

**RESPONSE TO OMBUDSMAN'S ASSESSMENT NO. 17/2019 MADE UNDER
SECTION 486O OF THE *MIGRATION ACT 1958***

STATEMENT TO PARLIAMENT - No. 17/2019

General Comments

I refer to the Commonwealth Ombudsman's assessment tabled in Parliament today. This assessment refers to 28 people who have been in immigration detention for two or more years. This assessment contains recommendations relating to eight cases

Response to the Commonwealth Ombudsman's assessment

1. Tabling statement for case: 1000518-O2

I note the Ombudsman's recommendation. This person was voluntarily removed from Australia in May 2019.

2. Tabling statement for case: 1001272-O2

I note the Ombudsman's recommendation. This person's case was included as part of a group submission which was referred to the former Assistant Minister to brief her on a number of long-term detention cases. The Assistant Minister indicated that this person's case should be referred for consideration under the Ministerial intervention powers of the *Migration Act 1958* (the Act). The Department is preparing a submission for my consideration under section 195A of the Act.

3. Tabling statement for case: 1001332-O3

I note the Ombudsman's recommendations. This person's case was included as part of a group submission which was referred to the former Assistant Minister to brief her on a number of long-term detention cases. The Assistant Minister indicated at the time that this person's case should not be referred for consideration under the Ministerial intervention powers of the Act.

The Department has reviewed this person's circumstances and is undertaking an assessment against my section 197AB guidelines for possible referral to me for consideration of a community placement under residence determination.

The Department has already made arrangements to transfer this person to the relevant facility where they are located closer to their support network.

4. Tabling statement for cases: 1002449-O3 and 1002679-O1

I note the Ombudsman's recommendations. I am mindful of the circumstances of these families as they are transitory people who have been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, these families remain subject to return to a regional processing country (RPC) on completion of their medical treatment.

They are currently residing in the community under a residence determination, made under section 197AB of the Act, which provides the best level of support to the family while their children remain under school age.

The Department is regularly reviewing transitory persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the Act for the consideration of the grant of a bridging visa.

5. Tabling statement for case: 1002684-O1

I note the Ombudsman's recommendations. I am mindful of the circumstances of this family as they are transitory people who have been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, this family remains subject to return to an RPC on completion of their medical treatment.

This family has already been assessed as refugees by the Government of Nauru.

They are currently residing in the community under a residence determination, which provides the best level of support to the family while their child remains under school age.

The Department is regularly reviewing transitory persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the Act for the consideration of the grant of a bridging visa.

6. Tabling statement for case: 1002794-O1

I note the Ombudsman's recommendation. This case has been reviewed by the Department. A transfer to a facility close to support network is not possible at this time due to capacity issues.

This person is able to communicate via emails, letters, phone calls and skype.

7. Tabling statement for case: 1002902-O

I note the Ombudsman's recommendation. I am mindful of the circumstances of this person, as they are a transitory person who has been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, this person remains subject to return to an RPC on completion of their medical treatment.

This person is currently residing in the community under a residence determination, which provides the best level of support whilst they have ongoing medical treatment.

The Department is regularly reviewing transitory persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the Act for the consideration of the grant of a bridging visa.

9. Tabling statement for cases: 000479-O2, 1000872-O1, 1000878-O2, 1000934-O3, 1002100-O2, 1002787-O2, 1002815-O2, 1002956-O, 1002958-O, 1002964-O, 1003014-O, 1003018-O

I note that the Ombudsman made no recommendations in relation to these cases.

(Original signed by David Coleman)

THE HON DAVID COLEMAN MP
Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

09 / 09 / 2019