

## REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the fourth s 486O report on Mr X and his family who have remained in immigration detention for more than 72 months (six years).

The first report 1484/13 was tabled in Parliament on 4 December 2013, the second report 1001190 was tabled in Parliament on 29 October 2014 and the third report 1001829 was tabled in Parliament on 9 September 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

<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)	Miss P (daughter)
<b>Citizenship</b>	Country A	Country A	Country A
<b>Year of birth</b>	1981	2005	2009

<b>Ombudsman ID</b>	1003366
<b>Date of DIBP's reports</b>	26 August 2015, 25 February 2015 and 25 August 2016
<b>Total days in detention</b>	2186 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous report (1001829), Mr X and his family have remained in community detention.

### Recent visa applications/case progression

25 February 2016	The Department of Immigration and Border Protection (DIBP) advised that Mr X and his family's case was affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) <sup>1</sup> which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair.
13 April 2016 and 21 April 2016	The Minister lifted the bar under ss 48B and 46A to allow the family to lodge a temporary visa application.
21 April 2016	DIBP invited Mr X and his family to lodge a temporary visa application.
9 June 2016	Mr X and his family were notified that they were eligible to receive the Primary Application Information Service (PAIS) to assist them with lodging a temporary visa application. They accepted the offer on 21 June 2015 and were awaiting allocation of a provider.

<sup>1</sup> SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125.

27 July 2016	The Minister appealed the FFC decision and the High Court found that the ITOA process was not procedurally unfair. <sup>2</sup> DIBP advised that it is considering the implications of this judgment.
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### Health and welfare

*Mr X*

International Health and Medical Services (IHMS) advised that Mr X has not required treatment for any major physical or mental health issues other than ongoing physiotherapy for a knee injury.
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*Ms Y*

IHMS advised that Ms Y presented to her general practitioner in April 2016 with symptoms of depression and was referred for psychological counselling.	
April 2015	Ms Y gave birth to her son <sup>3</sup> .

*Miss Z and Miss P*

IHMS advised that Miss Z and Miss P have not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.
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### Case status

<p>Mr X and his family were detained on 31 August 2010 after arriving in Australia aboard Suspected Illegal Entry Vessel <i>Flintstone</i> and have been held in detention for over six years.</p> <p>On 21 April 2016 the Minister lifted the bar under ss 46A and 48B to allow Mr X and his family to lodge a temporary visa application and on 21 June 2016 the family accepted the PAIS assistance.</p>
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<sup>2</sup> *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.

<sup>3</sup> Master Q was born in Australia in April 2015 and detained on 9 May 2015. He has been in detention for less than two years and is not subject to reporting under s 486N.