

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 son who have remained in immigration detention for a cumulative period of more than three and a half years. The previous assessment 1002479-O was tabled in Parliament on 6 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	1971	1987

Family details

Family members	Master Z (son)
Citizenship	Country A
Year of birth	2006

Ombudsman ID	1002479-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, 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.

23 August 2017 and 22 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.
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Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X continued to be monitored by a general practitioner (GP) for knee pain and cardiac concerns. At the time of IHMS's reports he was awaiting appointments with multiple specialists.

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

Ms Y

IHMS advised that Ms Y was monitored by a GP and attended specialist counselling for the management of anxiety and an adjustment disorder. In November 2017 a counsellor advised that while there had been improvement in Ms Y's mental condition, her health would significantly deteriorate if returned to Nauru.

IHMS further advised that Ms Y continued to receive treatment and was reviewed as required for multiple physical health concerns.

February 2017

Gave birth to her daughter.²

Master Z

IHMS advised that a psychiatrist stated that there had been significant improvement in Master Z's mental health but that he continued to exhibit symptoms of anxiety. A specialist counsellor noted in November 2017 that Master Z reported symptoms associated with the possibility of being returned to Nauru. The counsellor advised that any change to the family's status would be detrimental to Master Z's mental health.

Ombudsman assessment

The family was detained in August 2013 after arriving in Australia by sea and has remained in 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 they 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 while noting ongoing mental health concerns.

On 6 September 2017 the Minister advised that the department is supporting the government of Nauru to finalise the Refugee Status Determinations of the family while they remain temporarily in Australia for medical treatment.

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's mental health would significantly deteriorate if returned to Nauru and that Master Z continues to experience symptoms of anxiety associated with the possibility of being returned to Nauru.

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.

² Miss P was born in Australia in February 2017 and detained in June 2017. She has been in detention for less than two years and is not subject to reporting under s 486N.