

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 son who have remained in immigration detention for more than 54 months (four and a half years).

The first report 1585/13 was tabled in Parliament on 4 December 2013, the second report 1001199 was tabled in Parliament on 28 May 2014 and the third report 1001470 was tabled in Parliament on 13 May 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Ms X (and son)
Citizenship	Country A
Year of birth	1972

Family details

Family members	Master Y (son)
Citizenship	Stateless (claimed), born in Australia
Year of birth	2011

Ombudsman ID	1002307
Date of DIBP's reports	6 March 2015 and 1 September 2015
Total days in detention	1,640 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001470), Ms X and her son have remained in community detention.

Recent visa applications/case progression

31 March 2014	The Refugee Review Tribunal (RRT) found Master Y to be owed protection and remitted his case to the Department of Immigration and Border Protection (DIBP) for reconsideration.
29 April 2014	Ms X's case was referred for assessment for the consideration of a ministerial intervention under s 195A of the <i>Migration Act 1958</i> .
5 September 2014	Ms X was issued with a letter inviting her to comment on the unintentional release of personal information through DIBP's website. ¹
8 September 2014	Issued with a warning letter advising that she had breached the conditions of her community detention placement. She was advised that any further breaches would result in the Minister reconsidering her community detention placement.

¹ 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.

6 October 2014	Ms X provided her response in relation to the data breach and DIBP advised that it was assessing whether she had raised further protection related claims as a result.
15 January 2015	Ms X was issued with a letter notifying her of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of her case engage Australia's <i>non-refoulement</i> obligations.
12 February 2015	Ms X provided further information in relation to the ITOA.
1 September 2015	DIBP advised that following legislative amendment, Master Y is only eligible for a temporary visa. DIBP further advised that following the finding by the RRT that he is owed protection it is considering options to resolve his situation.

Health and welfare

Ms X

16 October 2014 – 19 February 2015	International Health and Medical Services (IHMS) reported that Ms X attended six psychology appointments.
November 2014	Ms X was referred to a psychiatrist following a request to change her medication. IHMS advised it was unclear if Ms X had attended the appointment.
December 2014	Referred to a psychologist for ongoing cognitive behavioural therapy and support. An additional six counselling sessions were also approved at this time.
23 January 2015	Attended a medical procedure.
18 February 2015	Attended a follow-up appointment with her GP. No medical intervention was required and the GP recommended counselling.
14 March 2015	A DIBP Incident Report recorded that Ms X was taken to hospital by ambulance. No further information as provided.
19 August 2015	IHMS advised that Ms X continued to receive medication and attended counselling sessions with her GP and psychologist as required.

Master Y

IHMS advised that Master Y has not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.
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Information provided by Ms X

During a telephone conversation with Ombudsman staff on 30 November 2015 Ms X said that there had been no outcome on her son's protection claims, even though he has been found to be owed protection.

Ms X said that DIBP had asked her to sign paperwork earlier in 2015 so that she and her son could be granted visas. She thought it was very rushed, and so far no visas have been granted to her or her son.

She said she was transferred from community detention in Queensland to community detention in New South Wales and now lives closer to her nephew who is only five minutes away. She currently attends English classes at a local church and hopes to be able to enrol her son at preschool in 2016.

Ombudsman assessment/recommendation

Ms X arrived in Australia on 26 February 2011 and has been detained for over four and a half years. She has been found not to be owed protection under the Refugee Convention and the complementary protection criterion.

Ms X's son Master Y was found to be owed protection by the RRT in March 2014 and in February 2015 Ms X's protection claims were being reassessed under an ITOA.

The Ombudsman recommends that DIBP prioritise consideration of options to finalise Ms X and Master Y's unresolved immigration status.