

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the third s 486O assessment on Mr X, Ms Y and their sons<sup>1</sup> who have remained in immigration detention for more than 54 months (four and a half years). The previous assessment 1001347-O was tabled in Parliament on 10 May 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Family members</b>	Mr X (and family)	Ms Y (wife)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	1980	1991
<b>Total days in detention</b>	1,461 (at date of department's report)	1,642 (at date of department's latest report)

### Family details

<b>Family members</b>	Master Z (son)	Master P (son)
<b>Citizenship</b>	Country A, born in Australia	Country A, born in Australia
<b>Year of birth</b>	2013	2015
<b>Total days in detention</b>	1,411 (at date of department's latest report)	893 (at date of department's latest report)

<b>Ombudsman ID</b>	1001347-O1
<b>Date of department's reports</b>	18 April 2017 and 16 October 2017

### Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Yongah Hill Immigration Detention Centre (IDC) and Ms Y, Master Z and Master P have continued to be placed in the community. <sup>2</sup>	
3 April 2017	Mr X was transferred to Brisbane Immigration Transit Accommodation.
August 2017	Mr X was removed from Australia.

### Recent visa applications/case progression

12 December 2016	Master Z and Master P's Temporary Protection visa (TPV) application was refused.
18 April 2017	The Department of Home Affairs (the department) advised that Mr X remained a person of interest to the department in relation to offshore criminal convictions.

<sup>1</sup> This is the second s 486O assessment on Master P who was previously the subject of Ombudsman assessment 1002644-O. For the purpose of reporting under s 486O, his timeline in detention has been aligned with his parents and they are reported on together.

<sup>2</sup> Ms X, Master Z and Master P were granted a placement in the community under s 197AB and remain in immigration detention.

5 May 2017	The Administrative Appeals Tribunal (AAT) affirmed the decision to refuse Master Z and Master P's TPV application.
8 June 2017	Master Z and Master P applied to the Federal Circuit Court (FCC) for judicial review.
2 August 2017	Ms Y applied to the FCC for judicial review of the decision to refuse her Protection visa application for a second time.
7 August 2017	FCC adjourned. A hearing was scheduled for 21 November 2017.
8 August 2017	Ms Y and her family requested ministerial intervention under s 48B of the <i>Migration Act 1958</i> . On 10 August 2017 the request was finalised without referral to the Minister.
16 October 2017	The department advised that as Ms Y has no matters before the department, the courts or tribunals, she is on a removal pathway.  The department further advised that as Ms Y's application for judicial review is a repeat application, it is not considered a barrier to her removal from Australia.

## Health and welfare

### Mr X

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

### Ms Y

IHMS advised that Ms Y received treatment for stress and depression relation to her immigration pathway and caring for her sons alone. In May 2017 she presented to a general practitioner (GP) with sleeping concerns related to her immigration pathway and concerns about her sons' future. In August 2017 she requested mental health support and the GP referred her for counselling and updated her mental health care plan.

### Master Z

IHMS advised that Master Z received treatment for a food allergy and associated skin condition. He was referred to a dermatology specialist for review in January 2017.

### Master P

IHMS advised that Master P received treatment for physical health concerns, including a skin condition and respiratory tract infection.

**Case status**

Mr X was found not to be owed protection under the Refugee Convention and the complementary protection criterion and remained in an immigration detention facility for more than four years. He was released from immigration detention when he was involuntarily removed from Australia in August 2017.

Ms Y was found not to be owed protection under the Refugee Convention and the complementary protection criterion and has remained in immigration detention, both in a detention facility and the community, for more than four and a half years. She has no matters before the department, the courts or tribunals and is on a removal pathway.

Master Z and Master P were detained in Australia following their birth to parents in immigration detention. On 12 December 2016 Master Z and Master P's TPV application was refused and on 5 May 2017 the AAT affirmed the decision. Master Z and Master P were awaiting the outcome of judicial review at the date of the department's latest report.