condition and medication continued to be monitored by a cardiologist, haematologist and a general practitioner (GP).
16 July 2014	Ms Y was transported to a hospital emergency department after presenting to a GP with chest pain and breathing difficulties. Diagnostic tests identified no abnormalities and she was discharged with advice to attend a review with a cardiologist.
22 April 2015	IHMS advised that prior to her release from detention, Ms Y attended supportive counselling and was monitored by the MHT.

Master Z

July 2014	<p>During a mental health assessment it was noted that Master Z was withdrawn and was refusing to attend school. Master Z and his parents were referred to a specialist counselling service and received support from the MHT.</p> <p>Two months prior to this assessment Mr X had advised that Master Z had allegedly been sexually molested by another seven-year-old detainee when the family were detained at Melbourne Immigration Transit Accommodation in 2013 and that Master Z was experiencing ongoing behavioural and psychological issues related to the incident.</p> <p>Prior to his release from detention, Master Z's mental health continued to be monitored by a psychologist.</p>
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Detention incidents

9 May 2014	<p>DIBP was notified by the Australian Human Rights Commission that Mr X had reported the alleged sexual molestation incident to its President.</p> <p>DIBP advised that the alleged incident occurred in 2013 and Mr X had not reported the incident at that time but the matter was referred to the Department of Child Services and the Victorian Police.</p> <p>On 14 May 2014 DIBP was advised that no further action would be taken as the incident was not considered a criminal offence given the age of the children involved.</p>
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Ombudsman assessment/recommendation

Mr X and his family were granted Bridging visas with associated THS visas on 22 April 2015 and released from immigration detention.

The Ombudsman notes that Mr X and his family were detained on 24 March 2013 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.