

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 her sons who have remained in immigration detention for a cumulative period of more than 36 months (three years). The previous assessment 1002527-O was tabled in Parliament on 13 September 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Ms X (and sons)
Citizenship	Country A
Year of birth	1977

Family details

Family members	Master Y (son)	Master Z (son)	Master P (son)
Citizenship	Country B	Country B	Country B
Year of birth	2002	2003	2006

Ombudsman ID	1002527-O1
Date of department's report	11 October 2017
Total days in detention	1,094 (at date of department's 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 their treatment.

11 October 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.
-----------------	---

Health and welfare

Ms X

International Health and Medical Services (IHMS) advised that Ms X continued to receive treatment at a specialist clinic for scarring related to a previous injury. She underwent surgery to improve mobility in her neck in June 2017 and was scheduled to receive an orthotic neck collar in July 2017.

IHMS further advised that Ms X did not receive treatment for any mental health concerns during this assessment period.

¹ The family was granted a placement in the community under s 197AB and remains in immigration detention.

Master Y, Master Z and Master P

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

Ombudsman assessment

The family was detained on 27 July 2014 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 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 their 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 13 September 2017 the Minister advised that the family had been temporarily transferred to Australia for medical treatment and the department was supporting the government of Nauru to finalise their Refugee Status Determination while they remain in Australia.

The Ombudsman notes that the family's return to an RPC is likely to be protracted due to Ms X's ongoing physical health concerns.

The Ombudsman notes with concern that it appears likely that the family will remain in detention for a prolonged and uncertain period while Ms X receives medical treatment, posing a serious risk to the family's mental and physical health.