

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O assessment on Mr X and Ms Y and their daughter who have remained in immigration detention for a cumulative period of more than 36 months (three years).

The first assessment 1002353-O was tabled in Parliament on 8 November 2016. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Mr X (and family)
Citizenship	Country A
Year of birth	1982
Total days in detention	1,094 (at date of DIBP's latest review)

Family details

Family members	Ms Y (wife)	Miss Z (daughter)
Citizenship	Country A	Country A, born in Australia
Year of birth	1986	2015
Total days in detention	1,094 (at date of DIBP's latest review)	730 (at date of DIBP's latest review)

Ombudsman ID	1002353-O1
Date of DIBP's reviews	25 September 2016 and 26 March 2017

Recent detention history

Since the Ombudsman's previous assessment (1002353-O), the family has remained in community detention.

Recent visa applications/case progression

The Department of Immigration and Border Protection (the department) has advised that under current policy settings Mr X and his family are not eligible to have their protection claims assessed in Australia and they remain liable for transfer back to a Regional Processing Centre (RPC) on completion of their treatment.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma and attended specialist counselling. Following his transfer to community detention he was referred to a psychologist for the management of situational stress.

IHMS further advised that Mr X continued to await surgical review for an inguinal hernia.

Ms Y

IHMS advised that prior to the family's transfer to community detention, Ms Y regularly engaged with the mental health team for the management of anxiety, low mood, post-partum depression and poor sleep and appetite. Following her transfer to community detention Ms Y attended several counselling sessions and disclosed that she often felt worried and was experiencing nightmares and ongoing low mood. In September 2016 a psychiatrist diagnosed Ms Y with post-traumatic stress disorder and depression. She was prescribed with medication to assist with sleep and continued to be prescribed with antidepressant medication. Ms Y also reported that she did not feel fully equipped for motherhood and was worried about her daughter being exposed to her fluctuating mood. The psychiatrist encouraged her to seek out mothers' support groups. She continued to be monitored by a psychiatrist, psychologists and a general practitioner.

IHMS further advised that Ms Y continued to be treated with insulin injections and regular blood tests for the management of type 1 diabetes. Her condition was monitored by a general practitioner, a dietician, a podiatrist and an optometrist. In March 2016 an ophthalmology review reported that Ms Y had associated blood vessel damage in both eyes. She was provided with advice regarding the prevention of further damage to her eyes and was advised that she will require six-monthly follow-ups with an ophthalmologist. The referral for ongoing ophthalmology review was initially declined, however, the optometrist advised that this could compromise Ms Y's vision permanently and has subsequently re-referred her to an ophthalmologist for further management. In December 2016 following unstable blood sugar readings she was also referred to a diabetes specialist.

Miss Z

IHMS advised that while placed in an immigration detention facility, a mental health nurse reported that Miss Z had not adequately bonded with Ms Y. Mr X was reported to be meeting Miss Z's psychological and physical needs. Ms Y engaged in parenting groups and was regularly provided with supportive and motivational counselling. In February 2016 Miss Z's attachment with her mother was noted to have improved and her mental health continued to be monitored by a general practitioner.

IHMS further advised that Miss Z received treatment for a number of minor physical health concerns.

Ombudsman assessment/recommendation

Mr X and his family were detained on 23 July 2013 after arriving in Australia by sea and have been held in detention for a cumulative period of more than three years.

Mr X and Ms Y were transferred to an RPC and returned to Australia for medical treatment. The department advised that because they arrived after 19 July 2013 they remain liable for transfer back to an RPC on completion of their treatment.

The Ombudsman's previous report (1002353-O) recommended that priority be given to resolving Mr X and Ms Y's immigration status.

On 8 November 2016 the Minister noted the recommendation and advised that under current legislation and policy settings, Mr X and Ms Y remain subject to return to a regional processing centre on completion of their treatment.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to mental and physical health prolonged and apparently indefinite detention may pose.

The Ombudsman notes that under current policy settings the family is not eligible to have their protection claims assessed in Australia and that without an assessment of their claims it appears likely they will remain in detention indefinitely.

The Ombudsman again recommends that priority is given to resolving the family's immigration status.