

**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 have remained in immigration detention for more than 36 months (three years).

The first report 1003003 was tabled in Parliament on 25 November 2015. This report updates the material in that report and should be read in conjunction with the previous report.

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|----------------------|-------------------|
| Name | Mr X (and family) |
| Citizenship | Country A |
| Year of birth | 1970 |

Family details

| | | |
|-----------------------|-------------|----------------|
| Family members | Ms Y (wife) | Master Z (son) |
| Citizenship | Country A | Country A |
| Year of birth | 1977 | 2003 |

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|--------------------------------|--|
| Ombudsman ID | 1001776-O |
| Date of DIBP's reports | 14 January 2016 and 14 July 2016 |
| Total days in detention | 1094 (at date of DIBP's latest report) |

Detention history

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|-------------------|--|
| 16 July 2013 | Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 792 <i>Lavaca</i> . The family was transferred to an Alternative Place of Detention (APOD), Christmas Island. ¹ |
| 8 August 2013 | Transferred to Darwin Airport Lodge APOD. |
| 17 September 2013 | Transferred to community detention. |

Recent visa applications/case progression

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| The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, 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 were subject to the bar under s 46A. | |
| 2 September 2013 | The former Minister intervened under s 197AB to allow the family to reside in community detention. |

¹ The Department of Immigration and Border Protection (DIBP) did not provide the full detention history for Mr X and his family in its 24-month review.

| | |
|-------------------|--|
| 13 March 2014 | DIBP notified the family of the unintentional release of personal information ² and advised that the privacy breach would be taken into account when considering the family's protection claims. |
| 29 September 2015 | The Minister lifted the bar under s 46A to allow the family to lodge a temporary visa application. |
| 30 October 2015 | DIBP invited the family to lodge a temporary visa application. |
| 18 December 2015 | Lodged a Temporary Protection visa (TPV) with an associated Bridging visa application. |
| 24 March 2016 | The family was notified that they are eligible to receive the Primary Application Information Service (PAIS) to assist them with lodging a temporary visa application and should they accept the offer, they will be invited to lodge a new application or provide further information in relation to their current TPV application. The family accepted the offer on 15 April 2016 and were assigned a PAIS provider. |
| 27 April 2016 | Associated Bridging visa application was deemed invalid. |

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X received treatment for a range of physical health concerns including osteoarthritis, chronic back pain, abdominal pain and a recurring throat infection. He continues to be monitored by the general practitioner (GP) and prescribed with medication as required.

Ms Y

IHMS advised that Ms Y received treatment for a range of physical health concerns including diabetes, hypothyroidism, gynaecological concerns and chronic shoulder pain. She continues to be monitored by the GP and rheumatologist clinic and was referred to a gynaecologist for further assessment.

Ms Y was also identified as a tuberculosis (TB) contact and continues to be monitored as per state policy.

Master Z

IHMS advised that Master Z has received treatment for abdominal pain and was prescribed with medication to relieve his symptoms.

Master Z was also identified as a TB contact and continues to be monitored as per state policy.

Other matters

Mr X's nephew, Mr P, currently resides in the community on a Bridging visa.

² 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.

Case status

Mr X and his family were detained on 16 July 2013 after arriving in Australia aboard SIEV *Lavaca* and have been held in detention for over three years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow the family to apply for a temporary visa and on 18 December 2015 they lodged a TPV application.