

## 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 Ms X and her stepdaughter, Miss Y, who have remained in immigration detention for a cumulative period of more than three and a half years. The previous assessment 1002489-O was tabled in Parliament on 21 June 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

<b>Name</b>	Ms X (and stepdaughter)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1979

### Family details

<b>Family members</b>	Miss Y (stepdaughter)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	2005

<b>Ombudsman ID</b>	1002489-O1
<b>Date of department's reports</b>	22 August 2017 and 2 March 2018
<b>Total days in detention</b>	1,276 (at date of department's latest report)

### Recent detention history

Since the Ombudsman's previous assessment, Ms X and Miss Y have continued to be placed in the community.<sup>1</sup>

### Recent visa applications/case progression

The Department of Home Affairs (the department) has advised that under current policy settings Ms X and Miss Y 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.

22 August 2017 and 2 March 2018	The department advised that it is supporting the Government of Nauru to finalise the Refugee Status Determination of Ms X and Miss Y while they remain temporarily in Australia for medical treatment.
---------------------------------	--

---

<sup>1</sup> Ms X and Miss Y were granted a placement in the community under s 197AB of the *Migration Act 1958* and remain in immigration detention.

## Health and welfare

*Ms X*

International Health and Medical Services (IHMS) advised that Ms X was referred to a psychologist in June 2017 for the management of mental health conditions, to help her gain skills for integrating in the community and developing future plans.

IHMS further advised that Ms X was reviewed by multiple specialists for complex physical health concerns. She attended hospital on multiple occasions and required surgery following significant complications.

*Miss Y*

IHMS advised that Miss Y's mental health continued to be monitored by a general practitioner with no acute concerns raised during this assessment period.

IHMS further advised that Miss Y required surgery for treatment of a physical health concern and was monitored as required. Miss Y also awaits specialist review of another physical condition.

## Ombudsman assessment

Ms X and Miss Y were detained in December 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 and a half years.

Ms X and Miss Y were 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 department further advised that it is supporting the government of Nauru to finalise the Refugee Status Determination of Ms X and Miss Y while they remain temporarily in Australia for medical treatment.

The Ombudsman's previous assessment recommended that priority be given to resolving Ms X and Miss Y's immigration status while noting ongoing mental health concerns.

On 21 June 2017 the Minister advised that under current legislation and policy settings, Ms X and Miss Y remain subject to return to an RPC on completion of their treatment.

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

IHMS has advised that Ms X has been referred to a psychologist for the management of depression and anxiety and that both Ms X and Miss Y have received treatment for complex physical health concerns. Additionally, IHMS previously advised that a psychiatrist recommended that Miss Y not be returned to Nauru RPC due to the risk of deteriorating mental health.

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