

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O assessment on Mr X and Ms Y and their son¹ who have remained in immigration detention for a cumulative period of more than 54 months (four and a half years). Mr X's previous assessment 1002185-O and Ms Y's previous assessment 1001304-O were tabled in parliament on 10 May 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	1980	1987
Total days in detention	1,458 (at date of DIBP's latest report)	1,639 (at date of DIBP's latest report)

Family details

Family members	Master Z (son)
Citizenship	Country A, born in Australia
Year of birth	2015
Total days in detention	889 (at date of DIBP's latest report)

Ombudsman ID	1001304-01
Date of DIBP's reports	3 April 2017, 5 April 2017, 24 April 2017 ² and 3 October 2017 ³

Recent detention history

Since the Ombudsman's previous assessments, the family continued to be placed in the community. ⁴
--

Recent visa applications/case progression

19 December 2016	The Minister lifted the bar under ss 46A and 46B of the <i>Migration Act 1958</i> to allow Master Z to lodge a temporary visa application. ⁵
4 January 2017	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application. He accepted the offer on 19 January 2017 and was assigned a provider.

¹ This is the third s 486O assessment on Mr X and the first s 486O assessment on Master Z. For the purpose of reporting under s 486O, the family's timelines have been aligned and they are reported on together.

² Master Z was detained on 24 April 2015 following his birth to parents in immigration detention. Master Z was initially reported on individually under s 486N and is now reported on with his parents as of their report dated 3 October 2017.

³ The department advised that due to Mr X and Ms Y's differing dates of arrival and periods of detention they were previously reported on separately under s 486N. As of their report dated 3 October 2017 they are reported on as a family unit.

⁴ The family was granted a placement in the community under s 197AB and remains in immigration detention.

⁵ The department advised that as the child of a 'fast track' applicant, Master Z is also considered a fast track applicant and his immigration pathway has been aligned with his father.

31 May 2017	Mr X lodged a Safe Haven Enterprise visa (SHEV) application with his son included as a dependent.
3 October 2017	The Department of Immigration and Border Protection (the department) advised that Ms Y continued to await the outcome of her application for judicial review in the Federal Circuit Court in relation to the refusal of her protection visa application. A hearing was scheduled for 14 November 2017.

Health and welfare

International Health and Medical Services advised that Mr X, Ms Y and Master Z did not receive treatment for any major physical or mental health issues during this assessment period.

Case status

Mr X was detained on 17 March 2013 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for more than four years.

On 7 September 2016 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 31 May 2017 he lodged an application for a SHEV with his son listed as a dependent.

Ms Y was detained on 8 April 2013 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for more than four and a half years.

Ms Y has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. At the time of the department’s latest report Ms Y was awaiting the outcome of judicial review.