

## REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the first s 486O report 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
<b>Year of birth</b>	1997
<b>Ombudsman ID</b>	1003432
<b>Date of DIBP's report</b>	12 September 2015
<b>Total days in detention</b>	730 (at date of DIBP's report)

### Detention history

12 September 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia as an unaccompanied minor aged 15 aboard Suspected Illegal Entry Vessel (SIEV) 846 <i>Deatsville</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
15 December 2014	Transferred to Bladin APOD.
29 December 2014	Transferred to community detention.

### Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that, prior to ministerial intervention, Master X was part of a cohort who had not had their protection claims assessed as they arrived in Australia after 13 August 2012 and were subject to the bar under s 46A.	
12 March 2014	Master X was issued with a letter inviting him to comment on the unintentional release of personal information through DIBP's website. <sup>1</sup>
30 June 2015	The Minister lifted the bar under s 46A to allow Master X to lodge a temporary visa application.
29 July 2015	Master X was notified that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application.
8 September 2015	Master X accepted the PAIS assistance.
12 September 2015	DIBP advised that Master X's case is affected by the judgment handed down by the Full Federal Court (FFC) <sup>2</sup> which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair. DIBP further advised that it is in the process of seeking legal advice in relation to the judgment.

<sup>1</sup> In a media release dated 19 February 2014 the former Minister advised that an immigration detention statistics report was released on DIBP's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as DIBP became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by DIBP.

<sup>2</sup> *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

### Health and welfare

12 September 2013 – 29 December 2014	International Health and Medical Services advised that Master X presented with symptoms of situational stress while in restricted detention. IHMS advised that these symptoms resolved following his transfer to community detention and no further mental health concerns have been raised.
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### Detention incidents

26 March 2015 – 11 September 2015	DIBP Incident Reports recorded that Master X was absent from school without explanation on several occasions during this period.
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### Other matters

DIBP advised that the Refugee Advice and Casework Service lodged a complaint with the Australian Human Rights (AHRC) commission on Master X's behalf. On 2 May 2014 the AHRC requested a response from DIBP. The complaint was closed by the AHRC before a response from DIBP was provided as Master X was released from restricted detention.
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### Case status

<p>Master X was detained on 12 September 2013 after arriving in Australia as an unaccompanied minor aged 15 aboard SIEV <i>Deatsville</i> and has been held in detention for over two years.</p> <p>Master X's case is affected by the FFC's judgment of 2 September 2015, which found that the ITOA process undertaken by DIBP was procedurally unfair. DIBP advised that it is seeking legal advice in relation to the judgment.</p> <p>On 30 June 2015 the Minister lifted the bar under s 46A to allow Master X to apply for a temporary visa. On 8 August 2015 Master X accepted the PAIS assistance and was waiting to be assigned a PAIS provider to assist him with lodging a temporary visa application.</p>
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