

## 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 1451/13 was tabled in Parliament on 13 November 2013, the second report 1001130 was tabled in Parliament on 9 July 2014 and the third report 1001722 was tabled in Parliament on 27 May 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>	Stateless (claimed), born in Country A
<b>Year of birth</b>	1972

### Family details

<b>Family members</b>	Ms Y (wife)	Master Z (son)
<b>Citizenship</b>	Stateless (claimed), born in Country A	Country B
<b>Year of birth</b>	1979	2002

<b>Ombudsman ID</b>	1003042
<b>Date of DIBP's reports</b>	21 July 2015, 19 January 2016 and 15 July 2016
<b>Total days in detention</b>	2186 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous report (1001722), Mr X and his family have remained in community detention.

### Recent visa applications/case progression

13 March 2014	The Department of Immigration and Border Protection (DIBP) notified Mr X and his family of the unintentional release of personal information <sup>1</sup> and advised that the privacy breach would be taken into account when considering the family's protection claims.
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<sup>1</sup> 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.

20 October 2014 – 13 April 2015	DIBP advised that on multiple occasions Mr X and his family refused to sign a Code of Behaviour <sup>2</sup> to enable them to be considered for the grant of a Bridging visa.  On 13 April 2015 the Minister considered whether to revoke the community detention placement of Mr X and his family or exempt them from having to sign a Code of Behaviour. The Minister chose to continue their existing community detention placement.
15 April 2015	The Federal Circuit Court held a directions hearing on the family’s application for judicial review of their Protection Obligations Evaluation. The matter was adjourned and set down for final hearing on 13 September 2016.

## Health and welfare

### *Mr X*

International Health and Medical Services (IHMS) advised that Mr X received treatment and regular pain-relief medication for a range of ongoing musculoskeletal issues including chronic shoulder, knee and lower back pain. Investigations conducted in March 2016 identified a herniated disc and spinal stenosis and Mr X was referred for physiotherapy and specialist management of his condition.

IHMS further advised that Mr X continued to be monitored by a general practitioner (GP) for his history of depression and anxiety and was prescribed with antidepressant medication.

### *Ms Y*

IHMS advised that Ms Y received antenatal care was referred for genetic testing after returning a positive pregnancy test, as her second son had died from a congenital brain tumour in 2014.

August 2015	Ms Y gave birth to her daughter <sup>3</sup> without complication.
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### *Master Z*

IHMS advised that Master Z saw a dermatologist throughout 2015 for ongoing management of a skin condition and has now been discharged from the service. In September 2015 he presented to a GP with an exacerbation of his asthma and was re-prescribed with an inhaler.

## Case status

Mr X and his family have been found not to be owed protection under the Refugee Convention and the complementary protection criterion. At the time of DIBP’s latest review Mr X and his family were awaiting the outcome of judicial review.

<sup>2</sup> Since 14 December 2013 all adult maritime arrivals must sign a Code of Behaviour before they can be considered for the grant of a Bridging visa. The Code of Behaviour was introduced to help ensure that maritime arrivals living in the community on Bridging visas are aware of community behavioural expectations and behave appropriately while in the Australian community.

<sup>3</sup> Miss P was born in Australia in August 2015 and detained on 17 November 2015. She has been in detention for less than two years and is not subject to reporting under s 486N.