

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).

Name	Master X
Citizenship	Country A (born to parents ¹ in immigration detention)
Year of birth	2014
Ombudsman ID	1002412-O
Date of DIBP's report	25 May 2016
Total days in detention	735 (at date of DIBP's report)

Detention history

22 May 2014	Following his birth to parents in immigration detention, Master X was detained under s 189(1) of the <i>Migration Act 1958</i> .
The Department of Immigration and Border Protection (DIBP) advised that Master X resides in community detention with his parents and siblings.	

Visa applications/case progression

DIBP advised that Master X is part of a cohort who have not had their protection claims assessed as the Minister has not lifted the bar under s 46A.	
1 July 2015	DIBP advised that Master X was included on his mother's International Treaties Obligation Assessment (ITOA) to assess whether the circumstances of his family's case engage Australia's <i>non-refoulement</i> obligations.
14 August 2015	DIBP finalised the ITOA, determining the family's case did not engage Australia's <i>non-refoulement</i> obligations.
1 April 2016	The Minister introduced a legislative instrument to lift the bar under s 46A for children born to parents in immigration detention on or after 1 January 2014. DIBP advised that it is currently processing this cohort.

Health and welfare

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

¹ Master X's father, Mr Y arrived in Australia aboard SIEV *Opaque* and is the subject of Ombudsman report 103340. Master X's mother, Ms Z and siblings, Miss Q and Master R arrived in Australia aboard SIEV *Mallee* and are the subject of Ombudsman report 1002812.

Ombudsman assessment/recommendation

The Ombudsman notes that Master X was detained on 22 May 2014 following his birth to parents in immigration detention and has been held in detention for over two years.

The Ombudsman notes with concern that without an assessment of Master X's claims to determine if he is found to engage Australia's protection obligations, it appears likely that he will remain in detention for an indefinite period.

The Ombudsman notes that on 1 April 2016 the Minister introduced a legislative instrument to lift the bar under s 46A for children born to parents in immigration detention on or after 1 January 2014. DIBP advised that it is currently processing this cohort.

The Ombudsman recommends that the Minister lift the bar under s 46A and processing of Master X's protection claims commence as soon as possible.