

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 family¹ who have remained in immigration detention for a cumulative period of more than three years. The previous assessment 1002547-O was tabled in Parliament on 18 October 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X (and family)	Ms Y (wife)
Citizenship	Country A	Country A
Year of birth	1980	1977
Total days in detention	1,094 (at date of department's latest report)	1,094 (at date of department's latest report)

Family details

Family members	Miss Z (daughter)	Miss P (daughter)
Citizenship	Country A	Country A, born in Australia
Year of birth	2010	2015
Total days in detention	1,094 (at date of department's latest report)	772 (at date of department's latest report)

Ombudsman ID	1002547-O1
Date of department's reports	13 October 2017 and 25 November 2017

Recent detention history

Since the Ombudsman's previous assessment, the family has continued to be placed in the community.²

Recent visa applications/case progression

The Department of Home Affairs (the department) has advised that under current policy settings the family is not eligible to have their protection claims assessed in Australia and remains liable for transfer back to a Regional Processing Centre (RPC) on completion of their treatment.	
13 October 2017 and 25 November 2017	The department advised that it is supporting the Government of Nauru to finalise the Refugee Status Determination of the family while they remain temporarily in Australia for medical treatment.

¹ This is the first s 486O assessment on Miss P who was detained in October 2015 following her birth to parents in immigration detention. Miss P was initially reported on individually under s 486N of the *Migration Act 1958* and is now reported on with her family as of their 36-month report, dated 25 November 2017. For the purpose of reporting under s 486O, her timeline in detention has been aligned with her family and they are reported on together.

² The family was granted a placement in the community under s 197AB and remains in immigration detention.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X attended counselling in August 2017 for the management of symptoms of depression and anxiety and a history of torture and trauma. No further concerns were reported.

IHMS further advised that Mr X continued to be prescribed with medication for the management of ongoing shoulder pain.

Ms Y

IHMS advised that Ms Y was reviewed by a general practitioner in September 2016 who noted that her medication was not effectively assisting with her ongoing symptoms of anxiety and depression. She was prescribed with a new regime of medication and was referred to a psychiatrist for counselling. IHMS advised that Ms Y had difficulty attending counselling with a psychiatrist and with a specialist service due to fear associated with her history of torture and trauma.

IHMS further advised that Ms Y received treatment for physical health concerns.

Miss Z

IHMS advised that Mr X reported significant improvement in Miss Z's mental health and as a result further specialist counselling was declined.

Miss P

IHMS advised that Miss P did not receive treatment for any major physical or mental health concerns during this assessment period.

Ombudsman assessment

Mr X, Ms Y and Miss Z were detained in July 2013 after arriving in Australia by sea and Miss P was detained in October 2015 following her birth to parents in immigration detention. The family has remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than three years.

Mr X, Ms Y and Miss Z were transferred to an RPC and returned to Australia for medical treatment. The department advised that because they arrived after 19 July 2013 they remain liable for transfer back to an RPC on completion of their treatment.

The Ombudsman's previous assessment recommended that priority be given to resolving the family's immigration status while noting ongoing mental health concerns.

On 18 October 2017 the Minister advised that the department is supporting the Government of Nauru to finalise the Refugee Status Determination of the family while they remain temporarily in Australia for medical treatment.

The family's return to an RPC is likely to be protracted due to Ms Y's ongoing mental health concerns.

IHMS has advised that Ms Y continues to have symptoms of depression and anxiety and has had difficulty engaging with counselling services due to her history of torture and trauma.

It appears likely that the family will remain in detention for a prolonged and uncertain period while they receive medical treatment, posing a serious risk to their mental health.