

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, Ms Y and their children who have remained in immigration detention for a cumulative period of more than 36 months (three years).

The first assessment 1002339-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	1973

Family details

Family members	Ms Y (wife)	Miss Z (daughter)	Master P (son)
Citizenship	Country A	Country A	Country A
Year of birth	1980	1997	2004

Ombudsman ID	1002339-O1
Date of DIBP's reviews	6 October 2016 and 10 March 2017
Total days in detention	1,094 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1002339-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 the family is not eligible to have their protection claims assessed in Australia and remains 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 was referred to a surgeon for review of a jaw condition and was placed on a waiting list in September 2015 while he was located at Facility B. Following the family's transfer to New South Wales a new referral was arranged and an appointment with a specialist hospital unit was scheduled for 7 March 2017.

Ms Y

IHMS advised that a psychiatrist reviewed Ms Y in April 2016 and noted that at that time there was no evidence of bipolar mood disorder as Ms Y's mood was relatively stable. However, the psychiatrist recommended that she continue taking her prescribed medication for this condition. The psychiatrist discharged her from further consultations and recommended that she continue to follow up with a general practitioner.

Ms Z

IHMS advised that until December 2016 Ms Z regularly engaged with a psychologist for counselling and psycho-education to manage her symptoms of anxiety and depression. She was reported to have struggled with her studies and aspects of everyday living due to concerns about her immigration situation, family issues and a history of torture and trauma.

IHMS further advised that in May 2016 Ms Z was admitted to hospital for treatment of a kidney infection. She was discharged on oral antibiotics after three days with instructions to see a kidney specialist in six months. IHMS advised that there was no indication that this follow-up was attended.

Master P

IHMS advised that Master P did not require treatment for any major physical or mental health issues during this assessment period.

Other matters

12 August 2015	While the family was placed at Facility C, a government welfare agency was informed of concerns that the family had not been provided with appropriate support arrangements.
6 October 2016	The government welfare agency advised the department that the matter had been investigated with no further action required.

Ombudsman assessment/recommendation

Mr X, Ms Y and their children were detained on 27 August 2013 after arriving in Australia by sea and have been held in detention for a cumulative period of more than three years.

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's previous report (1002339-O) recommended that priority be given to resolving the family's immigration status.

On 8 November 2016 the Minister noted the recommendation and advised that under current legislation and policy settings, the family remains subject to return 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 with concern that Ms Y and Ms Z appear to have ongoing mental health concerns.

The Ombudsman notes that under current policy settings Mr X, Ms Y and their children 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 resolving the family's immigration status.