

## 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 remained in immigration detention for more than 60 months (five years).

The first report 1001007 was tabled in Parliament on 11 December 2013, the second report 1001263 was tabled in Parliament on 9 July 2014 and the third report 1001942 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.

<b>Name</b>	Mr X (and family)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1978
<b>Total days in detention</b>	1824 (at date of DIBP's latest report)

### Family details

<b>Family members</b>	Ms Y (wife)	Miss Z (daughter)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	1981	2004
<b>Total days in detention</b>	1824 (at date of DIBP's latest report)	

<b>Family members</b>	Miss Q (daughter)	Miss R (daughter)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	2006	2008
<b>Total days in detention</b>	1824 (at date of DIBP's latest report)	

<b>Family members</b>	Master S (son)
<b>Citizenship</b>	Stateless (claimed), born in Australia
<b>Year of birth</b>	2012
<b>Total days in detention</b>	1496 (at date of DIBP's latest report)

<b>Ombudsman ID</b>	1002433
<b>Date of DIBP's reports</b>	23 April 2015, 19 October 2015 and 20 April 2016

### Recent detention history

Since the Ombudsman's previous report (1001942), Mr X and his family remained in community detention.	
23 June 2016	Granted Bridging visas and released from detention.

## Recent visa applications/case progression

<p>The Department of Immigration and Border Protection (DIBP) advised in the family's 42-month 486N review that Master S's visa applications were found to be invalid on 16 October 2014. This advice was included in the Ombudsman's previous report (1001942).</p> <p>DIBP has since advised in the family's 48-month 486N review that Master S's Protection visa application lodged on 25 September 2014 was being assessed.</p>	
13 January 2015	<p>DIBP issued Mr X and his family with a letter notifying them of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of their case engage Australia's <i>non-refoulement</i> obligations.</p> <p>Mr X provided a response on 27 January 2015.</p>
30 January 2015	<p>Mr X attended an interview in relation to Master S's Protection visa application.</p>
3 February 2015	<p>Further information was provided to DIBP in support of Master S's Protection visa application.</p>
23 April 2015	<p>DIBP advised that the ITOA was put on hold until Master S's Protection visa application was finalised.</p>
19 October 2015	<p>DIBP advised that the family's case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC)<sup>1</sup> which found that the ITOA process was procedurally unfair.</p>
22 November 2015	<p>Protection visa application for Master S was found to be invalid.</p>
21 March 2016	<p>The Minister filed a notice in the High Court (HC) to appeal the FFC's decision.</p>
13 April 2016	<p>The Minister lifted the bar under s 46A of the <i>Migration Act 1958</i> to allow the family to lodge a temporary visa application.</p>
23 June 2016	<p>Granted Bridging visas.</p>

## Health and welfare

*Mr X, Miss Z, Miss Q and Miss R*

International Health and Medical Services (IHMS) advised that Mr X and his older children did not require treatment for any major physical or mental health issues.

*Ms Y*

IHMS advised that Ms Y received treatment for type 2 diabetes and ongoing back and neck pain which was diagnosed as osteoarthritis.

Ms Y also attended regular psychological counselling for her anxiety and depression. IHMS reported that following a negative decision concerning her youngest son's immigration case she presented to the general practitioner (GP) with suicidal thoughts. The GP referred her for further psychological counselling.

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

*Master S*

IHMS advised that Master S was monitored and treated for asthma which was diagnosed on 17 September 2015.

**Case status**

Mr X and his family were granted Bridging visas on 23 June 2016 and released from immigration detention.

Mr X and his family were detained on 23 April 2011 after arriving in Australia aboard Suspected Illegal Entry Vessel *Inman* and were held in detention for over five years before being granted Bridging visas.

On 13 April 2016 the Minister lifted the bar under s 46A to allow the family to apply for a temporary visa. At the time of DIBP's review, the family were awaiting an invitation to apply.

Mr X and his family's case is also affected by the FFC's judgment of 2 September 2015, which found that the ITOA process undertaken by DIBP was procedurally unfair. On 21 March 2016 the Minister filed a notice in the HC to appeal the FFC's decision.