

## 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 Ms X and her children who have remained in immigration detention for more than 24 months (two years).

<b>Name</b>	Ms X (and children)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1974

### Family details

<b>Family members</b>	Mr Y (son)	Miss Z (daughter)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	1996	2000

<b>Family members</b>	Master Q (son)	Miss R (daughter)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	2004	2011

<b>Ombudsman ID</b>	1003299
<b>Date of DIBP's report</b>	19 August 2015
<b>Total days in detention</b>	730 (at date of DIBP's report)

### Detention history

19 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 836 <i>Trinity</i> . They were transferred to Facility B.
2 October 2013	Transferred to Facility C.
1 December 2013	Transferred to Facility D.
13 February 2014	Transferred to Facility E.
16 December 2014	Transferred to community detention.

### Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that Ms X and her children 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(2).

## Health and welfare

*Ms X*

15 October 2013	International Health and Medical Services (IHMS) advised that during her induction health assessment Ms X returned a positive mantoux test and was diagnosed with latent tuberculosis (TB). A physical examination and chest x-rays identified no abnormalities. She was referred to a chest clinic for management and was commenced on preventative treatment. IHMS advised that this treatment was completed in August 2014 and she was discharged from the chest clinic. Her condition continues to be monitored as per state policy.
30 September 2014	Presented with ongoing shoulder pain and limited joint mobility. An ultrasound was conducted and she was diagnosed with tendonitis, inflammation and limited movement. IHMS advised that she received steroid injections to manage her condition.
18 November 2014	IHMS advised that Ms X was referred to a specialist for assessment of a medical condition. This appointment remains outstanding. DIBP advised that it had escalated this referral.
January 2015 - March 2015	IHMS advised that ultrasound guided steroid injections were conducted on two occasions for treatment of ongoing shoulder pain. She was referred to a physiotherapist for further treatment and her condition continues to be monitored by a general practitioner (GP).

*Mr Y*

1 November 2013	IHMS advised that Mr Y was identified as a TB contact. A physical examination and chest x-rays identified no abnormalities. His condition continues to be monitored as per state policy.
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*Miss Z*

29 October 2013	IHMS advised that Miss Z was identified as a TB contact. A physical examination and chest x-rays identified no abnormalities, however she returned a positive mantoux test result. She was referred to a specialist clinic for management and commenced preventative treatment. IHMS advised that this treatment was completed in August 2014 and she was discharged from the clinic.
April 2015	Referred to an ophthalmologist after experiencing blurred vision and was prescribed with glasses.

Master Q

August 2013	<p>IHMS advised that Master Q was born with congenital heart disease, cardiac abnormalities and kidney and renal abnormalities. During his induction health assessment Master Q presented with breathing and circulation issues related to these conditions. He was referred to a cardiac specialist and a paediatric renal specialist for further investigation and treatment.</p> <p>IHMS further advised that Master Q was born with spinal scoliosis. He presented with spinal, chest and limb deformities related to his condition. His condition continues to be monitored by his GP.</p>
25 September 2013	<p>IHMS advised that Master Q was diagnosed with non-infectious TB. A chest x-ray identified no abnormalities and he was referred to a specialist clinic for treatment. IHMS advised that this treatment was completed in May 2014 and he was discharged from the clinic.</p>
16 April 2014 and 22 April 2014	<p>IHMS advised that Master Q underwent two occupational therapy assessments.</p>
11 July 2014	<p>Assessed by a paediatric renal specialist and was referred to a urologist for management.</p>
6 August 2014	<p>Reviewed by a cardiac specialist who reported that Master Q's condition was stable, despite low oxygen levels. He was referred for a magnetic resonance imaging (MRI) scan and was prescribed with preventative antibiotic therapy for ongoing management. He was advised to attend a follow-up appointment for further treatment.</p>
27 August 2014	<p>Reviewed by a urologist who advised that Master Q may require surgery for treatment of his condition. The urologist noted that this surgery would depend on the stability of Master Q's cardiac condition. His condition continues to be monitored by his GP.</p>
6 January 2015	<p>Attended a follow-up appointment with his cardiac specialist. The specialist noted that Master Q's condition remained stable and that he was awaiting the results of the MRI scan to assess Master Q's suitability for surgery.</p>
1 July 2015	<p>Attended a follow-up appointment with his cardiac specialist. Ms X was advised that Master Q was a candidate for a surgical procedure for treatment of his cardiac condition.</p> <p>IHMS advised that a multidisciplinary team is currently monitoring Master Q's condition in preparation for surgery and he was commenced on antibiotic therapy. IHMS advised that the surgical date remained unconfirmed at the time of its report.</p>
22 July 2015	<p>A DIBP Incident Report recorded that Master Q was admitted to a children's hospital in preparation for scheduled surgery on 24 July 2015. No further information was provided.</p>
4 September 2015	<p>Master Q was admitted to hospital for his heart condition.</p>
13 November 2015	<p>Master Q died of natural causes in hospital.</p>

*Miss R*

21 August 2013	IHMS advised that Miss R was diagnosed with iron and vitamin D deficiencies and requires regular pathology to monitor her condition. Ms X was provided with education to manage Miss R's nutritional deficiencies and her condition continues to be monitored by her GP.
25 September 2013	IHMS advised that Miss R was identified as a TB contact. She returned a negative result on a mantoux test but was commenced on preventative treatment due to her age.
October 2013	Follow-up chest x-rays identified no abnormalities. IHMS advised that her preventative TB treatment was completed on 2 July 2014 and she continues to be monitored as per state policy.

**Ombudsman assessment/recommendation**

The Ombudsman notes that Ms X and her four children were detained on 19 August 2013 after arriving in Australia aboard SIEV *Trinity* and have been held in detention for over two years with no processing of their protection claims.

The Ombudsman notes that Ms X's 11-year-old son, Master Q, died of natural causes on 13 November 2015 due to a pre-existing heart condition.

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 Protection 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.