

**RESPONSE TO OMBUDSMAN'S ASSESSMENT No. 22/2019 MADE UNDER
SECTION 486O OF THE *MIGRATION ACT 1958***

STATEMENT TO PARLIAMENT - No. 22/2019

General Comments

I refer to the Commonwealth Ombudsman's assessment tabled in Parliament today. This assessment refers to 33 people who have been in immigration detention for two or more years. This assessment contains recommendations relating to 10 cases.

Response to the Commonwealth Ombudsman's assessments

1. Tabling statement for cases: 1002227-O2, 1002497-O2 and 1002614-O1

I note the Ombudsman's recommendation. I am mindful of the circumstances of these individuals, as they are transitory persons who have been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, these people remain subject to return to a regional processing country (RPC) on completion of their medical treatment.

These individuals are currently residing in the community under residence determinations, which provides the best level of support while they have ongoing medical treatment.

The Department is regularly reviewing transitory persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the *Migration Act 1958* (the Act) for the consideration of the grant of a bridging visa.

2. Tabling statement for case: 1002270-03

I note the Ombudsman's recommendation. I am mindful of the circumstances of this person, as the relevant RPC has decided not to accept this person under the non-acceptance provisions of the Act, as this person requires medical treatment that cannot be provided in the RPC.

The Department is reviewing the circumstances of this individual and will expedite consideration of his case within the existing legislative and policy framework.

This person is currently residing in the community under a residence determination, which provides the best level of support while they are undergoing medical treatment.

3. Tabling statement for case: 1002473-O2

I note the Ombudsman's recommendations. I am mindful of the circumstances of this family, as they are transitory people who have been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, this family remains subject to return to an RPC on completion of their medical treatment.

This family were initially placed in the community under a residence determination to provide the best level of support to the family while their child was under school age. As their child is now attending school, the Department is reviewing their placement to ensure it continues to meet the needs of the family.

4. Tabling statement for case: 1002500-O2

I note the Ombudsman's recommendation. I am mindful of the circumstances of this family, as they are people who have been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, this family remain subject to return to a regional processing country (RPC) on completion of their medical treatment.

This family are currently residing in the community under a residence determination, made under section 197AB of the Act, which provides the best level of support to the family while their children remain under school age.

The Department is regularly reviewing transitory persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the Act for the consideration of the grant of a bridging visa.

The Department is also expediting consideration of an application for Australian citizenship lodged on behalf of one of the family's children.

5. Tabling statement for cases 1002775-O and 1002924-O

I note the Ombudsman's recommendations. I am mindful of the circumstances of these families, as they are transitory people who have been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, these families remain subject to return to a RPC on completion of their medical treatment.

They are currently residing in the community under a residence determination, made under section 197AB of the Act, which provides the best level of support to the family while their children remain under school age.

The Department is regularly reviewing transitory persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the Act for the consideration of the grant of a bridging visa.

6. Tabling statement for case: 1002975-O1

I note the Ombudsman's recommendation. This person's placement has been reviewed by the Department and a transfer to another facility is not possible at this time due to capacity issues.

This person is able to communicate with their support network via email, telephone and skype.

7. Tabling statement for case: 1003070-O

I note the Ombudsman's recommendations. I am mindful of the circumstances of this person, as this person is a transitory person who has been temporarily transferred to Australia for medical treatment. Under current legislation and policy settings, this person remains subject to return to an RPC on completion of their medical treatment.

This person is currently residing in the community under a residence determination, which provides the best level of support while they are undergoing medical treatment. This person advised the Department they no longer wish to relocate and prefer to remain at their existing location where they are close to their support network. International Health and Medical Services support the family's current placement.

The Department will continue to review the cases of persons residing in the community under a residence determination and, with the exception of the most vulnerable or those who represent security or community protection concerns, may refer these cases to me under section 195A of the Act for the consideration of the grant of a bridging visa.

8. Tabling statement for case: 2000005-O1

I note the concerns raised by the Ombudsman in relation to this case. This person's refugee visa was mandatorily cancelled under section 501 of the Act on character grounds. They were subsequently found not to be owed protection obligations and refused a protection visa. This decision was affirmed at merits review. It is open to this person to seek judicial review of the merits review decision.

The Department will refer this person for removal from Australia, once options for judicial review are exhausted.

9. Tabling statement for case: 1000997-O2, 1002595-O2, 1002597-O1, 1002609-O1, 1002735-O1, 1002835-O1, 1002848-O1, 1002942-O, 1002946-O and 2000005-O1

I note that the Ombudsman made no recommendations in relation to these cases.

(Original signed by David Coleman)

THE HON DAVID COLEMAN MP
Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

09 / 09 / 2019