

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 42 months (three and a half years).

The first assessment 1002229-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	1968

Family details

Family members	Ms Y (wife)	Master Z (son)
Citizenship	Country A	Country A
Year of birth	1980	2011

Ombudsman ID	1002229-O1
Date of DIBP's reviews	14 November 2016 and 16 May 2017
Total days in detention	1,276 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1002229-O), the family¹ has 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 treatment.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X continued to receive specialist treatment for multiple physical health concerns, including chronic back pain, nasal abnormalities, osteoarthritis and associated hip and knee pain. On 30 July 2016 he was reviewed by an orthopaedic surgeon and referred for physiotherapy. His condition was monitored by a general practitioner (GP).	
4 – 5 July 2016	Admitted to hospital for a surgical procedure to correct a nasal condition.

¹ Mr X and Ms Y's second son, Master P, was born in Australia in May 2015 and detained on 18 June 2015. He is the subject of Ombudsman assessment 1002694-O.

Ms Y

<p>IHMS advised that Ms Y continued to attend regular psychological counselling for the management of depression. In April 2016 she presented with suicidal thoughts, disturbed sleep and anxiety related to her prolonged detention and concerns about being returned to an RPC.</p> <p>IHMS further advised that Ms Y received specialist treatment for nasal abnormalities and a treating counsellor strongly recommended that the family remain in community detention and not be returned to an RPC.</p>	
4 August 2016	Admitted to hospital for a surgical procedure to correct a nasal condition.

Master Z

<p>IHMS advised that Master Z continued to attend psychological counselling and family therapy for the management of an acute anxiety disorder and behavioural issues. His mental health was regularly monitored by the child mental health team.</p> <p>IHMS further advised that Master Z was diagnosed with asthma and continued to be monitored by a GP for growth and development concerns.</p>	
11 June 2016	Reviewed at a hospital emergency department following an acute asthma attack.

Ombudsman assessment/recommendation

<p>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 and a half years with no processing of their protection claims.</p> <p>The family was 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.</p> <p>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 with concern that Ms Y and Master Z continue to receive treatment for mental health concerns and a treating counsellor recommended that the family remain in community detention and not be returned to an RPC.</p> <p>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.</p> <p>The Ombudsman again recommends that priority is given to resolving the family's immigration status.</p>
--