

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	1002586-O
Date of DIBP's report	30 January 2017
Total days in detention	731 (at date of DIBP's report)

Detention history

30 January 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 Blaydin Point Alternative Place of Detention (APOD).
26 February 2015	Transferred to Wickham Point APOD.
30 June 2015	Transferred to Brisbane Immigration Transit Accommodation.
29 January 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), Master X and his parents are barred under ss 46A and 46B from lodging a valid protection visa application in Australia as a result of their method of arrival and transfer to an RPC.</p> <p>Master X's parents were returned to Australia from an RPC for medical treatment on 18 October 2014.</p> <p>The department has advised that under current policy settings the family is not eligible to have their protection claims assessed in Australia and remain liable for transfer back to an RPC on completion of their treatment.</p>	
19 January 2016	The Minister intervened under s 197AB to allow the family to reside in community detention.

Health and welfare

<p>International Health and Medical Services advised that Master X required hospitalisation on two occasions for the treatment of febrile convulsions. He was discharged on the same day and his parents received education on the management of childhood fever.</p>	
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¹ Master X's parents, Mr Y and Ms Z, are the subject of Ombudsman assessment 1002393-O1.

Ombudsman assessment/recommendation

Master X was detained on 30 January 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 their 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.