

**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 son who has remained in immigration detention for more than 30 months (two and a half years).

Name	Mr X (and son)
Citizenship	Country A
Year of birth	1975

Family details

Family members	Master Y (son)
Citizenship	Country A
Year of birth	1999

Ombudsman ID	1003308
Date of DIBP's reports	19 August 2015 and 17 February 2016
Total days in detention	912 (at date of DIBP's latest 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) 835 <i>Saginaw</i> . They were transferred to an Alternative Place of Detention (APOD), Christmas Island. Mr X arrived in Australia with his wife, Ms Z, and their three sons, Master Y, Master Q and Master R.
14 March 2014	Transferred to Bladin APOD.
8 May 2014	Transferred to Wickham Point APOD.
3 July 2014	Transferred to Inverbrackie APOD.
3 December 2014	Transferred to Wickham Point APOD.
25 February 2015	Ms Z, Master Q and Master R were granted Bridging visas and released from detention.
21 October 2015	Mr X and Master Y were transferred to community detention.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, Mr X and his son 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.	
12 March 2014	DIBP notified Mr X of the unintentional release of personal information ¹ and advised that the privacy breach would be taken into account when considering his family's protection claims.
19 May 2015	Mr X and his son's case was referred on a first stage ministerial submission for consideration under ss 195A and 197AB.
4 June 2015	The Minister declined to intervene under s 195A, but indicated that he would consider intervening under s 197AB.
11 August 2015	Mr X and his son's case was referred on a ministerial submission for consideration under s 197AB for a community detention placement.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X and his son to lodge a temporary visa application. On the same day the Minister intervened under s 197AB.
16 November 2015	DIBP invited Mr X and his son to lodge a temporary visa application.
8 February 2016	Lodged a Safe Haven Enterprise visa (SHEV) application.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X has been monitored and treated for a range of ongoing physical health issues including hypertension, podiatry-related issues and chest pain. He was admitted to hospital on three occasions for treatment and investigation of his chest pains, and all test results were normal.

Mr X disclosed a history of torture and trauma and attended psychological counselling. IHMS advised that from August 2015 to January 2016 he had not presented with any major or acute mental health concerns.

¹ 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.

Master Y

IHMS reported that Master Y has been monitored and treated for adjustment disorder and depression, with a history of self-harm and threatening self-harm while in restricted detention. IHMS advised that Master Y has had difficulty controlling his emotions, particularly with anger management.

In October 2014 he was admitted to hospital for a psychiatric assessment following an overdose of antidepressant medication. IHMS advised that he required ongoing psychological counselling and monitoring by the IHMS mental health team, and following his hospital admission he attended regular psychiatric reviews. IHMS reported that improvements were noted and from 11 August 2015 to 15 January 2016 Master Y had not presented with any major or acute mental health problems.

Master Y has also been treated for lower back pain. Testing identified a renal cyst but no significant abnormality. The specialist recommended Master Y have regular tests to monitor his condition, which is managed by the general practitioner.

3 June 2014 – ongoing

Diagnosed with latent tuberculosis and reviewed at a specialist clinic. He continues to be monitored as per state policy.

Detention incidents

DIBP Incident Reports recorded that Master Y has allegedly been abusive and aggressive towards family members, other detainees and detention centre staff on numerous occasions. He was also allegedly involved in multiple altercations with other minor detainees.

Other matters

16 October 2014

The Australian Human Rights Commission (AHRC) notified DIBP that Mr X had lodged a complaint. AHRC requested further information from DIBP, and DIBP provided responses on 28 November 2014, 27 February 2015, 1 June 2015 and 11 November 2015.

On 12 November 2015 the AHRC advised that they had finalised the complaint and the matter was closed.

Case status

Mr X and his son were detained on 19 August 2013 after arriving in Australia aboard SIEV *Saginaw* and have been held in detention for over two and a half years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X and his son to apply for a temporary visa and on 8 February 2016 Mr X and his son lodged a SHEV application.