

# ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the third s 486O assessment on Mr X, Ms Y and their daughter<sup>1</sup> who have remained in immigration detention for a cumulative period of more than four years. The previous assessment 1002293-O1 was tabled in Parliament on 29 November 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Mr X (and family)	Ms Y (wife)
<b>Citizenship</b>	Stateless, born in Country A	Country A
<b>Year of birth</b>	1990	1991
<b>Total days in detention</b>	1,458 (at date of department's latest report)	1,458 (at date of department's latest report)

## Family details

<b>Family members</b>	Miss Z (daughter)
<b>Citizenship</b>	Country A, born in Australia
<b>Year of birth</b>	2015
<b>Total days in detention</b>	827 (at date of department's latest report)

<b>Ombudsman ID</b>	1002293-O2
<b>Date of department's reports</b>	9 October 2017 and 12 January 2018

## Recent detention history

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

## 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.	
9 October 2017 and 12 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.

<sup>1</sup> This is the first s 486O assessment on Miss Z who was detained in October 2015 following her birth to parents in immigration detention. Miss Z was initially reported on individually under s 486N of the *Migration Act 1958*, and was included in her parents' 48-month report, dated 12 January 2018. For the purpose of reporting under s 486N, her timeline in detention has been aligned with her parents and they are reported on together.

<sup>2</sup> 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 did not receive treatment for any major physical or mental health issues during this assessment period.

*Ms Y*

IHMS advised that Ms Y was confirmed to be pregnant and continued to receive care from an antenatal clinic and general practitioner (GP).

IHMS further advised that Ms Y continued to be monitored by a GP for multiple mental health concerns.

October 2017

Ms Y gave birth to her son.<sup>3</sup>

*Miss Z*

IHMS advised that Miss Z was prescribed with medication for physical health concerns.

## Ombudsman assessment

Mr X and Ms Y were detained in December 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 four years.

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

The Ombudsman's previous assessment recommended that the department expedite the resolution of Mr X and Ms Y'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.

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 had previously been diagnosed with multiple complex mental health concerns and continued to be monitored by a GP.

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.

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<sup>3</sup> Master P was born in Australia in October 2017 and detained in December 2017. He has been in detention for less than two years and is not subject to reporting under s 486N.