

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 brother who have remained in immigration detention for more than 24 months (two years).

Name	Mr X (and brother)
Citizenship	Country A
Year of birth	1994

Family details

Family members	Master Y (brother)
Citizenship	Country A
Year of birth	2003

Ombudsman ID	1002990
Date of DIBP's report	17 July 2015
Total days in detention	734 (at date of DIBP's report)

Detention history

13 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 788 <i>Fadettes</i> .
The Department of Immigration and Border Protection (DIBP) advised that Mr X and his brother are currently residing in community detention.	

Visa applications/case progression

DIBP advised that Mr X and his brother 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

Mr X and Master Y

International Health and Medical Services advised that Mr X and Master Y have not required treatment for any major physical or mental health issues.
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Other matters

DIBP advised that Master Y is under the guardianship of the Minister until his brother Mr X turns 21 and is able to be considered his legal guardian.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X and his brother were detained on 13 July 2013 after arriving in Australia aboard SIEV *Fadettes* and have been held in detention for over two years with no processing of their protection claims.

The Ombudsman notes with concern that without an assessment of Mr X and his brother'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.