

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 family¹ who have remained in immigration detention for a cumulative period of more than three and a half years. The previous assessment 1002510-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	Mr X (and family)	Ms Y (wife)
Citizenship	Country A	Country A
Year of birth	1980	1986
Total days in detention	1,277 (at date of department's latest report)	1,277 (at date of department's latest report)

Family details

Family members	Miss Z (daughter)	Master P (son)	Master Q (son)
Citizenship	Country A	Not stated, born in Australia	Not stated, born in Australia
Year of birth	2009	2015	2015
Total days in detention	1,277 (at date of department's latest report)	886 (at date of department's latest report)	886 (at date of department's latest report)

Ombudsman ID	1002510-O1
Date of department's reports	26 September 2017, 21 October 2017 and 26 March 2018

Recent detention history

Since the Ombudsman's previous assessment, the family² has continued to be placed in the community.³

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.

¹ This is the first s 486O assessment on Master P and Master Q who were detained in October 2015 following their birth to parents in immigration detention. Master P and Master Q were initially reported on individually under s 486N of the *Migration Act 1958*, and are now reported on with their family as of their 42-month report, dated 26 March 2018. For the purpose of reporting under s 486O, their timeline in detention has been aligned with their family and they are reported on together.

² Mr X and Ms Y's fourth child Miss R was born in Australia in February 2017 and detained in April 2017. She has been in detention for less than two years and is not subject to reporting under s 486N.

³ The family was granted a placement in the community under s 197AB and remains in immigration detention.

26 September 2017, 21 October 2017 and 26 March 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.
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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 concerns during this assessment period.

Ms Y

IHMS advised that Ms Y continued to be prescribed with medication and attended specialist counselling for the management of mental health concerns. A specialist counsellor noted that Ms Y was concerned about the family being relocated. The counsellor recommended that the family remain in their current residence, or if not possible, within the same area so as to remain close to their support networks. The counsellor further advised that Ms Y was at high risk of deterioration and recommended ongoing counselling. In October 2017 Ms Y reported a deterioration in her mental health and was referred to a psychiatrist.

IHMS further advised that Ms Y received treatment for post-natal care and other physical health concerns.

Miss Z

IHMS advised that Miss Z continued to engage with specialist counselling for the management of anxiety with noted improvement in her condition following placement in the community.

Master P

IHMS advised that Master P attended routine paediatric reviews and received treatment for gastrological concerns.

Master Q

IHMS advised that Master Q attended routine paediatric reviews and received treatment for reflux concerns.

Other matters

Ms Y's brother, Mr S, was granted a community placement and is the subject of Ombudsman assessment 1002804-O.

Ombudsman assessment

The family was detained in July 2013 after arriving in Australia by sea and has remained in an immigration detention, both in a detention facility and the community, for a cumulative period of more than three and a half 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 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 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 and Miss Z continued to receive treatment for mental health concerns and that Ms Y was assessed as being at a high risk of further deterioration.

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 health.