

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 family who have remained in immigration detention for a cumulative period of more than three and a half years. The previous assessment 1002457-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	1980	1978

Family details

Family members	Master Z (son)	Miss P (daughter)	Master Q (son)
Citizenship	Stateless, born in Country B	Stateless, born in Country B	Stateless, born in Country B
Year of birth	2000	2003	2007

Ombudsman ID	1002457-O1
Date of department's reports	24 July 2017 and 22 January 2018
Total days in detention	1,277 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, the family has continued to be placed in the community.¹

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 Mr X and Ms Y's treatment.	
July 2017 and January 2018	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.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X continued to await an appointment with an orthopaedic specialist for review of a joint condition.

¹ The family was granted a placement in the community under s 197AB of the *Migration Act 1958* and remains in immigration detention.

Ms Y

IHMS advised that Ms Y was confirmed to be pregnant in February 2017 and gave birth to her daughter² in September 2017.

Ms Y continued to await an appointment with an orthopaedic specialist for review of back pain during this assessment period.

In March 2017 the family's service provider advised that the family had been provided with ongoing counselling and had been referred for appropriate health and wellbeing support services. IHMS further advised that Ms Y attended counselling sessions in April and May 2017.

March 2017

An Incident Report recorded that Ms Y threatened self-harm.

Master Z, Miss P and Master Q

IHMS advised that Master Z, Miss P and Master Q did not receive treatment for any major physical or mental health issues during this assessment period.

Ombudsman assessment

The family was detained in December 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 and a half 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 Mr X and Ms Y's 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 advised that the department is supporting the Government of Nauru to finalise the family's refugee status determination while they remain in Australia.

The family's return to an RPC is likely to be protracted and it appears likely that they will remain in detention for a prolonged and uncertain period while they receive medical treatment.

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.

² Mr X and Ms Y's daughter was born in Australia in September 2017 and has been in detention for less than two years. She is not subject to reporting under s 486N.