

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

Name	Mr X (and wife)
Citizenship	Country A
Year of birth	1972

Family details

Family members	Ms Y (wife)
Citizenship	Country A
Year of birth	1977

Ombudsman ID	1002507
Date of DIBP's report	28 April 2015
Total days in detention	Not provided

Detention history

22 April 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland aboard Suspected Illegal Entry Vessel (SIEV) 657 <i>Fowley</i> .
The Department of Immigration and Border Protection (DIBP) advised that Mr X and Ms Y are currently residing in community detention.	

Visa applications/case progression

DIBP advised that as Mr X and Ms Y arrived in Australia as 'direct entry persons' ¹ they are not barred under s 46A from lodging a Protection visa application. DIBP further advised that following legislative amendment, Mr X and Ms Y are only eligible for temporary visas.

Health and welfare

Mr X

DIBP did not provide an International Health and Medical Services (IHMS) Health Summary Report for Mr X.
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Ms Y

8 September 2013	Ms Y returned a positive pregnancy test with an estimated due date in April 2014.
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¹ A maritime arrival to Australia's mainland who is seeking protection.

11 September 2013	Admitted to a hospital emergency department following abdominal pain. No abnormalities were identified.
April 2014	Ms Y gave birth to a daughter ² without complication.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X and Ms Y were detained on 22 April 2013 after arriving on the Australian mainland aboard SIEV *Fowley* 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 Ms Y'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.

Given that Mr X and Ms Y are not subject to the bar under s 46A, the Ombudsman recommended that the processing of their protection claims commence as soon as possible.

² Mr X and Ms Y's first daughter (name not provided), was born in Australia in April 2014. She has been in detention for less than two years and is not subject to reporting under s 486N.