

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 Ms X and Ms Y who have remained in immigration detention for a cumulative period of more than three and a half years. The previous assessment 1002478-O was tabled in Parliament on 18 October 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Ms X (and daughter)
Citizenship	Country A
Year of birth	1946

Family details

Family members	Ms Y (daughter)
Citizenship	Country A
Year of birth	1983

Ombudsman ID	1002478-O1
Date of department's reports	23 August 2017 and 22 February 2018
Total days in detention	1,276 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Ms X and Ms Y have 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 Ms X and Ms Y are not eligible to have their protection claims assessed in Australia and remain liable for transfer back to a Regional Processing Centre (RPC) on completion of their treatment.

August 2017 and February 2018	The department advised that it is supporting the government of Nauru to finalise the Refugee Status Determination of Ms X and Ms Y while they remain temporarily in Australia for medical treatment.
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¹ Ms X and Ms Y were granted a placement in the community under s 197AB of the *Migration Act 1958* and remain in immigration detention.

Health and welfare

Ms X

International Health and Medical Services (IHMS) advised that Ms X received treatment for complex mental health concerns. She engaged with specialist counselling and in November 2017 a report noted that Ms X displayed distress and agitation and reported feelings of helplessness and lack of control over her life due to the uncertainty of her future and the possibility of being returned to Nauru. The counsellor referred her for psychiatric review and advised that in order to prevent a further deterioration in Ms X's mental health, she required a stable and secure community-based living arrangement. The counsellor further advised that a return to an immigration detention facility or Nauru would cause serious deterioration to her mental health. Ms X was prescribed with medication and continued to be monitored by a general practitioner and specialist counsellor.

IHMS further advised that Ms X received treatment for multiple physical health concerns. In October 2017 Ms X reported experiencing pain and was referred for investigative testing. An x-ray did not indicate any abnormalities and Ms X was referred to a specialist for review.

Ms Y

IHMS advised that Ms Y was prescribed with medication and attended counselling for the management of mental health conditions. Ms Y reported experiencing low motivation and difficulties sleeping and she was prescribed with medication. A treating specialist counsellor noted that the uncertainty of her family's current situation and immigration pathways was contributing to her anxiety and depression. The counsellor further advised that a return to an immigration detention facility or Nauru would cause a deterioration in her mental health.

Other matters

Ms X's son, Mr Z, continues to be placed in the community with his mother and sister and is the subject of Ombudsman assessment 1002587-O1.

Ombudsman assessment

Ms X and Ms Y were detained in July 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 three and a half years.

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

The Ombudsman's previous assessment recommended that priority be given to resolving Ms X and Ms Y's immigration status while noting ongoing mental and physical health concerns.

On 18 October 2017 the Minister advised that the department is supporting the Government of Nauru to finalise Ms X and Ms Y's Refugee Status Determination while they remain in Australia.

Ms X and Ms Y's return to an RPC is likely to be protracted due to their ongoing mental and physical health concerns.

Treating counsellors advised that a return to an immigration detention facility or Nauru would cause a deterioration in Ms X's and Ms Y's mental health. A counsellor further noted that Ms X required a stable and secure community-based living arrangement.

It appears likely that Ms X and Ms Y 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.