

## 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 Ms X and Ms Y who have remained in immigration detention for a cumulative period of more than 36 months (three years). The previous assessment 1002505-O was tabled in Parliament on 6 September 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

<b>Name</b>	Ms X (and daughter)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1959

### Family details

<b>Family members</b>	Ms Y (daughter)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1981

<b>Ombudsman ID</b>	1002505-01
<b>Date of department's report</b>	18 September 2017
<b>Total days in detention</b>	1,095 (at date of department's report)

### Recent detention history

Since the Ombudsman's previous assessment, Ms X and Ms Y have continued to be placed in the community.<sup>1</sup> They continue to reside with Ms X's husband and Ms Y's father, Mr Z, who is the subject of Ombudsman assessment 1002404-O1.

### Recent visa applications/case progression

The Department of Home Affairs (the department) has advised that under current policy settings Ms 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 their treatment.

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

*Ms X*

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

<sup>1</sup> Ms 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 presented with symptoms of a conversion disorder in partial remission, generalised anxiety disorder and pervasive depressive disorder. While her condition was noted to have improved upon being placed in the community, a counsellor advised that she remains highly vulnerable to further deterioration in her mental health due to the possibility of being returned to an immigration detention facility or an RPC. The counsellor recommended that Ms Y continue to be prescribed with medication and engage in psychotherapy and social activities to promote her engagement with others and the community.

IHMS further advised that Ms Y continued to be monitored by a general practitioner for the management of lower limb weakness associated with her conversion disorder and reported significant improvement following physiotherapy in April 2017.

### **Ombudsman assessment**

Ms X and Ms Y were detained on 20 July 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 years.

Ms X and Ms Y 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 Ms X and Ms Y's immigration status while noting their complex 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 Ms X and Ms Y while they remain temporarily in Australia for medical treatment.

Ms 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 continued to present with symptoms of a conversion disorder, generalised anxiety disorder and pervasive depressive disorder and required ongoing monitoring for lower limb weakness. IHMS previously advised in its report dated 13 February 2017 that on 5 February 2017 an IHMS Medical Director advised that it was clinically inappropriate for Ms X to be placed in an RPC due to the high risk of her mental health deteriorating if she were separated from her daughter, who requires treatment for complex mental health concerns in Australia.

It appears likely that Ms 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 health.