

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

<b>Name</b>	Mr X (and siblings)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1996

## Family details

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

<b>Ombudsman ID</b>	1002962
<b>Date of DIBP's report</b>	28 April 2015
<b>Total days in detention</b>	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 as unaccompanied minors aged 16, 14 and five aboard Suspected Illegal Entry Vessel (SIEV) 657 <i>Fowley</i> .
The Department of Immigration and Border Protection (DIBP) advised that Mr X and his siblings are currently residing in community detention.	

## Visa applications/case progression

DIBP advised that as Mr X and his siblings arrived in Australia as 'direct entry persons' <sup>1</sup> they are not barred under s 46A from lodging a Protection visa application. DIBP further advised that following legislative amendment, Mr X and his siblings are only eligible for temporary visas.
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## Health and welfare

DIBP did not provide an International Health and Medical Services Health Summary Report for Mr X and his siblings.
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<sup>1</sup> A maritime arrival to Australia's mainland who is seeking protection.

### **Ombudsman assessment/recommendation**

The Ombudsman notes that Mr X and his siblings were detained on 22 April 2013 after arriving on the Australian mainland as unaccompanied minors aged 16, 14 and five aboard SIEV *Fowley*. They 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 sibling'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 the X family are not subject to the bar under s 46A, the Ombudsman recommends that the processing of the family's protection claims commence as soon as possible.