

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the fifth s 486O assessment on Ms X and her sister who have remained in immigration detention for more than 72 months (six years). The previous assessments are:

1000978 tabled in Parliament on 11 December 2013

1001475 tabled in Parliament on 29 October 2014

1001878 tabled in Parliament on 3 June 2015

1002339 tabled in Parliament on 8 November 2016.

This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Ms X (and sister)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1992

### Family details

<b>Family members</b>	Ms Y (sister)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	2001

<b>Ombudsman ID</b>	1000790-O
<b>Date of DIBP's reports</b>	12 September 2016 and 13 March 2017
<b>Total days in detention</b>	2,186 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous assessment (1002339), Ms X and her sister<sup>1</sup> have remained in community detention.

### Recent visa applications/case progression

16 March 2016	Ms X and her sister applied to the High Court (HC) for special leave to appeal the Federal Court's decision of 16 February 2016, which dismissed their appeal against the Federal Circuit Court's (FCC) decision of 4 May 2015.
1 September 2016	The HC dismissed the application for special leave.
13 January 2017	The Department of Immigration and Border Protection (the department) notified Ms X and her sister that their claims for protection would be reassessed as part of a new International Treaties Obligations Assessment (ITOA) as their case was affected by the Full Federal Court's (FFC) decision of 20 March 2013. <sup>2</sup>

<sup>1</sup> Ms X's daughter, Miss Z, was born in Australia in February 2016. She has been in detention for less than two years and is not subject to review under s 486N.

<sup>2</sup> *Minister for Immigration and Citizenship v SZQRB* [2013] FCAFC 33.

27 January 2017	The department received information from Ms X and her sister in relation to the new ITOA.
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### **Health and welfare**

#### *Ms X*

International Health and Medical Services (IHMS) advised that Ms X was referred to a psychologist after an antenatal nurse identified indicators of post-natal depression. IHMS stated it was unclear whether she chose to attend and in the subsequent reporting period advised that Ms X had not been diagnosed with any chronic or acute mental health issues.

#### *Miss Y*

IHMS advised that Miss Y was awaiting treatment for physical health concerns including a perforated eardrum for which she was on a waiting list for surgery and orthodontic matters for which she was awaiting surgery at a dental hospital.

### **Other matters**

Ms X's husband, Mr P, is the subject of Ombudsman assessment 1002368-O1.

Ms X was given approval to travel to Sydney for 10 days from 9 February 2017 with her daughter to visit her husband who remains in Villawood Immigration Detention Centre. Ms Y stayed with friends during this time so she could continue to attend school.

### **Case status**

Ms X and her sister have been found not to be owed protection under the Refugee Convention and the complementary protection criterion. The department advised that their case is affected by the FFC's decision of 20 March 2013 and they will have their complementary protection claims reassessed as part of a new ITOA.