

ASSESSMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the first s 486O assessment on Master X who has remained in immigration detention for more than 24 months (two years).

Name	Master X
Citizenship	Country A (born to parents ¹ in immigration detention)
Year of birth	2015
Ombudsman ID	1002678-O
Date of DIBP's review	19 May 2017
Total days in detention	730 (at date of DIBP's review)

Detention history

20 May 2015	Following his birth to parents in immigration detention, Master X was detained under s 189(1) of the <i>Migration Act 1958</i> at Wickham Point Alternative Place of Detention (APOD).
18 March 2016	Master X and his family were transferred to community detention.

Visa applications/case progression

<p>The Department of Immigration and Border Protection (the department) advised that as Master X's family arrived in Australia by sea after 19 July 2013 and were transferred to a Regional Processing Centre (RPC), Master X and his family are barred under ss 46A and 46B from lodging a valid protection visa application.</p> <p>Master X's family was returned to Australia for the medical treatment of his mother on 3 January 2015.</p> <p>The department has advised that under current policy settings Master X is not eligible to have his protection claims assessed in Australia and remains liable for transfer to an RPC on completion of his mother's treatment.</p>

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Master X received treatment for multiple physical health conditions including developmental and behavioural concerns. He was reviewed by a paediatric specialist and underwent a surgical procedure on 28 February 2016. His condition continued to be monitored by a general practitioner and he was awaiting a review with a paediatrician.</p>	
12 June 2015	An Incident Report recorded that Master X was transported to hospital after his mother reported that he had suffered a reaction to a vaccine. He was prescribed with medication and returned to Wickham Point APOD the following day.

¹ Master X's parents, Mr Y and Ms Z, and his older brother Master P, are the subjects of Ombudsman assessment 1002386-O1.

12 May 2016	An Incident Report recorded that child welfare authorities were notified following child supervision concerns. Master X's parents were provided with a supervision plan and no further action was required.
-------------	---

Ombudsman assessment/recommendation

Master X was detained on 20 May 2015 following his birth to parents in immigration detention and has been held in detention for more than two years with no processing of his protection claims.

Master X's family was transferred to an RPC and returned to Australia for the medical treatment of his mother. The department advised that because Master X's family arrived after 19 July 2013, Master X and his family remain liable for transfer back to an RPC on completion of his mother's treatment.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged and apparently indefinite detention may pose.

The Ombudsman notes that under current policy settings Master X is not eligible to have his protection claims assessed in Australia and that without an assessment of Master X's claims it appears likely he will remain in detention indefinitely.

The Ombudsman recommends that priority is given to resolving Master X and his family's immigration status.