

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 Ms X and her daughter, Ms Y, who have remained in immigration detention for a cumulative period of more than 42 months (three and a half years). The previous assessment 1002436-O was tabled in Parliament on 14 June 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Ms X (and daughter)	Ms Y (daughter)
Citizenship	Country A	Country A
Year of birth	1978	1999

Ombudsman ID	1002436-O1
Date of department's reports	26 June 2017 and 28 December 2017
Total days in detention	1,279 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Ms X and Ms Y have continued to be placed in the community.¹

Recent visa applications/case progression

The Department of Home Affairs (the department) has advised that under current policy settings Ms X and Ms Y are 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 treatment.

26 June 2017 and
28 December 2017

The department advised that it is supporting the government of Nauru to finalise the Refugee Status Determination of Ms X and Ms Y while they remain temporarily in Australia for medical treatment.

Health and welfare

Ms X

International Health and Medical Services (IHMS) advised that Ms X continued to receive treatment and was prescribed with medication for multiple physical health concerns.

IHMS further advised that Ms X continued to attend specialist counselling and take prescribed medication for depression, anxiety, an adjustment disorder and a history of torture and trauma.

Ms Y

IHMS advised that Ms Y continued to attend ongoing psychological counselling for multiple complex mental health concerns, including depression and anxiety. In October 2017 she was referred to a psychiatrist for review after presenting with symptoms of poor sleep, anxiety, low mood and low self-esteem.

¹ Ms X and Ms Y were granted a placement in the community under s 197AB of the *Migration Act 1958* and remain in immigration detention.

August 2017	An Incident Report recorded that Ms Y presented to a general practitioner after experiencing a traumatic episode related to her fear of being returned to Nauru RPC or an immigration detention facility.
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Ombudsman assessment

Ms X and Ms Y were detained on 19 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.

Ms 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 they remain liable for transfer back to an RPC on completion of their treatment.

The department further advised that it is supporting the government of Nauru to finalise the Refugee Status Determination of Ms X and Ms Y while they remain temporarily in Australia for medical treatment.

The Ombudsman’s previous assessment recommended that priority be given to resolving Ms X and Ms Y’s immigration status while noting ongoing mental health concerns.

On 14 June 2017 the Minister advised that under current legislation and policy settings, Ms X and Ms Y remain subject to return to an RPC on completion of their treatment.

The Ombudsman notes that Ms X and Ms Y’s return to an RPC is likely to be protracted due to their ongoing mental and physical health concerns.

IHMS has advised that Ms X and Ms Y continue to receive ongoing specialist treatment for complex mental health concerns.

The Ombudsman notes with concern that it appears likely that Ms X and Ms Y 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.