

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	1002669-O
Date of DIBP's report	7 May 2017
Total days in detention	730 (at date of DIBP's report)

Detention history

8 May 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.
8 March 2016	Master X and his family were transferred to community detention.

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), the family is barred under ss 46A and 46B from lodging a valid protection visa application.</p> <p>Master X's family was returned to Australia from an RPC for medical treatment on 14 February 2015.</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>	
23 February 2016	The Minister intervened under s 197AB to allow the family to reside in community detention.

Health and welfare

International Health and Medical Services advised that Master X did not receive treatment for any major physical or mental health issues.	
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¹ Master X's parents, Mr Y and Ms Z, as well as his three siblings, are the subjects of Ombudsman assessment 1002597-O.

Ombudsman assessment/recommendation

Master X was detained on 8 May 2015 following his birth to parents in immigration detention and has been held in detention 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, 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 family's immigration status.