

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 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	1002612-O
Date of DIBP's report	2 March 2017
Total days in detention	730 (at date of DIBP's report)

Detention history

3 March 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 Brisbane Immigration Transit Accommodation.
7 August 2015	Master X and his parents were transferred to Wickham Point Alternative Place of Detention.
9 March 2016	Transferred to community detention.

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), they 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 1 September 2014.</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 allow Master X and his parents to reside in community detention.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Master X received treatment for eczema and his mother was provided with education by a general practitioner. IHMS also advised that Master X was reviewed by a paediatrician for ongoing behavioural concerns and poor sleeping patterns, with further documentation pending.</p>	
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¹ Master X's parents, Mr Y and Ms Z, are the subjects of Ombudsman assessment 1002331-O1.

Ombudsman assessment/recommendation

Master X was detained on 3 March 2015 following his birth to parents in immigration detention and has been held in detention 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 the family remains liable for transfer back to an RPC on completion of Ms Z'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.