

ASSESSMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O assessment on Mr X,¹ Ms Y and their daughter who have remained in immigration detention for a cumulative period of more than 42 months (three and a half years).

The first assessment on Mr X 1002238-O and the first assessment on Ms Y and Miss Z 1002205-O were tabled on 23 November 2016. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X (and family)
Citizenship	Country A
Year of birth	1979
Total days in detention	1,248 (at date of DIBP's latest review)

Family details

Family members	Ms Y (wife)	Miss Z (daughter)
Citizenship	Country A	Country A
Year of birth	1980	2008
Total days in detention	1,276 (at date of DIBP's latest review)	

Ombudsman ID	1002205-O1
Date of DIBP's reviews	28 October 2016, 25 November 2016 and 28 April 2017

Recent detention history

Since the Ombudsman's previous assessments, Mr X, Ms Y and their daughters ² 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 the 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.	
March 2014	The department notified Ms Y and Miss Z of the unintentional release of personal information. ³

¹ Mr X was previously reported on separately in Ombudsman assessment 1002238-O and is now included in his family's report.

² Mr X and Ms Y's second daughter, Miss P, was born in Australia in April 2015 and detained on 20 April 2015. She is the subject of Ombudsman assessment 1002648-O.

³ In a media release dated 19 February 2014 the Minister advised that an immigration detention statistics report was released on the department's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as the department became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by the department.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X was previously diagnosed with a genetic blood disorder and received treatment for acute lymphocytic leukaemia. He was monitored by a general practitioner (GP) and underwent regular pathology testing, with no abnormalities identified.

IHMS further advised that Mr X attended psychological counselling for management of an adjustment disorder with anxious mood.

Ms Y

IHMS advised that Ms Y received treatment for multiple physical health concerns, including osteoarthritis and associated chronic back pain, gastroesophageal reflux disease, gynaecological concerns and haemorrhoids. Her condition continued to be monitored by a GP and she was awaiting a colonoscopy, computed tomography scan and physiotherapy review at the time of IHMS's latest report.

IHMS further advised that Ms Y received specialist treatment for depression and an adjustment disorder. In March and April 2016 she attended psychological counselling after presenting with increased panic and anxiety related to her children's special needs. Her mental health continued to be monitored by a GP and no further concerns were reported.

Miss Z

IHMS advised that Miss Z received specialist treatment for multiple physical health concerns, including a genetic blood disorder, an eye condition, food refusal behaviour and growth concerns. Her condition was monitored by a multidisciplinary team, including a GP, paediatrician and dietician, and she was scheduled to attend an ophthalmology review in February 2017.

IHMS further advised that Miss Z had been diagnosed with depression, post-traumatic stress disorder and insomnia. Her mental health continued to be monitored by a GP and the child mental health team and in July 2016 improvements in her condition were noted.

Other matters

The department advised that Mr X's complaint with the Australian Human Rights Commission remained ongoing.

Ombudsman assessment/recommendation

Mr X, Ms Y and their daughter 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 and a half years with no processing of their protection claims.

The family was transferred to an RPC and returned to Australia for medical treatment. The department advised that because the family arrived after 19 July 2013 they remain liable for transfer back to an RPC 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 the family's 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.