

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 daughters¹ who have remained in immigration detention for a cumulative period of more than three years. The previous assessment 1002552-O was tabled in Parliament on 29 November 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 B
Year of birth	1977	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	Stateless, born in Country A	Stateless, born in Australia
Year of birth	2008	2015
Total days in detention	1,094 (at date of department's latest report)	838 (at date of department's latest report)

Ombudsman ID	1002552-O1
Date of department's reports	21 August 2017 and 6 December 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 Ms Y's treatment.	
21 August 2017 and 6 December 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 on 21 August 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 6 December 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 continued to be monitored by a general practitioner (GP) for multiple physical health concerns. He was prescribed with medication and was referred to a specialist for review.

Ms Y

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

IHMS further advised that Ms Y was prescribed with medication and attended psychological counselling for the management of depression. A psychologist recommended that she attend ongoing counselling.

Miss Z

IHMS advised that Miss Z did not receive treatment for any major physical or mental issues during this assessment period.

Miss P

IHMS advised that Miss P attended a hospital emergency department after presenting to a GP with a number of medical conditions.

Ombudsman assessment

Mr X, Ms Y and Miss Z were detained on 24 July 2013 after arriving in Australia by sea and Miss P was detained on 21 August 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 the family remains liable for transfer back to an RPC on completion of Ms Y's treatment.

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

On 29 November 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 their ongoing mental and physical health concerns.

IHMS has advised that Ms Y required ongoing psychological treatment for the management of depression and Mr X required monitoring for multiple physical health concerns.

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 and physical health.