

ASSESSMENT BY THE COMMONWEALTH 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 a cumulative period of more than 24 months (two years).

Name	Master X
Citizenship	Stateless, (born to parents ¹ in immigration detention)
Year of birth	2015
Ombudsman ID	1002699-O
Date of DIBP's review	28 June 2017
Total days in detention	730 (at date of DIBP's review)

Detention history

18 June 2015	Following his birth to parents in immigration detention, Master X was detained under s 189(1) of the <i>Migration Act 1958</i> . He resides with his family in community detention.
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Visa applications/case progression

<p>The Department of Immigration and Border Protection (the department) advised that as Master X's parents 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 medical treatment on 27 March 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 family's treatment.</p>	
28 June 2017	The department advised that it was considering Master X's application for Australian citizenship and his parents attended an interview with authorities on 30 May 2017. The matter remained ongoing.

Health and welfare

International Health and Medical Services advised that Master X received treatment for prolonged jaundice and diarrhoea.	
14 March 2016	Admitted to hospital for treatment of physical health concerns.

¹ Master X's parents, Mr Y and Ms Z, and his sister, Miss P, are the subject of Ombudsman assessment 1002486-O.

Ombudsman assessment/recommendation

Master X was detained on 18 June 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 medical treatment. The department advised that because Master X's parents arrived after 19 July 2013, Master X and his family remain liable for transfer back to an RPC on completion of their 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.