

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O assessment on Ms X and her son¹ who have remained in immigration detention for more than four and a half years. The previous assessment 1001501-O1 was tabled in Parliament on 29 November 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Ms X (and son)
Citizenship	Country A
Year of birth	1988
Total days in detention	1,641 (at date of department's report)

Family details

Family members	Master Y (son)
Citizenship	Country B, born in Australia
Year of birth	2014
Total days in detention	1,035 (at date of department's report)

Ombudsman ID	1001501-O2
Date of department's report	15 November 2017

Recent detention history

Since the Ombudsman's previous assessment, Ms X and her son have continued to be placed in the community.²

Recent visa applications/case progression

November 2017	<p>The Department of Home Affairs (the department) advised that Ms X has no matters before the department or the courts and has refused to depart Australia voluntarily as her son does not hold a right of entry or residence in Country A.</p> <p>The department further advised that as a result of their differing nationalities and rights of residence, the removal of Ms X and her son is likely to be protracted.</p> <p>Consequently, Ms X and her son had been identified for assessment against the guidelines under s 195A of the <i>Migration Act 1958</i> for referral to the Minister for the grant of bridging visas.</p>
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¹ This is the second s 486O assessment on Master Y. For the purpose of reporting under s 486N, his timeline in detention has been aligned with Ms X and they are reported on together.

² Ms X and her son were granted a placement in the community under s 197AB and remain in immigration detention.

Health and welfare

Ms X

International Health and Medical Services (IHMS) advised that Ms X did not receive treatment for any major physical or mental health issues during this assessment period.

Master Y

IHMS advised that Master Y was reviewed by a specialist in May 2017 and was noted to have a speech delay. It was recommended that he attend ongoing speech pathology, attend childcare and increase play and speech development at home.

Other matters

Ms X's husband and Master Y's father resides in Country B. Ms X's sister resides in Australia.

Ombudsman assessment

Ms X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and she and her son have remained in immigration detention, both in a detention facility and the community, for more than four and a half years.

Ms X has no matters before the department, the courts or tribunals and has refused to depart Australia voluntarily as her son does not hold a right of entry or residence in Country A.

The Ombudsman notes the department's advice that as a result of their differing nationalities and rights of residence, the removal of Ms X and her son is likely to be protracted.

At the time of the department's latest report, Ms X and her son had been identified for assessment against the guidelines for referral to the Minister under s 195A for the grant of bridging visas.