

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 Ms X and her daughter who have remained in immigration detention for more than 66 months (five and a half years).

The first report 1537/13 was tabled in Parliament on 4 December 2013, the second report 1001357 was tabled in Parliament on 4 March 2015 and the third report 1002048 was tabled in Parliament on 25 November 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Ms X (and daughter)
Citizenship	Country A
Year of birth	1976
Total days in detention	2006 (at date of DIBP's latest report)

Family details

Family members	Miss Y (daughter)
Citizenship	Country A
Year of birth	2012
Total days in detention	1349 (at date of DIBP's latest report)

Ombudsman ID	1000742-O
Date of DIBP's reports	1 December 2015 and 30 May 2016

Recent detention history

Since the Ombudsman's previous report (1002048), Ms X and her daughter have remained in community detention. They reside with Ms X's son, Master Z, who arrived after Ms X and is the subject of Ombudsman report 1002926.

Recent visa applications/case progression

16 December 2014	The Department of Immigration and Border Protection (DIBP) advised that following legislative amendment, Miss Y is only eligible for a temporary visa.
6 January 2016	The Minister lifted the bar under s 46A of the <i>Migration Act 1958</i> to allow Ms X and her daughter to lodge a temporary visa application.
15 January 2016	Miss Y's Protection visa application was deemed invalid. On the same day DIBP invited Ms X and her daughter to lodge a temporary visa application.

30 May 2016	DIBP advised that Ms X and her daughter's case was affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ¹ which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair. The Minister appealed the FFC decision and on 27 July 2016 the High Court found that the ITOA process was not procedurally unfair. ²
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Health and welfare

Ms X

International Health and Medical Services (IHMS) advised that Ms X received treatment for a range of physical health conditions including diabetes, back pain, and dermatitis. Additionally, she has been referred to a specialist in relation to breathing issues and awaits an appointment.

IHMS further advised that Ms X is reviewed by a general practitioner as required for management of depression and anxiety and no mental health concerns were reported.

Miss Y

IHMS advised that Miss Y has not required treatment for any major physical or mental health issues.

Other matters

Ms X is estranged from her husband Mr P.

Case status

Ms X and her daughter were detained on 2 December 2010 after arriving in Australia aboard Suspected Illegal Entry Vessel *Baines* and have been held in detention for over five and a half years.

On 6 January 2016 the Minister lifted the bar under s 46A to allow Ms X and her daughter to apply for a temporary visa and on 15 January 2016 DIBP invited Ms X and her daughter to apply.

¹ *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

² *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.