

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	1978

Family details

Family members	Ms Y (wife)	Master Z (son) ¹
Citizenship	Country A	Country A
Year of birth	1989	2011

Ombudsman ID	1002991
Date of DIBP's reports	15 July 2015 and 13 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 ² aboard Suspected Illegal Entry Vessel (SIEV) 788 <i>Fadettes</i> . The family were transferred to Curtin Immigration Detention Centre.
17 July 2013	Transferred to Wickham Point Alternative Place of Detention (APOD).
20 May 2014	Transferred to Bladin APOD.
31 July 2014	Transferred to Adelaide Immigration Transit Accommodation.
9 September 2014	Transferred to community detention.
20 February 2015	The family were transferred to community detention in Sydney while Master Z received medical treatment at the Sydney Children's Hospital.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, 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 were subject to the bar under s 46A.

¹ DIBP advised that following a diagnosis of leukaemia in July 2014, Master Z died on 14 July 2015.

² 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.

13 March 2014	Mr X and Ms Y were notified of the unintentional release of personal information through DIBP's website. ³ DIBP advised that when their protection claims are considered the privacy breach will be taken into account.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X and Ms Y to lodge a temporary visa application.
29 October 2015	DIBP invited Mr X and Ms Y to lodge a temporary visa application.
25 November 2015	Mr X and Ms Y requested an extension of time to lodge a temporary visa application.
18 December 2015	DIBP granted Mr X and Ms Y a further 30-day extension to lodge a temporary visa application.
11 January 2016	Lodged a Safe Haven Enterprise visa (SHEV).

Health and welfare

Mr X

8 July 2014 – ongoing	International Health and Medical Services (IHMS) reported that Mr X tested positive for hepatitis C and was provided with counselling. He was referred to a specialist for further review and continued to be monitored by his general practitioner (GP).
February 2015 and September 2015	IHMS advised that Mr X had attended a liver clinic in relation to his hepatitis C condition. IHMS advised it was awaiting documentation to confirm these appointments.
11 August 2015	Presented to his GP following the death of his son and was referred for grief counselling. IHMS further advised that it had no documentation to confirm if he had attended counselling.

Ms Y

IHMS advised that Ms Y has not required treatment for any major physical or mental health issues.	
15 July 2015	DIBP advised that Ms Y was pregnant with her second child.
September 2015	Ms Y gave birth to her daughter ⁴ without complication.

Master Z

July 2014	Master Z was hospitalised in Darwin following recurrent abdominal pain. He was transferred to the Adelaide Children's Hospital and was diagnosed with acute respiratory failure and acute lymphoblastic leukaemia. He was placed on life support and commenced chemotherapy.
-----------	--

³ 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.

⁴ Miss Q was born in Australia in September 2015. She has been in detention for less than two years and is not subject to reporting under s 486N.

February 2015	He was transferred to the Sydney Children's Hospital and commenced further chemotherapy and radiation treatment in preparation for a stem cell transplant. He was discharged following the procedure (no date provided).
6 July 2015	Admitted to hospital following a relapse of the acute lymphoblastic leukaemia and commenced palliative treatment.
14 July 2015	Master Z died at the Adelaide Children's Hospital.

Other matters

Mr X has two brothers, Mr R and Mr S, who were granted Bridging visas on 25 and 27 May 2015 and reside in the community.

Case status

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.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X and Ms Y to apply for a temporary visa and on 11 January 2016 Mr X and Ms Y lodged a SHEV application.