

**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 a cumulative period of more than 24 months (two years).

<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)	Master Z (son)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	1979	2004

<b>Ombudsman ID</b>	1003075
<b>Date of DIBP's report</b>	7 April 2015
<b>Total days in detention</b>	Not provided

**Detention history**

22 September 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 455 <i>Jagara</i> . The family were transferred to an Alternative Place of Detention (APOD), Christmas Island.
25 September 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
7 October 2012	Transferred to an APOD, Christmas Island.
14 December 2012	Transferred to Manus Island Regional Processing Centre (RPC). <sup>1</sup>
4 July 2013	Returned to Australia and re-detained under s 189(1). The family were transferred to Christmas Island IDC.
21 July 2013	Transferred to an APOD, Christmas Island.
23 July 2013	Transferred to Darwin Airport Lodge APOD.
9 September 2013	Transferred to Bladin APOD.
10 November 2013	Transferred to Inverbrackie APOD.
30 April 2014	Transferred to community detention.
6 May 2015	Granted Bridging visas with associated Temporary Humanitarian Stay (THS) visas and released from detention.

<sup>1</sup> Time spent at an RPC is not counted towards time spent in immigration detention in Australia for the purposes of reporting under s 486N.

### 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.	
6 May 2015	Granted Bridging visas with associated THS visas.
10 March 2016	DIBP confirmed that detainees who arrived in Australia prior to 19 July 2013 who were transferred to an RPC and subsequently returned to immigration detention in Australia are subject to an additional bar under s 46B.

### Health and welfare

#### Mr X

International Health and Medical Services (IHMS) provided details of Mr X's health and welfare. No significant ongoing physical health concerns were noted.	
28 October 2012	He disclosed a history of torture and trauma but declined specialist counselling.

#### Ms Y

IHMS provided details of Ms Y's health and welfare. No significant ongoing mental health concerns were noted.	
4 February 2014 – 6 May 2015	Following treatment for chronic abdominal and bowel-related symptoms, Ms Y was diagnosed with bowel cancer. In April 2014 she had a tumour removed and the oncologist prescribed six months of chemotherapy. She continued to attend the oncology clinic for monitoring and assessment.

#### Master Z

IHMS provided details of Master Z's health and welfare. No significant ongoing physical or mental health concerns were noted.	
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### Ombudsman assessment/recommendation

<p>Mr X and his family were granted Bridging visas with associated THS visas on 6 May 2015 and released from immigration detention.</p> <p>The Ombudsman notes that Mr X and his family were detained on 22 September 2012 after arriving in Australia aboard SIEV <i>Jagara</i> and were held in detention for a cumulative period of more than 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.</p> <p>The Ombudsman notes DIBP's advice that because Mr X and his family spent a period of time in an RPC before being transferred back to Australia, they are subject to an additional bar under s 46B.</p> <p>The Ombudsman recommends that priority is given to resolving Mr X and his family's status to allow them to apply for a temporary visa.</p>	
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