

ASSESSMENT BY THE COMMONWEALTH AND IMMIGRATION 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 family¹ who have remained in immigration detention for a cumulative period of more than 36 months (three years).

The first assessment 1002384-O was tabled in Parliament on 23 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	1981
Total days in detention	1,094 (at date of DIBP's latest review)

Family details

Family members	Ms Y (wife)	Miss Z (daughter)
Citizenship	Country A	Country A, born in Australia
Year of birth	1982	2014
Total days in detention	1,094 (at date of DIBP's latest review)	844 (at date of DIBP's latest review)

Ombudsman ID	1002384-O1
Date of DIBP's reviews	28 October 2016 and 28 April 2017

Recent detention history

Since the Ombudsman's previous assessment (1002384-O), Mr X and his family 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 Mr X and his family 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.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X did not require treatment for any major physical or mental health issues during this assessment period.

¹ Mr X and Ms Y's daughter, Miss Z, was born in Australia in December 2014 and was subject to an individual assessment under s 486N. She was previously reported on in Ombudsman assessment 1002563-O and is now included in her family's assessment.

Ms Y

<p>IHMS advised that Ms Y received treatment for multiple physical health concerns including ongoing abdominal pain, renal stenosis, back pain, gastric reflux and haemorrhoids. Ms Y's condition continued to be monitored by a general practitioner and she was awaiting urology and gastroenterology reviews.</p> <p>IHMS further advised that Ms Y did not require treatment for any major mental health issues during this assessment period.</p>	
<p>18 June 2016</p>	<p>Presented to a hospital emergency department following gastroenterological concerns.</p>

Miss Z

<p>IHMS advised that Miss Z previously received specialist treatment for reflux, food aversion, behavioural issues and development concerns and continued to await a paediatric review.</p>

Ombudsman assessment/recommendation

<p>Mr X and Ms Y were detained on 20 October 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. Miss Z was detained on 5 January 2015 and has been held in detention for more than two and a half years with no processing of her protection claims.</p> <p>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 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.</p> <p>The Ombudsman notes that under current policy settings the family are not eligible to have their protection claims assessed in Australia and that without an assessment of their 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>
