

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 1002496-O was tabled in Parliament on 18 October 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	1983	1985

Family details

Family members	Miss Z (daughter)
Citizenship	Country A
Year of birth	2009

Ombudsman ID	1002496-O1
Date of department's reports	4 September 2017 and 5 March 2018
Total days in detention	1,277 (at date of department's latest report)

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.

4 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.
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Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X was monitored for medical concerns and continued to await an appointment for specialist review of chronic pain.

¹ Master P was born in Australia in March 2016 and detained in July 2016. He has been in detention for less than two years and is not subject to review under s 486N.

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

Ms Y

IHMS advised that Ms Y continued to be prescribed with medication and engaged with supportive psychotherapy for the management of depression and a history of torture and trauma. In August 2017 Ms Y reported stress associated with her immigration status and her sense of isolation. In November 2017 Ms Y reported that there had been little change in her mental state.

Miss Z

IHMS advised that Miss Z continued to attend regular specialist counselling for the management of significant mental health concerns with associated physical symptoms resulting from traumatic experiences at Nauru RPC. In November 2017 she was referred for review by a child and youth mental health service.

IHMS further advised that Miss Z was reviewed by specialists as required for the treatment of physical health concerns.

Ombudsman assessment

The family was detained in September 2013 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than three and a half years.

The family was 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 their treatment.

The Ombudsman's previous assessment recommended that priority be given to resolving the family's immigration status while noting Miss Z's significant ongoing mental health concerns.

On 18 October 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 temporarily in Australia for medical treatment.

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 Ms Y and Miss Z continue to receive treatment for ongoing mental health concerns and that Miss Z continues to exhibit symptoms associated with traumatic experiences while located at Nauru RPC. IHMS previously reported that a general practitioner noted in December 2016 that any news regarding Nauru appeared to exacerbate Miss Z's mental and physical health concerns.

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.