

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 sons¹ who have remained in immigration detention for a cumulative period of more than four years. The previous assessment 1002229-01 was tabled in Parliament on 13 September 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	1968	1980
Total days in detention	1,458 (at date of department's report)	1,458 (at date of department's report)

Family details

Family members	Master Z (son)	Master P (son)
Citizenship	Country A	Country A, born in Australia
Year of birth	2011	2015
Total days in detention	1,458 (at date of department's report)	879 (at date of department's report)

Ombudsman ID	1002229-02
Date of department's report	13 November 2017

Recent detention history

Since the Ombudsman's previous assessment, the family has continued to be placed in the community. ²	
November 2017	The Department of Home Affairs (the department) advised that the family was transferred to a different community placement address due to ongoing maintenance issues. At the time of its report the department was preparing a ministerial submission under s 197AD of the <i>Migration Act 1958</i> to formally vary the family's residential address.

Recent visa applications/case progression

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 Ms Y's treatment.	
November 2017	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.

¹ This is the second s 486O assessment on Master P. For the purpose of reporting under s 486N, his timeline in detention has been aligned with his family 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 continued to receive treatment for chronic pain. He attended a specialist clinic and advised that he did not wish to undergo surgery. He was prescribed with medication and was referred for physiotherapy.

IHMS further advised that Mr X continued to attend specialist counselling for the management of multiple mental health concerns. A treating counsellor reported that Mr X's psychological symptoms were being exacerbated by situational stress. The counsellor recommended that the family be allowed a short holiday as a way to improve the family's mental health and Mr X's coping resources to care for his family.

Ms Y

IHMS advised that Ms Y was reviewed by a specialist for medical concerns however the recommended treatment was not approved by IHMS as it lay outside community standards. She was prescribed with medication and at the time of IHMS's latest review Ms Y was awaiting approval for appropriate treatment.

IHMS further advised that Ms Y continued to attend psychological counselling for symptoms of a mental health condition. A treating psychologist reported that Ms Y was experiencing heightened levels of stress due to her family's possible transfer to a different community placement address. The psychologist recommended that the family continue to be placed in the community, that Ms Y continue to engage with specialist counselling and that she receive appropriate treatment for her medical concerns.

Master Z

IHMS advised that Master Z continued to be monitored by a general practitioner (GP) and paediatric clinic for developmental concerns.

IHMS further advised that Master Z was previously diagnosed with mental health concerns. He was reviewed by a paediatric nurse who reported that Master Z was enjoying school, interacting well with his peers and had no other concerns.

Master P

IHMS advised that Master P was diagnosed with asthma and monitored by a GP for this condition as required.

Ombudsman assessment

Mr X, Ms Y and Master Z were detained in July 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 four years.

Mr X, Ms Y and Master Z were transferred to an RPC and returned to Australia 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 Ms Y's 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 13 September 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 in Australia.

IHMS advised that Ms Y's mental health was being adversely affected by concerns surrounding the family's possible transfer to a different community placement address.

The Ombudsman notes that due to ongoing maintenance issues, the family was transferred to a residential address that is in close proximity to the family's previous community placement. The department has advised that it was preparing a ministerial submission under s 197AD to formally vary the family's residential address.

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 Mr X and Ms Y continued to receive treatment for multiple complex mental health concerns exacerbated by situational stress.

At the time of IHMS's latest review Ms Y was also awaiting approval for appropriate treatment for her medical concerns. The Ombudsman notes that a treating psychologist recommended that Ms Y receive this treatment and that the family continue to be placed in the community.

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 and physical health.