

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O report on Ms Y who remained in immigration detention for more than 30 months (two and a half years).

The first report 1002241¹ was tabled in Parliament on 3 June 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Ms Y
Citizenship	Country A
Year of birth	1981
Ombudsman ID	1002856
Date of DIBP's report	8 July 2015
Total days in detention	915 (at date of DIBP's report)

Recent detention history

Since the Ombudsman's previous report (1002241), Ms Y remained in community detention with her husband, Mr X,² and their daughter, Miss Z.³

18 June 2015	Granted a Bridging visa with her husband and daughter and released from detention.
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Recent visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to being released from detention, Ms Y was part of a cohort who had not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister had not lifted bar under s 46A of the *Migration Act 1958*.

10 November 2015	DIBP confirmed that people transferred to an RPC who have been returned to immigration detention in Australia are subject to an additional bar under s 46B. DIBP further advised that these people cannot have the s 46B bar lifted to allow them to apply for a temporary visa until a new regulation is introduced which will bring them within the 'fast track' definition to have their protection claims processed.
18 June 2015	Granted a Bridging visa with her husband and daughter.

¹ Ms Y was previously reported on with her husband, Mr X. They were transferred to Manus Island Regional Processing Centre (RPC) on 7 December 2012. Ms Y returned on 14 March 2013 and gave birth in Australia.

² Mr X was not transferred back to Australia until 7 May 2013. Due to the longer period of time he spent an RPC he is not subject to subsequent s 486N reporting as he received a Bridging visa before he reached 30 months in detention.

³ Miss Z was born in detention in October 2013 and was in detention for less than two years. She is not subject to reporting under s 486N.

Health and welfare

International Health and Medical Services advised that Ms Y did not require treatment for any major physical or mental health issues since its previous report to the Ombudsman.

Ombudsman assessment/recommendation

Ms Y was granted a Bridging visa on 18 June 2015 and released from immigration detention.

The Ombudsman notes that Ms Y was detained on 9 September 2012 after arriving in Australia with her husband, and was held in detention for over two and a half years before being granted a Bridging visa. The Ombudsman further notes that, at the time of DIBP's review, Ms Y was subject to the bar under s 46A and processing of her claims for protection had not commenced.

The Ombudsman notes DIBP's advice that because Ms Y spent a period of time in an RPC before being transferred back to Australia, she is subject to an additional bar under s 46B. DIBP has further advised that until a new regulation is introduced to lift this bar, Ms Y will not be invited to apply for protection.

The Ombudsman recommends that priority is given to resolving Ms Y's status to allow her to apply for a temporary visa.