

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O report on Mr X¹ and his family who have remained in immigration detention for more than 66 months (five and a half years).

The first report 1380/13 was tabled in Parliament on 4 December 2013, the second report 1001219 was tabled in Parliament on 27 August 2014 and the third report 1001871 was tabled in Parliament on 11 June 2015. 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
Year of birth	1978
Total days in detention	2,004 (at date of DIBP's latest report)

Family details

Family members	Ms Y (wife)	Miss Z (daughter)	Master Q (son)
Citizenship	Country A	Country A, born in Australia	Country A, born in Australia
Year of birth	1980	2011	2012
Total days in detention	2,004 (at date of DIBP's latest report)	1,691 (at date of DIBP's latest report)	1,032 (at date of DIBP's latest report)

Ombudsman ID	1002331
Date of DIBP's reports	16 March 2015 and 14 September 2015

Recent detention history

Since the Ombudsman's previous report (1001871), Mr X and his family have remained in community detention.

Recent visa applications/case progression

23 February 2015	Mr X and Ms Y attended an International Treaties Obligations Assessment (ITOA) interview.
20 March 2015	The Department of Immigration and Border Protection (DIBP) invited Mr X and his family to comment on country and other information relevant to the ITOA.
21 March 2015	Mr X and his family provided a response in relation to the ITOA.
11 August 2015	DIBP advised that involuntary removal for Mr X and his family was scheduled but did not proceed.

¹ Mr X's last name was previously recorded as W. DIBP advised that on 20 August 2015 this was amended to X.

14 September 2015	DIBP advised that Mr X and his family's case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ² which found that the ITOA process was procedurally unfair. DIBP further advised that it is in the process of seeking legal advice in relation to the judgment.
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Health and welfare

Mr X, Miss Z and Master Q

International Health and Medical Services (IHMS) advised that Mr X, Miss Z and Master Q have not required treatment for any major physical or mental health issues.

Ms Y

3 October 2014 – 28 August 2015	IHMS advised that Ms Y was regularly monitored by her general practitioner for her thyroid condition and there had been no reported concerns.
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Case status

<p>Mr X and his family have been found not to be owed protection under the Refugee Convention. They are awaiting the outcome of an ITOA.</p> <p>Mr X and his family's case is also affected by the FFC's judgment of 2 September 2015, which found that the ITOA process undertaken by DIBP was procedurally unfair. DIBP advised that it is seeking legal advice in relation to the judgment.</p>
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² SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125.