

## 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 brother who remained in immigration detention for more than 30 months (two and a half years).

<b>Name</b>	Ms X (and brother)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1997

### Family details

<b>Name</b>	Mr Y (brother)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1998

<b>Ombudsman ID</b>	1002992
<b>Date of DIBP's reports</b>	20 July 2015 <sup>1</sup> and 11 January 2016
<b>Total days in detention</b>	912 (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 in Australia as unaccompanied minors both aged 15 aboard Suspected Illegal Entry Vessel (SIEV) 788 <i>Fadettes</i> . <sup>2</sup> They were transferred to Curtin Alternative Place of Detention (APOD).
17 July 2013	Transferred to Darwin Airport Lodge APOD.
18 September 2013	Transferred to community detention.
3 February 2016	Granted Bridging visas and released from detention.

### Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, Ms X and her brother were part of a cohort who had not had their protection claims assessed as they arrived in Australia after 13 August 2012 and were subject to the bar under s 46A.

<sup>1</sup> DIBP provided two individual 24-month s 486N reviews for Ms X and Mr Y dated 20 July 2015 and a combined 30-month s 486N review dated 11 January 2016.

<sup>2</sup> 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 under s 46A from lodging a Protection visa application.

13 March 2014	DIBP notified Ms X and her brother of the unintentional release of personal information <sup>3</sup> and advised that the privacy breach would be taken into account when considering their protection claims.
30 June 2015	The Minister lifted the bar under s 46A to allow them to lodge a temporary visa application.
29 July 2015	Ms X and her brother were notified that they are eligible to receive the Primary Application Information Service (PAIS) to assist them with lodging a temporary visa application. They accepted the offer on 31 July 2015.
1 October 2015	Lodged a Safe Haven Enterprise visa (SHEV) application which triggered an associated Bridging visa application.
5 November 2015	Associated Bridging visa application was invalid.
11 January 2016	DIBP advised that an interview in relation to their SHEV application was scheduled for 29 January 2016.
3 February 2016	Granted Bridging visas.

### Health and welfare

*Ms X*

4 September 2013	International Health and Medical Services (IHMS) reported that Ms X was diagnosed with latent tuberculosis. She received treatment as per state policy.
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*Mr Y*

IHMS provided details of Mr Y's health and welfare. No significant ongoing physical or mental health concerns were noted.

### Case status

Ms X and her brother were granted Bridging visas on 3 February 2016 and released from immigration detention.

Ms X and her brother were detained on 14 July 2013 after arriving in Australia as unaccompanied minors aged 15 aboard SIEV *Fadettes* and were held in detention for over two and a half years before being granted Bridging visas.

On 30 June 2015 the Minister lifted the bar under s 46A to allow them to lodge a temporary visa application and on 1 October 2015 Ms X and her brother lodged a SHEV application.

<sup>3</sup> 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.