

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 36 months (three years). The previous assessment 1002533-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 family)	Ms Y (wife)
Citizenship	Stateless, born in Country A	Stateless, born in Country A
Year of birth	1975	1987
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	Master Z (son)	Miss P (daughter)	Miss Q ² (daughter)
Citizenship	Stateless, born in Country B	Stateless, born in Country C	Stateless, born in Australia
Year of birth	2011	2013	2015
Total days in detention	1,094 (at date of department's latest report)	1,094 (at date of department's latest report)	795 (at date of department's latest report)

Ombudsman ID	1002533-O1
Date of department's reports	16 August 2017 and 20 October 2017

Recent detention history

Since the Ombudsman's previous assessment, the family has continued to be placed in the community.³

Recent visa applications/case progression

The Department of Immigration and Border Protection (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.	
16 August 2017 and 20 October 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 Q. For the purpose of reporting under s 486N of the *Migration Act 1958*, her timeline in detention has been aligned with her family and they are reported on together.

² Miss Q was detained on 17 August 2015 following her birth to parents in immigration detention. Miss Q was initially reported on individually under s 486N and is now reported on with her family as of their 36-month report, dated 20 October 2017.

³ 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 was referred for physiotherapy and prescribed with anti-inflammatory medication for the management of back and shoulder pain.

Ms Y and Miss P

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

Master Z

IHMS advised that Master Z received treatment for asthma and gastrological concerns.

Miss Q

IHMS advised that Miss Q was referred to a paediatrician for investigation of breathing difficulties and no abnormalities were identified.

Ombudsman assessment

The family was detained on 20 October 2013 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than three years.

The family was transferred to an RPC and returned to Australia for medical treatment. The department advised that because the family arrived after 19 July 2013 they remain liable for transfer back to an RPC on completion of their treatment.

The department further 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.

The Ombudsman's previous assessment recommended that priority be given to resolving the family's immigration status.

On 6 September 2017 the Minister noted the recommendation and advised that the department is supporting the government of Nauru to finalise the family's Refugee Status Determination while they remain in Australia.

The Ombudsman notes the government's duty of care to detainees and the serious risk to mental and physical health posed by a prolonged and uncertain period of detention.