

## 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 and Ms Y and their daughter<sup>1</sup> who have remained in immigration detention for a cumulative period of more than four years. The previous assessment 1002353-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>Family members</b>	Mr X (and family)	Ms Y (wife)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	1982	1986
<b>Total days in detention</b>	1,459 (at date of department's latest report)	1,459 (at date of department's latest report)

### Family details

<b>Family members</b>	Miss Z (daughter)
<b>Citizenship</b>	Country A, born in Australia
<b>Year of birth</b>	2015
<b>Total days in detention</b>	1,095 (at date of department's latest report)

<b>Ombudsman ID</b>	1002353-O2
<b>Date of department's report</b>	26 September 2017 and 26 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.	
26 September 2017	The department advised that it was supporting the Government of Nauru to finalise the Refugee Status Determination of the family while they remain temporarily in Australia for medical treatment.
26 March 2018	The department advised that the family have undergone a Refugee Status Determination by the Government of Nauru and were found to be refugees.

<sup>1</sup> This is the second s 486O assessment on Miss Z. For the purpose of reporting under s 486N of the *Migration Act 1958*, her timeline in detention has been aligned with her parents 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.

## Health and welfare

### *Mr X*

International Health and Medical Services (IHMS) advised that Mr X continued to attend psychological counselling for mental health concerns. In April and June 2017 it was noted that Mr X remained concerned about his uncertain future and possible return to a detention facility or Nauru. Mr X was prescribed with medication and a treating general practitioner (GP) noted that Mr X displayed symptoms of further mental health concerns in the context of an interview. He continued to be monitored and supported.

IHMS further advised that Mr X continued to be monitored for complex medical conditions. He was prescribed with medication, referred for pathology tests and continued to be supported by a GP. At the time of IHMS's report he continued to await an appointment for surgical review.

### *Ms Y*

IHMS further advised that Ms Y continued to attend psychiatric and psychological counselling for the management of complex mental health concerns. In April 2017 a treating psychiatrist noted improvement but that Ms Y's mood remained low, and in September 2017 it was noted that her mood had further improved. She continued to be monitored and prescribed with medication.

IHMS advised that Ms Y continued to receive treatment for complex medical conditions. In May 2017 she was admitted to hospital and she continued to be supported by a GP in conformity with a management plan. Ms Y was also referred for specialist reviews of other medical concerns and was monitored by a GP during her pregnancy.

February 2018

Gave birth to her son.<sup>3</sup>

### *Miss Z*

IHMS advised that Miss Z did not receive treatment for any major physical or mental health issues during this assessment period.

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<sup>3</sup> Master P was born in Australia in February 2018. He is not subject to reporting under s 486N.

## Ombudsman assessment

Mr X and Ms Y 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 and Ms Y 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 18 October 2017 the Minister advised that the department is supporting the Government of Nauru to finalise the family's Refugee Status Determination while they remain in Australia.

The family has subsequently been found to be refugees by the Government of Nauru.

The Ombudsman notes with concern that the family's return to an RPC is likely to be protracted due to their ongoing mental and physical health concerns.

IHMS advised that Mr X and Ms Y received treatment for complex mental and physical health concerns and continued to attend psychological counselling.

The Ombudsman notes with concern that 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.