

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).

Name	Master X
Citizenship	Country A, born to parents ¹ in immigration detention
Year of birth	2015
Ombudsman ID	1002711-O
Date of DIBP's report	13 July 2017
Total days in detention	730 (at date of DIBP's report)

Detention history

14 July 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.
2 March 2016	Master X and his family were placed in the community. ²

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 was 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>The family was returned to Australia from an RPC 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 back to an RPC on completion of the family's treatment.</p>	
23 February 2016	The Minister intervened under s 197AB to grant the family a community placement.
13 July 2017	The department advised that it is supporting the government of Nauru to finalise the Refugee Status Determinations of the family while they remain temporarily in Australia for medical treatment.

Health and welfare

International Health and Medical Services advised that Master X did not receive treatment for any major physical or mental health issues.

¹ Master X's parents, Mr Y and Ms Z, and his sister, are the subjects of Ombudsman assessment 1002509-O1.

² The family was granted a placement in the community under s 197AB and remain in immigration detention.

Ombudsman assessment/recommendation

Master X was detained on 14 July 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 family was transferred to an RPC and returned to Australia for medical treatment. 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 their treatment.

The department further advised that it is supporting the government of Nauru to finalise the Refugee Status Determinations of the family while they remain temporarily in Australia for medical 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 family's immigration status.