

## 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 family<sup>1</sup> who have remained in immigration detention for a cumulative period of more than three and a half years. The previous assessment 1002486-O was tabled in Parliament on 13 September 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

<b>Name</b>	Mr X (and family)	Ms Y (wife)
<b>Citizenship</b>	Stateless, born in Country A	Stateless, born in Country A
<b>Year of birth</b>	1987	1984
<b>Total days in detention</b>	1,276 (at date of department's latest report)	1,276 (at date of department's latest report)

### Family details

<b>Family members</b>	Miss Z (daughter)	Master P (son)
<b>Citizenship</b>	Stateless, born in Australia	Stateless, born in Australia
<b>Year of birth</b>	2013	2015
<b>Total days in detention</b>	1,218 (at date of department's latest report)	974 (at date of department's latest report)

<b>Ombudsman ID</b>	1002486-O1
<b>Date of department's reports</b>	29 August 2017 and 27 February 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.	
May 2017	Mr X and Ms Y attended interviews regarding their children's applications for Australian citizenship.
August 2017 and February 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.
February 2018	The department advised that Mr X and his family are plaintiffs in ongoing court proceedings.

<sup>1</sup> This is the second s 486O assessment on Master P. For the purpose of reporting under s 486N, his timeline in detention has been aligned with his parents and sister 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 continued to be monitored for the management of a medical condition and underwent investigative testing for chest pain.

*Ms Y*

IHMS advised that Ms Y was confirmed to be pregnant in May 2017 and was monitored as required. Ms Y also received treatment for ongoing medical concerns.

IHMS further advised that in November 2017 it was noted by a general practitioner that Ms Y no longer presented with any acute mental health concerns.

December 2017	Gave birth to her daughter. <sup>3</sup>
---------------	--

*Miss Z and Master P*

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

## Ombudsman assessment

Mr X and Ms Y were detained in September 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. Their three children were born in Australia.

Mr X and Ms Y 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 their 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 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.

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.

---

<sup>3</sup> Miss Q was born in Australia in December 2017. She has not yet been detained and is not subject to reporting under s 486N.