

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O assessment on Mr X, Ms Y and their family who have remained in immigration detention for a cumulative period of more than four years. The previous assessment 1002339-01 was tabled in Parliament on 18 October 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X (and family)	Ms Y (wife)
Citizenship	Country A	Country A
Year of birth	1973	1980

Family details

Family members	Ms Z (daughter)	Master P (son)
Citizenship	Country A	Country A
Year of birth	1997	2004

Ombudsman ID	1002339-02
Date of department's reports	8 September 2017 and 9 March 2018
Total days in detention	1,458 (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.	
8 September 2017 and 9 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.
9 March 2018	The department advised that Mr X and his family are plaintiffs in ongoing court proceedings.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X attended specialist review of a complex medical condition and in May 2017 he requested surgical intervention. However upon further review in June and September 2017 a surgeon advised that surgery was not recommended due to extensive associated risks and a referral for other treatment was discussed.

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 attended physiotherapy and received treatment for wrist concerns. IHMS further advised that Ms Y was placed on a mental health care plan in September 2017 and was referred for review with a psychologist for the management of complex mental health concerns.

Ms Z

IHMS advised that Ms Z presented to a general practitioner (GP) in May 2016 with pain which was later diagnosed as an infection. In October 2016 she was referred for specialist review. In September 2017 Ms Z presented to a GP with ongoing pain and she was referred to an emergency department for treatment of a likely recurring infection.

IHMS further advised that Ms Z regularly engages with a psychologist for counselling and management of complex mental health concerns. Ms Z has reported ongoing stress associated with her immigration status and concerns about her family. In October 2017 she self-harmed and reported that she was highly stressed about the possibility of being returned to Nauru. She was provided with further psychological support and was placed on a safety plan.

September 2017	An Incident Report recorded that Ms Z presented to an emergency department due to experiencing severe pain.
October 2017	An Incident Report recorded that Ms Z self-harmed.

Master P

IHMS advised that Master P presented to a GP in February 2017 with an injury and associated concerns. He was referred for investigative testing.

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 four 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 18 October 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.

The family's return to an RPC is likely to be protracted due to their ongoing mental and physical health concerns.

IHMS has advised both Ms Y and Ms Z have required ongoing treatment for complex mental health concerns and both Mr X and Master P have ongoing physical health concerns.

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.