

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 who has remained in immigration detention for a cumulative period of more than three and a half years. The previous assessment 1002482-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
Citizenship	Country A
Year of birth	1993
Ombudsman ID	1002482-O1
Date of department's reports	25 August 2017 and 23 February 2018
Total days in detention	1,276 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Ms X has continued to be placed in the community.¹ Ms X resides in the community with her mother, Ms Y, who is the subject of Ombudsman assessment 1002471-O1.

Recent visa applications/case progression

The Department of Home Affairs (the department) has advised that under current policy settings Ms X is not eligible to have her protection claims assessed in Australia and remains liable for transfer back to a Regional Processing Centre (RPC) on completion of her mother's treatment.

25 August 2017 and 23 February 2018	The department advised that it is supporting the Government of Nauru to finalise the Refugee Status Determination of Ms X while she remains temporarily in Australia to assist with her mother's medical treatment.
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Health and welfare

International Health and Medical Services (IHMS) advised that Ms X continued to attend psychological counselling and take prescribed medication for an adjustment disorder with symptoms of depression.

Other matters

The department advised that Ms X's sister, Ms Z, and brother, Mr P, remain in Nauru. Ms X's father is a permanent resident of Australia and resides in close proximity to Ms X and her mother.

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

Ombudsman assessment

Ms X was detained in December 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.

Ms X was transferred to an RPC and returned to Australia to assist with the care of her mother. The department advised that because Ms X arrived after 19 July 2013 she remains liable for transfer back to an RPC on completion of her mother's treatment.

The Ombudsman's previous assessment strongly recommended that priority be given to resolving Ms X and her family'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's Refugee Status Determination while she remains in Australia.

Ms X's return to an RPC, and thus Ms X's reunification with her family who remain in Nauru, is likely to be protracted due to her mother's ongoing mental and physical health concerns.

IHMS has advised that Ms X continued to require psychological treatment for an adjustment disorder with symptoms of depression. IHMS has also advised in its report on Ms Y dated December 2017 that Ms Y required ongoing specialist treatment for complex mental and physical health conditions.

It appears likely that Ms X will remain in detention for a prolonged and uncertain period while her mother receives medical treatment, posing a serious risk to Ms X's mental and physical health.