

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 sons¹ who have remained in immigration detention for a cumulative period of more than three and a half years. The previous assessment 1002386-O1 was tabled in Parliament on 13 September 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

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| Name | Mr X (and family) | Ms Y (wife) |
| Citizenship | Country A | Country A |
| Year of birth | 1983 | 1986 |
| Total days in detention | 1,278 (at date of department's report) | 1,278 (at date of department's report) |

Family details

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|--------------------------------|--|--------------------------------------|
| Family members | Master Z (son) | Master P (son) |
| Citizenship | Country A | Country A, born in Australia |
| Year of birth | 2011 | 2015 |
| Total days in detention | 1,278 (at date of department's report) | 894 (at date of department's report) |

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|------------------------------------|-----------------|
| Ombudsman ID | 1002386-O2 |
| Date of department's report | 30 October 2017 |

Recent detention history

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

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 Ms Y's treatment.

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| 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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¹ This is the second s 486O assessment on Master P. For the purpose of reporting under s 486N of the *Migration Act 1958*, his timeline in detention has been aligned with his family and they are reported on together.

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

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X continued to await an appointment with an ear, nose and throat specialist and was referred for investigative testing for the treatment of chronic back pain. A magnetic resonance imaging scan indicated degenerative spinal changes and Mr X was prescribed with medication and referred for physiotherapy.

IHMS further advised that Mr X was diagnosed with an adjustment disorder and depression. He was reviewed by a psychologist in June 2017 and prescribed with antidepressant medication.

Ms Y

IHMS advised that Ms Y continued to attend counselling for the management of multiple complex mental health concerns. In June 2017 a psychiatrist recommended an increase in her prescribed medication, with no further information available at the time of IHMS's report.

Master Z

IHMS advised that Master Z continued to be monitored by a paediatrician for the management of behavioural and sleep issues. In February 2017 a paediatrician noted an improvement in Master Z's sleeping issues and in June 2017 a specialist counselling report noted an improvement in Master Z's social skills and responsiveness to his parents. The report further noted that Master Z continued to display a fear of authorities related to his time spent in an immigration detention facility and recommended ongoing counselling for the family.

Master P

IHMS advised that in June 2017 Master P was scheduled to attend an appointment with a paediatrician for the review of sleep, speech and dietary issues.

Ombudsman assessment

Mr X, Ms Y and Master Z were detained in August 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, Ms Y and Master Z 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 Ms Y's treatment.

The Ombudsman's previous assessment recommended that priority be given to resolving the family's immigration status while noting mental health concerns.

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

The family's return to an RPC is likely to be protracted due to their ongoing mental and physical health concerns.

IHMS has advised that Ms Y and Master Z continued to receive treatment for multiple complex mental health concerns and that Master Z continued to display a fear of police related to his time spent in an immigration detention facility.

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