

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 Ms X, Mr Y and their son¹ who have remained in immigration detention for a cumulative period of more than three and a half years. The previous assessment 1002500-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	Ms X (and family)	Mr Y (husband)
Citizenship	Country A	Country A
Year of birth	1977	1979
Total days in detention	1,275 (at date of department's latest report)	1,268 (at date of department's latest report)

Family details

Family members	Master Z (son)
Citizenship	Country A, born in Australia
Year of birth	2014
Total days in detention	1,158 (at date of department's latest report)

Ombudsman ID	1002500-O1
Date of department's reports	10 September 2017 and 8 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.	
November 2015	Ms X and Mr Y lodged an application for Australian citizenship on behalf of Master Z. At the time of the department's latest report the matter remained ongoing.
September 2017 and 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.

¹ This is the second s 486O assessment on Master Z. For the purpose of reporting under s 486N, his timeline in detention has been aligned with his parents and they are reported on together.

² The family was granted a placement in the community under s 197AB of the *Migration Act 1958* and remains in immigration detention.

Health and welfare

Ms X

International Health and Medical Services (IHMS) advised that Ms X continued to be monitored for multiple physical health concerns. She was prescribed with pain relief medication and referred to a specialist in April 2016. At the time of its latest review IHMS was making enquiries to determine whether the specialist appointment remained pending.

Mr Y

IHMS advised that Mr Y was prescribed with medication for the management of mental health concerns.

Master Z

IHMS advised that Master Z was reviewed by a paediatrician, dietician and general practitioner who noted significant improvements in his development, weight gain and dietary intake during this assessment period. He was scheduled to attend follow-up reviews in March 2018.

Ombudsman assessment

Ms X and Mr Y were detained in December 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.

Ms X and Mr Y were transferred to an RPC and returned to Australia for medical treatment. The department advised that because Ms X and Mr Y 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 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.

The family's return to an RPC is likely to be protracted due to their ongoing 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.