

## 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).

<b>Name</b>	Master X
<b>Citizenship</b>	Country A, (born to parents <sup>1</sup> in immigration detention)
<b>Year of birth</b>	2015
<b>Ombudsman ID</b>	2000014-O
<b>Date of DIBP's report</b>	8 June 2017
<b>Total days in detention</b>	730 (at date of DIBP's report)

### Detention history

9 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 Alternative Place of Detention.
23 February 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 family arrived in Australia by sea after 19 July 2013 and was 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 family was returned to Australia from an RPC for medical treatment on 25 February 2015. 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>	
28 January 2016	The Minister intervened under s 197AB to allow the family to reside in community detention.
8 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 he remains temporarily in Australia for medical treatment.

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<sup>1</sup> Master X's parents, Mr Y and Ms Z, and his two siblings, are the subjects of Ombudsman assessment 1002604-O.

## **Health and welfare**

International Health and Medical Services advised that Master X was born with a urinary abnormality and underwent extensive testing and specialist review. On 16 September 2015 a paediatric urologist advised that Master X would require a full genital reconstruction at around 18 months of age and on 1 June 2017 he was admitted to hospital for a surgical procedure.

## **Ombudsman assessment/recommendation**

Master X was detained on 9 June 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 Master X and his family remain 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 the 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.