

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

Name	Mr X (and brother)
Citizenship	Country A
Year of birth	1995

Family details

Family members	Master Y (brother)
Citizenship	Country A
Year of birth	2006

Ombudsman ID	1002985
Date of DIBP's reports	15 July 2015 and 12 January 2016
Total days in detention	912 (at date of DIBP's report)

Detention history

14 July 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland ¹ as unaccompanied minors aged 17 and 7 aboard Suspected Illegal Entry Vessel (SIEV) 788 <i>Fadettes</i> . They were transferred to Curtin Immigration Detention Centre.
17 July 2013	Transferred to Darwin Airport Lodge Alternative Place of Detention.
5 September 2013	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 Master Y were part of a cohort who have not had their protection claims assessed as they arrived in Australia after 13 August 2012 and were subject to the bar under s 46A.	
13 March 2014	DIBP notified Mr X and Master Y of the unintentional release of personal information. ² DIBP advised that the matter would be taken into account when considering an International Treaties Obligations Assessment (ITOA).

¹ 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 from lodging a Protection visa application under s 46A.

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.

9 July 2015	The Minister lifted the bar under s 46A to allow Master Y to lodge a temporary visa application. Master Y was notified that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application.
15 July 2015	DIBP advised that it was drafting a submission to be sent to the Minister to lift the bar under s 46A for Mr X.
30 July 2015	Master Y accepted the PAIS offer to assist him in lodging a temporary visa application and he nominated his brother, Mr X as a member of his family unit in his application.
4 August 2015	DIBP assigned Master Y with a PAIS provider.
13 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
18 September 2015	The brothers lodged a Safe Haven Enterprise visa (SHEV) application which triggered an associated Bridging visa application.
4 November 2015	DIBP advised that the Bridging visa application was deemed invalid.
12 January 2016	DIBP advised that Mr X and Master Y will not be considered for Bridging visas while Master Y is under the age of 18.

Health and welfare

Mr X

4 September 2014 – ongoing	International Health and Medical Services (IHMS) advised that Mr X was identified as a hepatitis B carrier. He was informed about the condition and attended a follow-up appointment.
26 November 2014	IHMS advised that Mr X was involved in a car accident but no injuries or issues were noted.

Master Y

IHMS advised that Master Y has not required treatment for any major physical or mental health issues.	
1 February 2014	A DIBP Incident Report recorded that Master Y fractured his arm following a fall from his bicycle. He attended a hospital emergency department and was fitted with a plaster cast.

Case status

Mr X and Master Y were detained on 14 July 2013 after arriving in Australia aboard SIEV <i>Fadettes</i> and have been held in detention for over two and a half years. The Minister lifted the bar under s 46A on 9 July 2015 for Master Y and 13 August 2015 for Mr X to allow them to apply for a temporary visa. On 18 September 2015 Mr X and Master Y lodged a SHEV application.
