

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 son who have remained in immigration detention for a cumulative period of more than 36 months (three years).

The first assessment 1002371-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	1980

Family details

Family members	Ms Y (wife)	Master Z (son)
Citizenship	Country A	Country A
Year of birth	1981	2013

Ombudsman ID	1002371-O1
Date of DIBP's reviews	17 October 2016 and 17 April 2017
Total days in detention	1,094 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1002371-O), Mr X, Ms Y and their son 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 is 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 medical treatment.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X received treatment for multiple physical health concerns, including chronic back and foot pain. At the time of IHMS's latest review, he continued to await an appointment with an orthopaedic specialist.

Ms Y

IHMS advised that Ms Y was referred for physiotherapy after presenting with recurring shoulder pain and associated swelling.

IHMS further advised that Ms Y presented with symptoms of dizziness and a general practitioner advised that her condition was likely stress-related.

Master Z

IHMS advised that Master Z has a history of behavioural concerns, including aggression and hyperactivity, and communication difficulties. On 6 June 2016 he was placed on a specialised care plan and the family was referred for specialist counselling. On 6 October 2016 a treating psychiatrist recommended that his parents' mental health be reviewed by a psychiatrist and Master Z was referred to a child psychiatrist for ongoing support. At the time of IHMS's latest review, he was awaiting an appointment at a specialist children's psychiatric clinic.

Other matters

17 April 2017	The department advised that the family's complaint with the Australian Human Rights Commission remained ongoing.
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Ombudsman assessment/recommendation

Mr X, Ms Y and their son were detained on 26 July 2013 after arriving in Australia by sea and have been held in detention for a cumulative period of more than three 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 further notes advice from IHMS that Master Z requires specialist support for management of behavioural concerns.

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.