

## 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 more than 24 months (two years).

<b>Name</b>	Master X
<b>Citizenship</b>	Country A, born to parents <sup>1</sup> in immigration detention
<b>Year of birth</b>	2015
<b>Ombudsman ID</b>	1002589-O
<b>Date of DIBP's report</b>	2 February 2017
<b>Total days in detention</b>	730 (at date of DIBP's report)

### Detention history

3 February 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 Blaydin Point Alternative Place of Detention (APOD).
26 February 2015	Master X and his parents were transferred to Wickham Point APOD.
19 April 2015	Transferred to Melbourne Immigration Transit Accommodation.
29 March 2016	Placed in the community. <sup>2</sup>

### 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), the family is barred under ss 46A and 46B from lodging a valid protection visa application.</p> <p>Master X's parents were returned to Australia from an RPC for medical treatment on 21 July 2014.</p> <p>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 an RPC on completion of their treatment.</p>	
18 March 2016	The Minister intervened under s 197AB to grant the family a community placement.

<sup>1</sup> Master X's parents, Mr Y and Ms Z, are the subjects of Ombudsman assessment 1002453-O1.

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

## Health and welfare

International Health and Medical Services (IHMS) advised that Master X received treatment for behavioural, attachment and feeding concerns. Master X was reviewed on multiple occasions and the family was admitted to hospital in November 2015 for education on appropriate feeding techniques. Following their discharge in March 2016, a health report noted that Master X's attachment issues had improved and he was happy, alert and social. In May 2016 a paediatrician recommended that Master X attend weekly childcare in order to assist in alleviating his parents' mental health concerns. IHMS further advised that Master X received specialist treatment for a congenital kidney abnormality. In November 2016 a paediatrician advised that Master X was progressing well and no further physical health concerns were identified.

## Detention incidents

18 June 2016	An Incident Report recorded that Master X's father was allegedly witnessed being physically abusive towards him.
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## Ombudsman assessment/recommendation

Master X was detained on 3 February 2015 following his birth to parents in immigration detention and has remained in immigration detention, both in a detention facility and the community, for more than two years.

Master X's parents were 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 the family is not eligible to have their protection claims assessed by Australia and that without an assessment of the family's claims it appears likely they will remain in detention for a prolonged period.

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