

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TBLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O assessment on Ms X and her son who have remained in immigration detention for a cumulative period of more than 36 months (three years). The previous assessment 1002530-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 son)
Citizenship	Country A
Year of birth	1977

Family details

Family members	Master Y (son)
Citizenship	Country A
Year of birth	2003

Ombudsman ID	1002530-01
Date of department's report	13 October 2017
Total days in detention	1,094 (at date of department's report)

Recent detention history

Since the Ombudsman's previous assessment, Ms X and her son 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 her son 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.

13 October 2017	The department advised that it is supporting the government of Nauru to finalise the Refugee Status Determination of Ms X and her son while they remain temporarily in Australia for medical treatment.
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Health and welfare

Ms X

International Health and Medical Services (IHMS) advised that Ms X continued to attend psychological counselling for the management of insomnia and an adjustment disorder with depressed and anxious mood. She reported experiencing panic attacks, irrational fears, and compulsive behaviours. She continued to be prescribed with medication and monitored by a general practitioner.

IHMS further advised that Ms X continued to be monitored for a thyroid condition and back pain.

¹ Ms X and her son were granted a placement in the community under s 197AB of the *Migration Act 1958* and remain in immigration detention.

Master Y

IHMS advised that Master Y had previously been diagnosed with attention deficit hyperactivity disorder, post-traumatic stress disorder and separation anxiety disorder. In May 2017 a treating psychiatrist advised that a variation in Master Y's community placement had provided him with some relief regarding his anxiety and sleeping difficulties and that other symptoms had become less intrusive. The psychiatrist recommended ongoing treatment of prescribed medication and therapy. In August 2017 Ms X advised that Master Y continued to experience high levels of distress regarding the possibility of being sent back to Nauru and had expressed an intention to self-harm if he was returned to Nauru or required to leave Australia. He continued to attend counselling and comply with his prescribed medication.

Ombudsman assessment

Ms X and her son were detained on 12 October 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 years.

Ms X and her son were transferred to an RPC and returned to Australia for medical treatment. The department advised that because Ms X and her son 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 her son's immigration status while noting ongoing mental health concerns.

On 13 September 2017 the Minister advised that the department is supporting the government of Nauru to finalise Ms X and her son's Refugee Status Determination while they remain in Australia.

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

IHMS has advised that Ms X noted that Master Y continued to experience high levels of distress regarding the possibility of being returned to Nauru and had expressed an intention to self-harm if returned to Nauru or required to leave Australia.

It appears likely that Ms X and her son will remain in detention for a prolonged and uncertain period while they receive medical treatment, posing a serious risk to their mental health.