

## 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<sup>1</sup> who have remained in immigration detention for a cumulative period of more than four years. The previous assessment 1002343-O1 was tabled in Parliament on 18 October 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Mr X (and family)	Ms Y (wife)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	1980	1976
<b>Total days in detention</b>	1,458 (at date of department's latest report)	1,458 (at date of department's latest report)

### Family details

<b>Family members</b>	Ms Z (daughter)	Miss P (daughter)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	1998	2000
<b>Total days in detention</b>	1,458 (at date of department's latest report)	1,458 (at date of department's latest report)

<b>Family members</b>	Master Q (son)	Miss R (daughter)
<b>Citizenship</b>	Country A	Country A, born in Australia
<b>Year of birth</b>	2012	2015
<b>Total days in detention</b>	1,458 (at date of department's latest report)	759 (at date of department's latest report)

<b>Ombudsman ID</b>	1002343-O2
<b>Date of department's reports</b>	15 September 2017, 15 February 2018 and 16 March 2018

### Recent detention history

Since the Ombudsman's previous assessment, the family has continued to be placed in the community.<sup>2</sup>

### 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.

<sup>1</sup> This is the first s 486O assessment on Miss R. For the purpose of reporting under s 486O of the *Migration Act 1958*, her timeline in detention has been aligned with her family and they are reported on together.

<sup>2</sup> The family was granted a placement in the community under s 197AB and remains in immigration detention.

15 September 2017, 15 February 2018 and 16 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.
January 2018	The family's placement in the community was reviewed and the department advised that their placement remained appropriate and that the family would not be considered for the grant of bridging visas due to their ongoing vulnerabilities.

## Health and welfare

### *Mr X*

International Health and Medical Services (IHMS) advised that Mr X was provided with treatment of recurrent pain and continued to await an appointment for specialist review.

### *Ms Z*

IHMS advised that Ms Z attended physiotherapy for the management of pain associated with a fracture. She continued to await specialist review of a medical condition.

IHMS further advised that Ms Z continued to receive treatment for the management of complex mental health concerns. In January 2017 a psychiatrist stated that transfer back to Nauru would be extremely harmful for Ms Z and could result in a rapid deterioration in her mental health. In December 2017 Ms Z reported ongoing stress associated with her immigration status and her family's future. It was recommended that she continue to engage in regular targeted psychotherapy.

### *Master Q*

IHMS advised that Master Q required treatment for extensive dental concerns and continued to await an appointment for paediatric review of a medical condition.

### *Ms Y, Miss P and Miss R*

IHMS advised that Ms Y, Miss P and Miss R did not receive treatment for any major physical or mental health issues during this assessment period.

## Other matters

February 2018	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman in relation to his family's property that remains at Nauru RPC. In April 2018 the department provided a response advising that property in trust is not transferred to detainees when they are brought to Australia from an RPC for medical treatment. At the time of drafting this assessment the investigation remained ongoing.
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## **Ombudsman assessment**

The family was detained in July 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. Miss R was born in Australia following her family's transfer from an RPC for medical treatment.

The department advised that because the family 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 that Ms Z continued to receive treatment for the management of complex mental health concerns and that in January 2017 a psychiatrist stated that transfer back to Nauru would be extremely harmful for Ms Z and could result in a rapid deterioration in her mental health.

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 health.