

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 Mr X and his siblings who have remained in immigration detention for more than 36 months (three years).

The first report 1002962 was tabled in Parliament on 3 February 2016. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X (and siblings)
Citizenship	Country A
Year of birth	1996

Family details

Family members	Miss Y (sister)	Master Z (brother)
Citizenship	Country A	Country A
Year of birth	1998	2008

Ombudsman ID	1003527
Date of DIBP's reports	22 October 2015 and 18 April 2016
Total days in detention	1094 (at date of DIBP's latest report)

Detention history

22 April 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving in Australia as unaccompanied minors aged 16, 14 and five aboard Suspected Illegal Entry Vessel (SIEV) 657 <i>Fowley</i> . They were transferred to Darwin Airport Lodge Alternative Place of Detention (APOD).
8 May 2013	Transferred to Wickham Point Immigration Detention Centre (IDC).
22 May 2013	Transferred to Wickham Point APOD.
8 June 2013	Transferred to Darwin Airport Lodge APOD.
20 July 2013	Transferred to Brisbane Immigration Transit Accommodation.
13 August 2013	Transferred to community detention.

Recent visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, Mr X and his siblings 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.¹

¹ DIBP's 24-month review dated 28 April 2015 stated that Mr X and his siblings were detained under s 189(1), based on this information, the Ombudsman's office concluded that Mr X and his siblings had arrived as 'direct entry persons' and were not subject to the s 46A bar. DIBP's 30-month review dated 22 October 2015 confirmed that although Mr X and his siblings were detained under s 189(1), they had not arrived as 'direct entry persons' and were subject to the s 46A bar.

13 March 2014	DIBP notified Mr X and his siblings of the unintentional release of personal information ² 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 Miss Y and Master Z to lodge a temporary visa application.
9 July 2015	Miss Y and Master Z were notified that they eligible to receive the Primary Application Information Service (PAIS) to assist them with lodging a temporary visa application. They accepted the offer on 26 July 2015 and were assigned a PAIS provider.
13 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
16 September 2015	Mr X and his siblings lodged a Safe Haven Enterprise visa (SHEV) application.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X has not required treatment for any major physical or mental health issues.

Miss Y

IHMS advised that Miss Y disclosed a history of torture and trauma and attended group supportive counselling. On 3 July 2013 the IHMS psychiatrist reported that Miss Y required ongoing mental health support following the death of her father. No mental health concerns were reported following her transfer to community detention.

In May 2013 Miss Y was identified as a tuberculosis contact and was monitored as per state policy.

IHMS further advised that Miss Y received treatment for multiple physical health concerns, including a skin condition and shoulder pain. Her condition continues to be monitored by the general practitioner (GP).

Master Z

IHMS advised that Master Z received regular mental health support after he was identified as having a history of torture and trauma. He continued to have access to the GP in community detention and no further mental health concerns were reported.

² 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.

Case status

Mr X and his siblings were detained on 22 April 2013 after arriving in Australia aboard SIEV *Fowley* and have been held in detention for over three years.

On 30 June 2015 and 13 August 2015 the Minister lifted the bar under s 46A to allow Mr X and his siblings to apply for a temporary visa and on 16 September 2015 the family lodged an application for a SHEV.