

## 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 remained in immigration detention for more than 30 months (two and a half years).

The first report 1001864<sup>1</sup> was tabled in Parliament on 18 March 2015. This report updates the material in that report and should be read in conjunction with the previous report.

<b>Name</b>	Mr X (and family)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1980
<b>Total days in detention</b>	914 (at date of DIBP's report)

### Family details

<b>Family members</b>	Ms Y (wife)	Master Z (son)	Miss Q (daughter)
<b>Citizenship</b>	Country A	Country A	Country A, born in Australia
<b>Year of birth</b>	1986	2007	2012
<b>Total days in detention</b>	914 (at date of DIBP's report)	914 (at date of DIBP's report)	Not provided

<b>Ombudsman ID</b>	1003530
<b>Date of DIBP's report</b>	29 October 2015 <sup>2</sup>

### Detention history

9 September 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 433 <i>Nutmeg</i> . The family was transferred to an Alternative Place of Detention (APOD), Christmas Island.
10 September 2012	Transferred to Christmas Island Immigration Detention Centre.
16 September 2012	Transferred to Christmas Island APOD.
18 September 2012	Transferred to Darwin Airport Lodge APOD.
21 January 2013	Transferred to community detention.
12 March 2015	Granted Bridging visas and released from detention.

<sup>1</sup> Mr X and his family were previously reported on in a group report of people who arrived on SIEV 433 *Nutmeg*.

<sup>2</sup> In November 2015 DIBP advised that a manual audit identified that a 30-month review for Mr X and his family was not reported on in accordance with s 486N as the family was granted a Bridging visa at 913 days, one day prior to the 30-month review due date.

## Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, 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 were subject to the bar under s 46A.	
24 September 2012	Mr X and his family were referred to the former Minister for consideration under s 197AB for a community detention placement.
3 December 2012	The former Minister intervened under s 197AB to allow the family to reside in community detention.
25 November 2013	The family lodged a Protection visa application. On the same day, the Protection visa application was deemed to be invalid as the family was subject to the s 46A bar.
13 March 2014	The family was notified of the unintentional release of personal information through DIBP's website. <sup>3</sup> DIBP advised that the privacy breach would be taken into account when considering the family's protection claims.
5 March 2015	Referred for ministerial intervention under s 195A for consideration of the possible grant of Bridging visas.
12 March 2015	Granted Bridging visas.
12 May 2015	The Minister lifted the bar under s 46A to allow the family to lodge a Temporary Protection visa (TPV) application.
15 July 2015	DIBP invited the family to lodge a TPV application.
31 August 2015	The family lodged a TPV application.

## Health and welfare

### *Mr X*

18 September 2012	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma and was referred for psychological counselling.
4 October 2012 – 11 November 2013	He attended 11 psychological counselling sessions with a specialist counselling service.
29 October 2013	He underwent surgery for a medical condition which was identified in July 2013. His general practitioner (GP) reviewed his condition in May 2014 and it was considered resolved.
10 February 2014	A GP recommended that Mr X attend further counselling because of possible depression and post-traumatic stress disorder.

<sup>3</sup> 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.

Ms Y

9 September 2012 – ongoing	Ms Y was diagnosed with hypothyroidism and was monitored by a GP.
9 September 2012 – 30 October 2012	Ms Y was pregnant when she arrived in Australia. She was treated for gestational diabetes and attended nine antenatal appointments.
26 September 2012 – ongoing	Ms Y advised that prior to arriving in Australia she had been diagnosed with a medical condition which she believed would affect her fertility if she did not have surgery. She was advised by a GP that she would need to wait 12 months for the procedure as she would be at significant risk of haemorrhaging.
16 October 2012	IHMS reported that Ms Y was diagnosed with depression and anxiety and she saw the psychologist for support.
November 2012	Ms Y gave birth to her daughter, Miss Q.
27 November 2012	Disclosed a history of torture and trauma and was referred for specialist counselling. IHMS reported that she attended multiple appointments.
February 2013	Following her transfer to community detention the GP referred her to a psychologist due to ongoing mental health issues.
March 2013	Ms Y's GP referred her for an ultrasound. The results were normal but she was referred for gynaecological review.
15 March 2013	Presented to a GP following ongoing knee and back pain. She was referred for x-rays which revealed muscle tendinopathy. She was prescribed with medication and monitored by a GP.
May 2013	Following a specialist counselling appointment a psychologist noted that Ms Y presented with depressed mood and a feeling of isolation.
22 July 2013 – 16 December 2013	Attended nine psychological counselling sessions for management of her depression and anxiety which were affecting her ability to breastfeed.
28 April 2014	Referred for further psychological counselling sessions.
August 2014	The GP referred Ms Y for a magnetic resonance imaging (MRI) scan due to ongoing pelvic pain.
26 September 2014	The MRI scan revealed an ovarian condition and she was referred to a gynaecologist.
19 November 2014	Attended a gynaecologist appointment and no further follow up was required.
29 December 2014	Referred for an ultrasound after experiencing pain for two months. As of 31 March 2015 IHMS advised that it was awaiting an appointment date.

### *Master Z*

12 November 2012	Referred for specialist counselling as his parents had a history of torture and trauma issues.
12 December 2012 – 23 December 2012	Attended three specialist counselling sessions.
16 June 2013	Underwent surgery to remove his appendix. There were no complications and he was discharged the next day.

### *Miss Q*

IHMS advised that Miss Q did not require treatment for any major physical or mental health issues.

### **Detention incidents**

8 April 2013	A DIBP Incident Report recorded that Ms Y alleged that she was the victim of verbal abuse from her brother-in-law, who was living with the family. She wanted her brother-in-law to move out of the property as she did not feel safe and advised that she was at risk of having a mental breakdown. No further information was provided.
19 September 2013	Ms Y again reported verbal abuse from her brother-in-law. No further information was provided.

### **Case status**

Mr X and his family were granted Bridging visas on 12 March 2015 and released from immigration detention.

Mr X and his family were detained on 9 September 2012 after arriving in Australia and were held in detention for over two and a half years before being granted Bridging visas.

On 12 May 2015 the Minister lifted the bar under s 46A to allow Mr X and his family to apply for a temporary visa. On 31 August 2015 the family lodged a TPV application and are awaiting the outcome.