

**REPORT BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

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

The first report 1002332-O was tabled in Parliament on 8 November 2016. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X (and wife)
Citizenship	Country A
Year of birth	1981

Family details

Family members	Ms Y (wife)
Citizenship	Country A
Year of birth	1984

Ombudsman ID	1002332-O1
Date of DIBP's reports	30 August 2016 and 28 February 2017
Total days in detention	1094 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002332-O), Mr X and his family ¹ have 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 remain liable for transfer back to a Regional Processing Centre (RPC) on completion of their treatment.
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¹ Mr X and Ms Y's child Master Z was born in Australia in July 2015 and detained on 29 July 2015. He has been in detention for less than two years and is not subject to reporting under s 486N.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X continued to await review by an ear nose and throat specialist for a tonsillectomy and corrective surgery of his nasal airway at the time of the department's latest review. He was referred to a liver clinic and prescribed with pain relief medication for joint inflammation. He was also reviewed by a gastroenterologist and general practitioner (GP) for other medical concerns.

IHMS further advised that Mr X's mental health was monitored by a GP after reporting episodes of sleep disturbance and low mood as a result of his prolonged detention as well as concerns for his wife's mental health.

Ms Y

IHMS advised that Ms Y was referred to a gastroenterologist who prescribed her with medication and requested further review of an infection and abdominal pain. She also received treatment for an iron deficiency and thyroid concerns.

IHMS further reported that Ms Y attended counselling sessions for low mood and anxiety. She declined a scheduled review with a psychiatrist and reported improvement in her condition and that she is coping well with her child. Ms Y was closely monitored by her case worker and GP for mental health concerns.

Ombudsman assessment/recommendation

Mr X and Ms Y were detained on 26 July 2013 after arriving in Australia by sea and have been held in detention for a cumulative period of more than three years with no processing of their protection claims.

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

The Ombudsman notes the advice from IHMS that both Mr X and Ms Y have medical conditions that require ongoing monitoring.

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 also notes with concern that Mr X and Ms Y have reported ongoing mental health concerns.

The Ombudsman notes that under current policy settings Mr X and his family are 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 exploring options to enable the resolution of Mr X and his family's immigration status.