

## 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 Ms X and her children who have remained in immigration detention for more than 42 months (three and a half years).

The first report 1002177<sup>1</sup> was tabled in Parliament on 3 June 2015. This report updates the material in that report and should be read in conjunction with the previous report.

<b>Name</b>	Ms X (and children)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1977

### Family details

<b>Family members</b>	Master Y (son)	Miss Z (daughter)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	2001	2004

<b>Ombudsman ID</b>	1002450
<b>Date of DIBP's reports</b>	14 April 2015, 30 September 2015 and 30 March 2016
<b>Total days in detention</b>	1276 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous report (1002177), Ms X and her children have remained in community detention.

The Department of Immigration and Border Protection (DIBP) advised that Ms X and her children reside with her brother, Mr Q. He is the subject of Ombudsman report 1003464.

### Recent visa applications/case progression

DIBP advised that prior to ministerial intervention, Ms X and her children 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 of the *Migration Act 1958*.

16 October 2013	Lodged a Protection visa application.
13 March 2014	DIBP notified Ms X and her children of the unintentional release of personal information <sup>2</sup> and advised that the privacy breach would be taken into account when considering their protection claims.

<sup>1</sup> Ms X and her children were previously the subject of a family report.

<sup>2</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.

30 September 2014	Protection visa application refused.
30 June 2015	The Minister lifted the bar under s 46A to allow the family to lodge a temporary visa application.
14 July 2015	DIBP invited Ms X and her children to lodge a temporary visa application.
25 August 2015	Lodged a Temporary Protection visa (TPV) application with an associated Bridging visa application.
22 October 2015	Associated Bridging visa application was invalid.
23 December 2015	Ms X provided further information in relation to her family's TPV application.
30 March 2016	DIBP advised that the family's case is being assessed against the guidelines under s 195A for the possible grant of a Bridging visa.

### Health and welfare

#### *Ms X*

31 October 2014 – 4 November 2014	International Health and Medical Services (IHMS) advised that Ms X was admitted to hospital for a hip replacement. Following discharge she was referred for physiotherapy.
17 November 2014 – ongoing	Ms X was diagnosed with muscular dystrophy and requires annual review by a neurologist, cardiologist and ophthalmologist. The general practitioner (GP) recommended psychological counselling to assist with stress related to her diagnosis.  IHMS advised that she has not required treatment for any mental health issues.
December 2014	A hip x-ray identified no abnormalities.
April 2015	Underwent surgery to remove gallstones.

#### *Master Y*

IHMS advised that Master Y's previously reported conditions continue to be managed by a specialist team and allied health professionals.	
23 January 2015	Reviewed by an occupational therapist.
15 February 2015	Sleep studies were performed following ongoing tiredness and periods where he fell asleep during the day. The studies showed no abnormalities and he was prescribed with trial medication for chronic fatigue syndrome with a review scheduled with a neurologist. IHMS advised that another sleep study would be attended in 2016.
March 2015 – ongoing	Attended an appointment with a neurologist. He was prescribed with medication and an appointment was scheduled to assess the effectiveness of the medication.
9 September 2015 – 19 February 2016	The paediatrician referred him to a dietician and speech pathologist. IHMS advised that it approved the referrals in January 2016 and were awaiting appointments to be scheduled.

Miss Z

16 February 2015	Miss Z's case worker referred her for specialist counselling following symptoms of anxiety, depression, post-traumatic stress, concentration difficulties, anger outbursts, compulsive behaviour and general disengagement at school.
27 February 2015	The specialist counsellor recommended investigation by a child psychiatrist and the GP referred her to a child and adolescent mental health service.
March 2015	Attended an appointment with a psychiatrist with no further appointments required. IHMS advised that no ongoing mental health issues had since been raised.
May 2015	Following ongoing headaches, a computed tomography scan identified no abnormalities.
9 September 2015 – 18 February 2016	IHMS reported that Miss Z had not presented with any chronic or major mental health issues.

**Information provided by Ms X**

The Ombudsman's office tried to contact Ms X to discuss her community detention circumstances but was unsuccessful.

**Case status**

Ms X and her children were detained on 1 October 2012 after arriving in Australia aboard Suspected Illegal Entry Vessel *Rankin* and have been held in detention for over three years and a half years.

On 30 June 2015 the Minister lifted the bar under s 46A to allow Ms X and her children to apply for temporary visas and on 25 August 2015 they lodged a TPV application.