

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the sixth s 486O assessment on Mr X, Ms Y and their sons¹ who remained in immigration detention for a cumulative period of more than 78 months (six and a half years). The previous assessment 1000766-O was tabled in Parliament on 15 February 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X (and family)	Ms Y (wife)
Citizenship	Country A	Country A
Year of birth	1986	1989
Total days in detention	2,359 (at date of DIBP's latest report)	

Family details

Family members	Master Z (son)	Master Q (son)
Citizenship	Country A, born in Australia	Country A, born in Australia
Year of birth	2011	2014
Total days in detention	2,048 (at date of DIBP's latest report)	1,138 (at date of DIBP's latest report)

Ombudsman ID	1000766-O1
Date of DIBP's reports	4 January 2017 and 5 July 2017

Recent detention history

Since the Ombudsman's previous assessment, the family ² continued to be placed in the community. Mr X was temporarily placed at a separate community address in July and September 2016 following relationship breakdowns between him and Ms Y associated with family violence. On 19 October 2016 Mr X and Ms Y confirmed that they were residing together as a family and no further separations were reported.	
31 October 2017	Granted bridging visas and released from immigration detention.

Recent visa applications/case progression

26 July 2016 and 3 August 2016	Mr X and Ms Y accepted the offer to receive the Primary Application Information Service to assist them with lodging a temporary visa application.
5 January 2017	The family's case was referred to the Minister under s 197AD of the <i>Migration Act 1958</i> to vary their community placement from their previous address in Suburb B to their new address in Suburb C.

¹ This is the fourth s 486O assessment on Master Z and the second s 486O assessment on Master Q. For the purpose of reporting under s 486O, their timeline in detention has been aligned with their parents and they are reported on together.

² Mr X and Ms Y's third son Master R was born in Australia in October 2015. He was held in immigration detention for less than two years and was not subject to reporting under s 486N.

27 April 2017	Mr X lodged a Safe Haven Enterprise visa (SHEV) application with Ms Y, Master Q and Master R listed as dependants.
5 July 2017	The Department of Immigration and Border Protection (the department) advised that Master Z remained subject to the bar under s 46A and the department was considering options to align his immigration pathway with his family.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X was provided with treatment for back pain and referred to a neurology clinic.	
25 July 2016	An Incident Report recorded that Mr X threatened self-harm.

Ms Y

IHMS advised that Ms Y presented with symptoms of severe depression, anxiety and marital stress and was diagnosed with a panic disorder. She was prescribed with medication and regularly attended psychological counselling to improve her stress management and coping skills. A treating psychologist attributed Ms Y's condition to the uncertainty of her immigration pathway and recommended that her immigration case be resolved as soon as possible. Ms Y was also provided with treatment for chest pain.

Master Z and Master Q

IHMS advised that Master Z and Master Q did not receive treatment for any major physical or mental health concerns during this assessment period.

Case status

Mr X and Ms Y were detained on 10 January 2011 after arriving in Australia by sea and remained in immigration detention, both in a detention facility and the community, for more than six and a half years.

The Ombudsman's previous assessment recommended that the Minister lift the bar under s 46A to allow processing of Master Z's protection claims to commence as soon as possible. The Ombudsman further recommended that the department consider an alternative community placement for the family in light of Ms Y's mental health concerns.

On 15 February 2017 the Minister advised that Master Z had been found not to be owed protection and this was affirmed by the Refugee Review Tribunal. Consequently, he remains barred under s 46A from making another visa application and the department was considering options to align the family's immigration pathway. The Minister further advised that the family had been referred to him under s 197AD for an alternative community detention placement.

On 5 January 2017 the family's case was referred to the Minister under s 197AD to vary their community placement from their previous address in Suburb B to their new address in Suburb C.

On 5 July 2017 the department advised that Master Z remained subject to the bar under s 46A and the department continued to consider options to align his immigration pathway with his family.

The family was granted bridging visas on 31 October 2017 and released from immigration detention.