

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	1002693-O
Date of DIBP's report	17 June 2017
Total days in detention	730 (at date of DIBP's report)

Detention history

18 June 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 Immigration Detention Centre.
10 March 2016	Master X and his parents 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 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 23 August 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 parents' treatment.</p>	
24 February 2016	The Minister intervened under s 197AB to allow the family to reside in community detention.
17 June 2017	The department advised that it is supporting the government of Nauru to finalise the Refugee Status Determinations of Master X and his family while they remain temporarily in Australia for medical treatment.

¹ Master X's parents, Mr Y and Ms Z, are the subjects of Ombudsman assessment 1002334-O.

Health and welfare

International Health and Medical Services (IHMS) advised that Master X's parents reported that he was experiencing ongoing eye concerns and nasal blockage, snoring and choking. He was reviewed by a neonatologist in November 2015 and an appointment with an ear, nose and throat specialist was pending at the time of IHMS's report.

Ombudsman assessment/recommendation

Master X was detained on 18 June 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 department further advised that it is supporting the government of Nauru to finalise the Refugee Status Determinations of Master X and his 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 parents' immigration status.