

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the third s 486O assessment on Mr X, Ms Y and their daughter<sup>1</sup> who have remained in immigration detention for a cumulative period of more than 42 months (three and a half years). The previous assessment 1002384-O1 was tabled in Parliament on 13 September 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Family members</b>	Mr X (and family)	Ms Y (wife)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	1981	1982
<b>Total days in detention</b>	1,276 (at date of department's report)	1,276 (at date of department's report)

### Family details

<b>Family members</b>	Miss Z (daughter)
<b>Citizenship</b>	Country A, born in Australia
<b>Year of birth</b>	2014
<b>Total days in detention</b>	1,025 (at date of department's report)

<b>Ombudsman ID</b>	1002384-O2
<b>Date of department's report</b>	26 October 2017

### Recent detention history

Since the Ombudsman's previous assessment, the family has continued to be placed in the community.<sup>2</sup>

### Recent visa applications/case progression

The Department of Home Affairs (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.

October 2017	The department advised that it is supporting the government of Nauru to finalise the Refugee Status Determination of the family while they remain temporarily in Australia for medical treatment.
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### Health and welfare

*Mr X*

International Health and Medical Services (IHMS) advised that Mr X was prescribed with medication for stress-related headaches and sleeping difficulties.

<sup>1</sup> This is the third s 486O assessment on Miss Z. For the purpose of reporting under s 486N of the *Migration Act 1958*, her timeline in detention has been aligned with her parents and they are reported on together.

<sup>2</sup> The family was granted a placement in the community under s 197AB and remains in immigration detention.

*Ms Y*

IHMS advised that Ms Y continued to receive ongoing treatment for significant medical concerns. She was referred for specialist review on multiple occasions with an appointment pending at the time of IHMS's report.

IHMS further advised that Ms Y was confirmed to be pregnant and her estimated delivery date was in early 2018. She attended antenatal reviews with a general practitioner and an obstetrician and was prescribed with supplements.

July 2017

An Incident Report recorded that Ms Y was transported to hospital by ambulance.

*Miss Z*

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

### **Ombudsman assessment**

Mr X and Ms Y were detained in October 2013 after arriving in Australia by sea and have remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than three and a half years.

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

The Ombudsman's previous assessment recommended that priority be given to resolving the family's immigration status.

On 13 September 2017 the Minister advised that the department is supporting the government of Nauru to finalise the family's Refugee Status Determination while they remain in Australia.

The Ombudsman notes that the family's return to an RPC is likely to be protracted due to their physical health concerns.

The Ombudsman notes with concern that it appears likely that the family will remain in detention for a prolonged and uncertain period while they receives medical treatment, posing a serious risk to their mental and physical health.