

## 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>	1002683-O
<b>Date of DIBP's report</b>	24 May 2017
<b>Total days in detention</b>	730 (at date of DIBP's report)

### Detention history

25 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> .
9 March 2016	Master X and his parents were 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), Master X and his parents are 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 14 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 back to an RPC on completion of his mother's treatment.</p>	
24 February 2016	The Minister intervened under s 197AB to grant the family a community placement.

### Health and welfare

<p>International Health and Medical Services advised that Master X was transported to a hospital emergency department by ambulance in June 2016 and attended a dermatological review in December 2016 with no further information available at the date of IHMS's report.</p>	
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<sup>1</sup> Master X's parents, Mr Y and Ms Z, are the subjects of Ombudsman assessment 1002458-O1.

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

**Ombudsman assessment/recommendation**

Master X was detained on 25 May 2015 following his birth to parents in immigration detention and has remained in immigration detention, both in a detention facility and the community, or 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 parents 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 by Australia and that without an assessment of Master X's claims it appears likely he will remain in detention for a prolonged period.

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