

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 Mr X, Ms Y and their family¹ who have remained in immigration detention for a cumulative period of more than three and a half years. The previous assessment 1002495-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	Mr X (and family)	Ms Y (wife)
Citizenship	Country A	Country A
Year of birth	1985	1986
Total days in detention	1,277 (at date of department's latest report)	1,277 (at date of department's latest report)

Family details

Family members	Miss Z (daughter)	Miss P (daughter)
Citizenship	Country A	Country A, born in Australia
Year of birth	2010	2015
Total days in detention	1,277 (at date of department's latest report)	902 (at date of department's latest report)

Ombudsman ID	1002495-O1
Date of department's reports	3 September 2017, 14 September 2017 and 5 March 2018

Recent detention history

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

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.	
3 September 2017, 14 September 2017 and 5 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.
5 March 2018	The department advised that Mr X and his family are plaintiffs in ongoing court proceedings.

¹ This is the first s 486O assessment on Miss P. For the purpose of reporting under s 486O of the *Migration Act 1958*, her timeline in detention has been aligned with her parents and sister and they are reported on together.

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

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X requested a referral to see a psychologist in August 2017, however no further documentation has been provided regarding his mental health.

IHMS further advised that Mr X attended physiotherapy for the management of pain and was monitored by a general practitioner (GP) for other physical health concerns.

Ms Y

IHMS advised that Ms Y had not raised any mental health concerns during this assessment period and continued to be monitored by a GP.

IHMS further advised that Ms Y was confirmed to be pregnant in October 2016 and was diagnosed with a medical condition. Ms Y also received treatment for physical health concerns and attended physiotherapy.

May 2017

Gave birth to her son.³

Miss Z

IHMS advised that Miss Z's mental health continued to be monitored by a GP with no acute concerns raised.

Miss P

IHMS advised that Miss P was provided with treatment for a medical condition and Mr X and Ms X were provided with advice regarding her appetite and weight.

Ombudsman assessment

Mr X, Ms Y and Miss Z were detained in August 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.

Mr X, Ms Y and Miss Z were transferred to an RPC and returned to Australia for medical treatment. The department advised that because they arrived after 19 July 2013 the family remains 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.

On 13 September 2017 the Minister advised 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.

It appears likely that the family will remain in detention for a prolonged and uncertain period while they receive medical treatment, posing a risk to their mental health.

³ Master Q was born in Australia in May 2017 and detained in September 2017. He has been in detention for less than two years and is not subject to reporting under s 486N.