

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the first s 486O report on Mr X and his family who have remained in immigration detention for more than 30 months (two and a half years).

Name	Mr X (and family)
Citizenship	Country A
Year of birth	1982

Family details

Family members	Ms Y (wife)	Miss Z (daughter)
Citizenship	Country A	Country A
Year of birth	1987	2008

Family members	Master Q (son)	Miss R (niece)
Citizenship	Country A	Country A
Year of birth	2011	2005

Ombudsman ID	1002988
Date of DIBP's reports	15 July 2015 and 12 January 2016
Total days in detention	913 (at date of DIBP's latest report)

Detention history

14 July 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland ¹ aboard Suspected Illegal Entry Vessel (SIEV) 788 <i>Fadettes</i> . The family were transferred to Curtin Alternative Place of Detention (APOD).
17 July 2013	Transferred to Wickham Point APOD.
16 May 2014	Transferred to Bladin APOD.
28 October 2014	Transferred to community detention.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that Mr X and his family are part of a cohort who have not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister has not lifted the bar under s 46A.

¹ Following legislative amendment on 20 May 2013, all unauthorised maritime arrivals, including those who arrived on the Australian mainland or an 'excised offshore location' were barred from lodging a Protection visa application under s 46A.

12 March 2014	Mr X and his family were notified of the unintentional release of personal information through DIBP's website. ² DIBP advised that when their protection claims are considered the privacy breach will be taken into account.
12 January 2016	DIBP advised that Mr X and his family were identified for assessment for consideration of a Bridging visa.

Criminal history

17 October 2013	DIBP advised that Mr X was charged with aggravated domestic assault against his wife.
25 February 2014	DIBP advised that Mr X was found guilty of aggravated domestic assault. He was fined \$2,000 and placed on a 12-month good behaviour bond.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X has not required treatment for any major physical or mental health issues.

Ms Y

2 September 2014	Returned a positive pregnancy result and was referred to an antenatal clinic.
15 September 2014	Referred to a tuberculosis (TB) specialist following a positive TB result. An x-ray identified no abnormalities but an ultrasound showed an enlarged lymph node.
June 2015 – ongoing	A biopsy test resulted in a diagnosis of latent TB. It was recommended that she commence TB medication following the birth of her baby. She continues to be monitored as per state policy.
April 2015	Ms Y gave birth to her daughter ³ without complication.

Miss Z

November 2013 – ongoing	IHMS advised that Miss Z commenced a course of TB medication which she completed in August 2014. She continues to be monitored as per state policy.
-------------------------	---

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.

³ Miss S was born in Australia in April 2015 and detained on 7 May 2015. She has been in detention for less than two years and is not subject to reporting under s 486N.

Master Q

30 August 2014 – ongoing	Returned a positive TB result following a skin test. A chest x-ray identified no abnormalities and he was referred to a TB clinic. He was diagnosed with latent TB and commenced a course of medication which he completed in June 2015. He continues to be monitored as per state policy.
--------------------------	--

Miss R

November 2013 – ongoing	IHMS advised that Miss R commenced a course of TB medication which she completed in August 2014. She continues to be monitored as per state policy.
-------------------------	---

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X and his family were detained on 14 July 2013 after arriving in Australia aboard SIEV *Fadettes* and have been held in detention for over two and a half years with no processing of their protection claims.

The Ombudsman notes with concern that without an assessment of the family's claims to determine if they are found to engage Australia's protection obligations, it appears likely that they will remain in detention for an indefinite period.

The Ombudsman notes the Minister's recent Statements to Parliament, in which he advises that DIBP is progressing the substantial caseload of maritime arrivals, and will provide him with advice to assist his consideration of whether to lift the bar to allow these people to lodge a temporary visa application.

The Ombudsman recommends that the Minister lift the bar under s 46A and processing of the family's protection claims commence as soon as possible.