

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 and his daughter, Ms Y, who have remained in immigration detention for a cumulative period of more than three and a half years. The previous assessment 1002492-O was tabled in Parliament on 6 September 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Mr X (and daughter)
Citizenship	Country A
Year of birth	1964

Family details

Family members	Ms Y (daughter)
Citizenship	Country A
Year of birth	1998

Ombudsman ID	1002492-O1
Date of department's reports	1 September 2017 and 5 March 2018
Total days in detention	1,278 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr 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 Mr 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 Ms Y's treatment.

1 September 2017 and 5 March 2018	The department advised that it is supporting the government of Nauru to finalise the Refugee Status Determination of Mr X and Ms Y while they remain temporarily in Australia for medical treatment.
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Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X continued to be prescribed with antidepressant medication and monitored by a general practitioner for the management of a number of conditions.

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

Ms Y

IHMS advised that Ms Y continued to receive treatment for multiple complex mental health concerns. She regularly engaged with specialist counselling and it was reported that Ms Y continued to experience symptoms of distress and trauma. A treating counsellor reported that Ms Y's mental state was being impacted by the uncertainty surrounding her immigration status and fears of being returned to Nauru or Country A. A counsellor recommended that she attend ongoing specialist counselling and remain in a stable community environment. She was referred for a psychiatric assessment after she ceased her prescribed medication due to concerns about side-effects. She was awaiting this appointment at the time of IHMS's latest review.

IHMS further advised that Ms Y was prescribed with medication for the management of a medical condition.

Ombudsman assessment

Mr 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.

Mr X and Ms Y were transferred to an RPC and returned to Australia for medical treatment. The department advised that because Mr X and Ms Y arrived after 19 July 2013 they remain 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 Mr X and Ms Y's immigration status while noting ongoing mental health concerns.

On 6 September 2017 the Minister advised that the department is supporting the government of Nauru to finalise the Refugee Status Determination of Mr X and Ms Y while they remain in Australia.

Mr 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 Y requires ongoing specialist treatment for complex mental health concerns. A treating counsellor reported that Ms Y's mental state was being affected by the uncertainty surrounding her immigration status and fears of being returned to Nauru or Country A. It was recommended that she continue counselling and remain in a stable community environment.

It appears likely that Mr 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.