

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 Ms X and her family who have remained in immigration detention for more than 24 months (two years).

Name	Ms X (and family)
Citizenship	Country A
Year of birth	1976

Family details

Family members	Ms Y (sister)
Citizenship	Country A
Year of birth	1985

Family members	Miss Z (daughter)	Miss Q (daughter)
Citizenship	Country A	Country A
Year of birth	2001	2005

Ombudsman ID	1003175
Date of DIBP's report	5 August 2015
Total days in detention	740 (at date of DIBP's report)

Detention history

26 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 813 <i>Ruffner</i> . The family was transferred to Facility B. The Department of Immigration and Border Protection (DIBP) advised that Ms X arrived in Australia with her husband, Mr R, who is the subject of Ombudsman report 1003174.
25 August 2013	Transferred to Facility C.
24 September 2013	Transferred to Facility D
5 December 2013	Transferred to Facility E.
30 September 2014	Transferred to community detention.
9 July 2015	Mr R was transferred from the family community detention residence to alternative accommodation after Ms X lodged an application for an Intervention Order.
3 August 2015	Mr R was transferred to Facility F. Ms X and their children remained in community detention.

Visa applications/case progression

DIBP advised that Ms X and her family are part of a cohort who have not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister has not lifted the bar under s 46A(2).

Health and welfare

Ms X

18 October 2013	International Health and Medical Services (IHMS) advised that Ms X was referred to a psychiatrist after presenting with symptoms of post-traumatic stress disorder. The psychiatrist noted that she was experiencing anxiety related to her uncertain future and past torture and trauma. She was prescribed with antidepressant medication and advised to attend counselling.
9 January 2014	Ms X was admitted to hospital for treatment following complications related to a medical condition. No further complications were recorded.
September 2014	Attended a review with her psychiatrist and ceased her antidepressant medication. Ms X noted that her sleep and energy levels had improved. IHMS advised that no further mental health concerns have been raised.

Ms Y

10 December 2013	Presented to her general practitioner (GP) with abdominal pain and was prescribed with anti-inflammatory medication. A pelvic ultrasound was conducted with abnormalities identified. IHMS advised that no further concerns in relation to this condition have been raised.
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Miss Z

IHMS advised that Miss Z has not required treatment for any major physical or mental health issues.	
24 September 2014	A DIBP Incident Report recorded that an ambulance was required. No further information was provided.

Miss Q

July 2013 - ongoing	<p>IHMS advised that during her induction health assessment Miss Q presented with a genetic disorder and life-threatening hormone imbalances. She advised that she had previously undergone surgery and was experiencing mental health concerns related to her condition.</p> <p>She was reviewed by a multidisciplinary team and was prescribed with medication. She is monitored by a paediatrician and a treatment plan is in place.</p> <p>Miss Q also advised that she had a history of recurring kidney infections. She was prescribed with antibiotics and referred to a urologist.</p> <p>Miss Q also reported a history of respiratory issues and was provided with an inhaler to manage her symptoms. Her condition continues to be monitored by her GP and paediatrician.</p> <p>IHMS advised that Miss Q was born with numerous heart defects which had spontaneously corrected without surgery.</p>
25 November 2013	<p>IHMS advised that Miss Q's left femur bone is shorter than her right. She was reviewed by a podiatrist and it was recommended she attend a second appointment for orthotics to be fitted. Following Miss Q's transfer interstate, she was unable to attend this appointment.</p>
December 2014	<p>Referred to a hospital orthopaedic specialist for assessment.</p>
February 2015	<p>Reviewed by a cardiologist with no abnormalities identified.</p>
May 2015	<p>A magnetic resonance imaging scan was conducted following ongoing leg pain with no abnormalities identified.</p>

Detention incidents

3 December 2013	<p>A DIBP Incident Report recorded that Miss Z was allegedly assaulted by another detainee. No further information was provided.</p>
30 March 2014	<p>A DIBP Incident Report recorded that Miss Z and Ms X were allegedly slapped on the face by Mr R. No further information was provided.</p>
3 April 2014	<p>A DIBP Incident Report recorded that Miss Z was allegedly assaulted by her mother. No further information was provided.</p>
9 July 2015	<p>A DIBP Incident Report recorded that Mr R was arrested following an alleged domestic violence incident.</p>

Ombudsman assessment/recommendation

The Ombudsman notes that Ms X and her family were detained on 26 July 2013 after arriving in Australia aboard SIEV *Ruffner* and have been held in detention for over two years with no processing of their protection claims.

The Ombudsman notes with concern that without an assessment of the family's claims to determine if they are found to engage Australia's protection obligations, it appears likely that they will remain in detention for an indefinite period.

The Ombudsman notes the Minister's recent Statements to Parliament, in which he advises that DIBP is progressing the substantial caseload of maritime arrivals, and will provide him with advice to assist his consideration of whether to lift the bar to allow these people to lodge a Temporary Protection visa application.

The Ombudsman recommends that the Minister lift the bar under s 46A and processing of the family's protection claims commence as soon as possible.