

## 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 1001695 was tabled in Parliament on 22 October 2014. 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>	1976

### Family details

<b>Family members</b>	Ms Y (wife)	Miss Z (daughter)	Master B (son)
<b>Citizenship</b>	Country A	Country A	Country A
<b>Year of birth</b>	1990	2010	2011

<b>Ombudsman ID</b>	1002172
<b>Date of DIBP's report</b>	11 December 2014
<b>Total days in detention</b>	889 (at date of DIBP's report)

### Recent detention history

Since the Ombudsman's previous report (1001695), Mr X and his family <sup>1</sup> remained in community detention.	
4 June 2015	Mr X and his family were granted Bridging visas and released from detention.

### Recent visa applications/case progression

22 August 2014	The Refugee Review Tribunal remitted the family's case to the Department of Immigration and Border Protection (DIBP) with the direction that Mr X and his family satisfy clause 866.221(2) of the <i>Migration Regulations 1994</i> . <sup>2</sup>  DIBP advised that the family had previously been refused the grant of a Protection visa in February 2014.
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<sup>1</sup> Mr X and Ms Y's youngest daughter, Miss C, was born in Australia in 2014 and has been in detention for less than two years. She is not subject to reporting under s 486N.

<sup>2</sup> This clause prevents people who arrived in Australia without a valid visa from being granted a Permanent Protection visa. The amendment was introduced on 14 December 2013 but disallowed on 27 March 2014.

28 August 2014	Mr X and his family were not considered for Temporary Humanitarian Stay (THS) visas as their youngest daughter, Miss C was subject to the bar under s 46A of the <i>Migration Act 1958</i> .  DIBP further advised that Miss C's case required ministerial intervention in order to be processed with her family. No further information was provided about options of timelines for ministerial intervention
4 June 2015	Mr X and his family were granted Bridging visas.

**Health and welfare**

*Mr X*

5 July 2014	International Health and Medical Services (IHMS) advised that Mr X was referred to a neurosurgeon for further opinion and management following nerve root pain from a spinal disc protrusion.
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*Ms Y, Miss Z and Master B*

IHMS advised that Ms Y, Miss Z and Master B did not require treatment for any major physical or mental health issues since its previous report to the Ombudsman.
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**Ombudsman assessment/recommendation**

<p>Mr X and his family were granted Bridging visas on 4 June 2015 and released from immigration detention.</p> <p>The Ombudsman notes that on 28 August 2014 Mr X and his family were not considered for the grant of a THS visa because Mr X's daughter, Miss C, was born in Australia in 2014 and is subject to the bar under s 46A. The Ombudsman further notes that DIBP has advised that Miss C's case will require ministerial intervention in order to be processed with her family.</p> <p>The Ombudsman notes with concern that, due to being born in Australia, Miss C's case has been affected by the unintended consequences of policy changes that may affect family stability. The Ombudsman recommends that options are considered to manage Miss C's status with that of her family and to allow the family to apply for a Temporary Protection visa.</p>
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