

**RESPONSE TO OMBUDSMAN'S ASSESSMENT NO. 13 / 2019 MADE UNDER
SECTION 486O OF THE *MIGRATION ACT 1958***

STATEMENT TO PARLIAMENT - No. 13 / 2019

General Comments

I refer to the Commonwealth Ombudsman's assessment tabled in Parliament today. This assessment refers to 34 people who have been in immigration detention for two or more years. This assessment contains recommendations relating to eight cases.

Response to the Commonwealth Ombudsman's assessment

1. Tabling statement for cases: 1002205-O3, 1002527-O2, 1002552-O2 and 1002789-O1.

I note the Ombudsman's recommendation. I am mindful of the circumstances of these families, as they are transitory people who have been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, these families remain subject to return to a regional processing country (RPC) on completion of their medical treatment.

These families are currently residing in the community under a residence determination made under section 197AB of the *Migration Act 1958* (the Act) which provides the best level of support to the family while their children remain under school age.

The Department is regularly reviewing transitory persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the Act for the consideration of the grant of a bridging visa.

2. Tabling statement for case: 1002376-O2.

I note the Ombudsman's recommendation. I am mindful of the circumstances of this person, as a transitory person who has been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, this person remains subject to return to an RPC on completion of medical treatment.

This person is currently residing in the community under a residence determination made under section 197AB of the Act, which provides the best level of health and welfare support.

The Department is regularly reviewing transitory persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the Act for the consideration of the grant of a bridging visa.

3. Tabling statement for case: 1002386-O2.

I note the Ombudsman's recommendations. I am mindful of the circumstances of this family, as they are transitory people who have been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, this family remains subject to return to an RPC on completion of their medical treatment.

This family has already undergone a refugee status determination by the relevant offshore Government and have been found to be refugees

They are currently residing in the community under a residence determination made under section 197AB of the Act, which provides the best level of support to the family while their children remain under school age

The Department is regularly reviewing transitory persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the Act for the consideration of the grant of a bridging visa.

4. Tabling statement for case: 1002804-O1.

I note the Ombudsman's recommendations. I am mindful of the circumstances of this person, as a transitory person who has been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, this person remains subject to return to an RPC on completion of medical treatment.

This person has already undergone a refugee status determination by the relevant offshore Government and has been found to be a refugee.

This person is currently residing in the community under a residence determination made under section 197AB of the Act, which provides the best level of support for their ongoing medical conditions.

The Department is regularly reviewing transitory persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the Act for the consideration of the grant of a bridging visa.

5. Tabling statement for case: 1002808-O1.

I note the Ombudsman's recommendations. Consideration of Australia's *non-refoulement* obligations under the International Treaties Obligations Assessment (ITOA) arrangements requires extensive consultation and consideration of complex matters including an individual's personal and migration history, identity and any relevant in-country circumstances.

The Department finalised a review of this person's identity and completed a Clinical Mental Health Assessment. Subject to final consideration of these matters, the Department will expedite resolution of this person's ITOA.

The Department has already transferred this person to a high-care compound where they are receiving a high level of health and welfare support.

6. Tabling statement for assessments: 1001513-O4, 1001583-O3, 1002240-O3, 1002301-O3, 1002368-O4, 1002463-O3, 1002519-O2, 1002813-O2, 1002833-O1, 1002875-O, 1002903-O1 and 1003015-O.

I note that the Ombudsman made no recommendations in relation to these cases.

(Original signed by David Coleman)

THE HON DAVID COLEMAN MP
Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

09 / 09 / 2019