



Submission To The
Australian Human Rights Commission Inquiry Into
Children In Immigration Detention

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ABOUT ChilOut

ChilOut (Children Out of Detention) was formed in 2001; since then its members have witnessed the incarceration of thousands of children in Australia's immigration detention system. ChilOut members have travelled across the country and met with parents and children in most of Australia's detention facilities.

ChilOut's core purpose is to see policy and legislation in practice that prevents mandatory, indefinite immigration detention of children. As the only organisation dedicated solely to the issue of child immigration detention, ChilOut is in a unique position to comment on changes that have taken place over the years, and to observe the ongoing impacts of detention on children and families.

For over a decade, ChilOut has visited children and families in most facilities across the country, including Villawood, Baxter, Christmas Island, Leonora and Darwin. Each visit confirms that detention is no place for children and their health, development and wellbeing suffer as a direct result of the deprivation of liberty.

***"I think she become depressed
because all of her dream stop here"***

- Father about his 5 year-old daughter
in detention.

ChilOut is a national repository of information pertaining to children in all forms of immigration detention. It has constant contact with families and children, both in detention and recently released, and with those who visit detention facilities.

ChilOut was formed in response to the treatment of Shayan Badraie who, at the age of six had been detained for seventeen months in Woomera and later Villawood detention centres¹. Shayan had stopped eating and speaking and the impact of detention was clear. Since this time ChilOut has witnessed the unnecessary suffering of many more children. What commenced as outrage over one child's treatment is now over a decade's work advocating for adherence to Australia's international obligations, domestic child protection legislation and fundamentally, the rights of children.

In July 2005, after public outcry led to the transfer of children from secure detention facilities, ChilOut was able to cease its work. In 2010, ChilOut re-formed as children were again being detained in locked facilities – some very remote – for indefinite periods. 'Residential Housing Projects' gave way to 'Alternative Places of Detention' (APODs), or 'immigration transit accommodation'. Following this, children were again held in what is essentially high security immigration detention. The reality is that children were, and still are, detained indefinitely in environments completely at odds with the best interests of the child.

¹<https://www.humanrights.gov.au/publications/last-resort-national-inquiry-children-immigration-detention/8-safety-children> and scroll down to case study at 8.7]

Since November 2012 over 1000 children have been held in locked facilities. As of 30 April 2014 over 1023 children are detained. The average period that people have been held in detention facilities has steadily increased to 305 days.²

In 2013, ChilOut formed the first national roundtable of child experts examining issues affecting asylum seeker children in detention. The experts came from within and outside the refugee rights sector, united in their focus on the rights of the child.³

ChilOut's submission draws from first-hand experience of the long-term impacts of detention on children and their families, and our expertise in Australia's domestic and international legal obligations. ChilOut concurs with the Australian Medical Association's view that detention of children and families is a form of child abuse.⁴

Convention on the Rights of the Child – Article 3

In all actions concerning children ... the best interests of the child shall be a primary consideration.

Detention and the deprivation of liberty are not in the best interests of the child. Providing substandard healthcare, denying education and jeopardising mental health is not in the best interest of the child. Being sent and detained in a tent camp in Nauru, or any remote location, is not in the best interests of the child.

Convention on the Rights of the Child – Article 37(b)

No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time

²As at 30 April 2014. Department of Immigration and Border Protection Detention and Community Statistics http://www.immi.gov.au/managing-australias-borders/detention/_pdf/immigration-detention-statistics-apr2014.pdf

³APPENDIX A. List of attendees to the first and second National Child Expert roundtables held by ChilOut.

⁴<http://www.theaustralian.com.au/national-affairs/policy/mandatory-detention-of-asylum-seekers-like-child-abuse-ama-tells-inquiry/story-fn9hm1gu-1226146845917>

⁵"Amnesty International believes that there should be a prohibition in law on detention of unaccompanied children solely for immigration purposes. Children, and in particular unaccompanied or separated children, should never be detained solely for immigration purposes given that immigration detention cannot be said to be in their best interests, ever." Pg 14, section 3.2 Cyprus Migration Report, Amnesty International, June 2012.

http://www.whenyoudontexist.eu/content/assets/docs/Cyprus-Migration-Report_June-2012.pdf



ACRONYMS

APOD	Alternative Place of Detention
BVE	Bridging Visa E
CD	Community Detention
CI	Christmas Island
CRC	United Nations Convention on the Rights of the Child
DAL	Darwin Airport Lodge
DIBP	Department of Immigration & Border Protection
IHMS	International Health & Medical Services
IRH	Immigration Residential Housing
ITA	Immigration Transit Accommodation
RDH	Royal Darwin Hospital
UAM	Unaccompanied Minor
PTSD	Post-Traumatic Stress Disorder
RPC	Regional Processing Centre

CONTEXT OF CHILOUT'S SUBMISSION

ChilOut's central position is that long-term, indefinite or remote detention is never safe for a child. Based on international and Australian evidence, a child's health, wellbeing and development all suffer in detention.

While ChilOut believes children do not belong in detention, ChilOut has engaged with this Inquiry in order to contribute to the Commission's views on how detention might be improved to mitigate some of the harm caused to children. ChilOut rejects the Department of Immigration's use of language such as "child-friendly detention," and "child appropriate spaces in detention," as it believes these concepts are simply not possible.

ChilOut's position is that depriving children of their liberty, limiting their access to healthcare and denying them an education is child abuse.

This submission will go into some detail regarding specific detention facilities, as there are vast differences from one centre to another.

"It would have been better if I fell in the ocean and sharks ate my body. That is better than this."

*- Mother in-front of her two children.
They have spent 14 months in three different detention facilities.*

ChilOut recognises that this Inquiry does not cover the existing Community Detention model. Options have been put to successive governments, private funding is on offer, experts are ready to provide advice, and communities are prepared to provide on-going support. ChilOut supports a full and thorough exploration of the range of community detention options, with the involvement of independent child experts.

Whilst acknowledging that the remit of this Inquiry does not extend to children detained in offshore locations, ChilOut has particular concerns relating to the detention of children at Christmas Island and Nauru. As at 30 April 2014, 444 children and approximately 40 pregnant women are detained in these two locations. The lack of information about conditions, processes, services and extremely limited access to detained asylum seekers adds to ChilOut's concerns.

Below are ChilOut's main areas of concern: healthcare, recreation and education. These are examined in more detail under the needs of each child, dependent on the age range. Whilst detention damages children of all ages, children of various ages have specific needs, and the developmental level of each child must also be considered.

Research has shown that the way trauma is experienced is related to the age and developmental stage of the child. Preschool children, who are particularly dependent on their parents, may react to trauma with anxious attachment behaviour, while school-age children may change radically following a traumatic event. Adolescents may lose impulse control and engage in antisocial acts.⁶

⁶http://www.acpmh.unimelb.edu.au/site_resources/factsheets/ACPMH_trauma_and_children.pdf - See more at: <http://www.mindframe-media.info/for-media/reporting-mental-illness/priority-population-groups/culturally-and-linguistically-diverse-populations#sthash.a7M6gsZO.dpuf>

RECOMMENDATIONS

1. Establish a multi-disciplinary child expert panel to advise the Department of Immigration and Border Protection, the Immigration Minister and any other relevant federal departments and authorities involved in immigration detention and asylum seeker care
2. An independent guardian for unaccompanied children seeking asylum
3. Legislate a maximum period of detention
4. End offshore immigration detention
5. Immediately transfer pregnant asylum seekers (along with their whole family unit) to the mainland
6. Issue a Departmental and Ministerial directive prohibiting family separations
7. Expand the Community Detention Program
8. Use mainland, metropolitan facilities in favour of Christmas Island
9. Adopt minimum standards of protection for children in immigration detention, in line with protections afforded to Australian children

In addition, ChilOut endorses each of the recommendations from the Human Rights and Equal Opportunity Commission's National Inquiry into Children in Immigration Detention Report, *A Last Resort?* (2004).

The only form of immigration detention for children that ChilOut could find compatible with the Convention on the Rights of the Child, the Refugee Convention, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention Against Torture would be in 'exceptional circumstances and for the shortest practicable time'. If such a situation was to arise, the detention would need to be subject to independent review, in a metropolitan location and involve child experts.

For example, where there is a health risk, or potential health issue – the family unit should always be kept together (where safe to do so). Other countries provide maximum legislated periods of 7 to 31 days for the detention of refugee and migrant children. Authorities would need to show cause as to why the detention must continue and the measures being taken to protect the child in such a situation.

ChilOut recommends the implementation of a Child Expert Advisory group to the Department of Immigration and Border Protection and the relevant Federal Minister/s. This should comprise multi-disciplinary experts and their advice should be considered seriously in the search for alternatives to indefinite detention of children. The dominant framework for looking at these issues must be child protection, not people smuggler models and border protection. ChilOut's Child Expert Roundtable group is a natural starting point to the establishment of such a body and ChilOut appreciates DIBP and Ministerial engagement with this roundtable to date.

ChilOut supports the work of the International Detention Coalition and their submission to this Inquiry. ChilOut will draw specific attention to the IDC's submission with regards to effective models for detention alternatives.

APPROPRIATENESS OF FACILITIES

ChilOut reiterates that none of Australia's immigration detention facilities can be considered an "appropriate" place for a child.

Appropriateness for different ages must be considered separately: the newborn, the mother, the family unit, the toddler, the pre-schooler, the primary school aged child, the adolescent. Additional issues must be considered for unaccompanied children.

It is not possible to separate general health, mental health, development and wellbeing. Detention, specifically, indefinite detention, damages a person's mental health and in turn has an adverse effect on their development, general health, ability to concentrate (learn) and willingness to participate.

The institutionalisation of children in Australia's detention facilities has an impact on the rest of their lives. No matter how modern a facility may be, ChilOut supporters have observed that they are not warm, inviting or child-friendly places; they will always be damaging if the stay is long and indefinite.

DARWIN: ChilOut observed a five year old girl playing 'Officers'. She asked an older child to write 'Officer' on her right shoulder and she proceeded to march about the mess hall giving orders to others. The little girl was playful, cheeky and to her the game and the role-play was the most natural thing.

In detention, children and their parents are surrounded by people in uniform. Most detainees have fled military regimes or had their lives controlled by people in uniform. Fear and inequity in daily life is ever-present. Visitors to every immigration detention facility in Australia can cite varied policies, unwritten 'rules' that change from one week to the next and inconsistency in operational detail from one facility to the next.

One of the most confounding examples was the "crayon debacle of 2011". Each year ChilOut coordinates gifts to children in immigration detention, and goes to great lengths to ensure that Serco (the security company contracted by the Government to operate / manage detention facilities) is fully briefed and that those concerned are aware of the donations and timing of delivery. On Christmas Day 2011, volunteers accompanied by their own children arrived, as agreed by written form, to bring gifts to children detained there. Included in the gifts were craft and stationery items, observing regulations around scissors, staplers and the like. ChilOut was advised that the crayons were now banned at this facility because "clients may draw on the walls". The public found this approach absurd and there was a swift off-site Serco decision to take crayons off Darwin's contraband list. If these punitive and random approaches unsettle visitors, one can predict their impact on children living within such a system.

ChilOut does not condone the use of any detention facility, long-term or indefinitely. If mandatory detention of children is to continue then mainland, metropolitan locations are a far better option than Christmas Island. ChilOut rejects the Government's public position that closing the Inverbrackie APOD is a cost saving. This facility, although harmful when used to detain people over long periods, is the most humane of the current secure detention network. Inverbrackie had access to cooking facilities, houses instead of tents and shipping containers, and a supportive local community willing and able to visit often. If we must have detention at all, this is what it should look like (with a maximum, reviewable time frame). Closing Inverbrackie and other APODs means that some people will be sent to Nauru at huge taxpayer expense⁷ and others released into the community on Bridging Visas without work rights, a cost to the taxpayer in many other ways.

“There is no word to describe this (ongoing detention). If I say bad it is not enough, if I say awful it is not enough. There are just no words”

- teen detained in Darwin, December 2013.

Darwin is questionable as a detention location given the existing pressures on local health and education services. The Blaydin Point detention site, referred to by Serco as “state of the art” and “purpose built” was considered by a commercial firm to be too infested with biting insects to be used as staff accommodation.⁸ When ChilOut visited Wickham Pt and Blaydin Pt, it was recommended by staff on-site that insect repellent be applied. Many children and adults with obvious insect bite marks on their skin were observed. The recently closed Darwin Airport Lodge is a preferable site to Wickham Pt or Blaydin Pt due to its lower fences, proximity to the city and corresponding services. Its overall layout is also slightly less oppressive than the Wickham Pt and Blaydin Pt.

When ChilOut visited Darwin's three “APODs” in December 2013, outdoor play equipment was too hot to touch and could only be used in the early mornings or after dinner-time. Indoor spaces were air-conditioned but very small. The largest being two shipping containers joined together to form a ‘play area’ for children under school age. The presence of a swimming pool was noted in two of the Darwin facilities and plans and it was explained that they were for child focused learn to swim classes. Whilst the ability to swim holds a strong place in Australian society, people in detention have mostly lost hope that they will be a part of our society and have memories of a terrifying boat journey throughout which they were acutely aware of their inability to swim. ChilOut urges caution and sensitivity in the running of this program.

Putting aside ChilOut's view that detention facilities can never be appropriate for children, there are pragmatic changes that are essential to better protect children. Bunk beds are the common sleeping arrangement in family rooms. It appears that bed rails are not provided. In a visitors room in Darwin the mother of a newborn was changing her baby's nappy. A change mat was in the room, still in plastic. When it was opened for the mother to use, she didn't know what it was. Not one of the mothers in Darwin had been issued with a change mat or any similar item. Before commencing each detention tour ChilOut was asked to sign forms, complete OH&S briefings and cautioned against open-toe shoes. Inside these same facilities are children with no footwear and adults using gym equipment, including free weights, in a common, outdoor space that children

⁷National Commission of Audit, 2 May 2014 states the cost of offshore detention is approximately \$400,000 per person annually. <http://www.kaldorcentre.unsw.edu.au/node/297>

⁸Biting Insect Survey of Darwin, Northern Territory Environmental Protection Authority http://www.ntepa.nt.gov.au/__data/assets/pdf_file/0005/5792/draft_eis_appendix_21.pdf Study carried out ahead of potential Ichthys Gas Development, September 2009

pass through, also with no footwear. It is understood that that on CI there are no baby baths, yet in Darwin stacked on pallets, opened from their packaging were piles and piles of plastic baby baths. When assessing 'appropriateness', the most basic of daily transactions need to be considered. Having to ask guards for sanitary items; eating with only plastic cutlery from plastic plates for years on end; having no choice as to what you feed your children or what their first foods are; not having a baby sling or having to use cloth nappies doesn't seem conducive to appropriate, or sustainable, living conditions.

ChilOut acknowledges that some facilities are less harsh than others in terms of the physical infrastructure. However even at the Villawood IRH, often cited by DIBP as "being suitable and appropriate for children and families," an eight year-old boy engaged in self-harm by shoving sharp objects into his ears for several months. It was March 2013 and the child had been detained in the so-called "appropriate facility" for 10 months, he attended a local school, had regular community visitors and access to recreational programs. In no way was this living situation appropriate for him.

It must be noted that when considering the needs of asylum seeker children, their past and the experiences of their parents must be taken into account. Quite often, children have witnessed war, death, disappearances, killings, rape or have lived around these incidents their whole life. Parents may be suffering from a number of mental health, torture or trauma related issues.

Convention on the Rights of the Child – Article 39

Children subjected to abuse, torture or armed conflicts should recover in an environment which fosters the health, self-respect and dignity of the child.

Repeatedly children in detention, particularly unaccompanied children, tell us that they do not feel safe inside detention. They are constantly wary of staff, concerned about how they act around other asylum seekers, surrounded by self-harm and depression and above all uncertain as to whether they could be sent home or to offshore detention at any moment.

RECREATION

Convention on the Rights of the Child – Article 31

State Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

In its 2011 report on Christmas Island, ChilOut raised the issues of the “all-purpose recreational facility” being extremely lacking, appearing to be simply an outdoor basketball court. The lack of environmentally appropriate facilities (given the monsoonal climate of Christmas Island) was noted, along with issues of overcrowding and tensions arising from many sports and many people wishing to use the very limited space.

Regarding Nauru, Save the Children’s Director of Policy and Public Affairs, Mat Tinkler, has advised the AHRC: “there is no grass, nowhere to play. Children play with rocks and are on coral ground.”⁹

In Darwin, ChilOut was shown brand new playgrounds and outdoor equipment without shade cloths that for much of the year are too hot to touch let alone play. For the three December days ChilOut visited Darwin’s APODs, not single child was seen using one of the three playgrounds or two swimming pools. At this time, seven weeks of school holidays were about to commence. This period is certain to bring extreme heat and monsoonal rain. Neither DIBP nor Serco staff could advise ChilOut of any specific holiday programs planned for children or families. Staff briefing us kept referring to a single excursion that would be available to only a few people and was inadequate to address the needs of children at this time. There did not appear to be consideration for the change in family dynamics, stress points and other perceivable changes that would be brought about by having school aged children constantly trapped in the small space for seven weeks.

Recreational needs of differing aged children are addressed in sections below. Overall it is our observation that no detention space can be “child-friendly”, and that the facilities Australia is providing are insufficient.

Toy libraries exist in detention facilities. Opening times and resources are incredibly varied across different facilities and the present scenario on Nauru and Christmas Island is not known. In Darwin, they are not libraries in the sense that families are not permitted to borrow toys and take them back to their rooms, they are only to be played with in the toy room when it is open. Parents tell us that occupying and stimulating a child inside a shipping container, with no access to the natural world, very limited excursions and very limited personal possessions is incredibly difficult and stressful.

ChilOut and other organisations donate toys and gifts to children in detention. Serco assure ChilOut that these items become the personal property of individual children. Some items can be purchased at the canteen using the points system, and parents engaged in activities such as woodwork could make their child a present, as we have observed. Any small item taken in to detention is embraced by a child. ChilOut took some cakes to share on a visit and the empty box was pounced upon by a 5yr old girl as a potential toy, something to create and play with. There is a very clear craving for more stimulation; children are looking for ways to express themselves and overwhelmingly, for ways to please their parents and any visitor, to prove themselves as “good” and to be praised.

⁹Oral evidence given to AHRC public hearing, April 6 2014, Sydney *transcript not available at time of submission. Quote representative of Mr Tinkler’s evidence given.

When provided, table tennis facilities are well utilised, but there are not enough of these to meet the large numbers of people detained in some facilities. In Darwin ChilOut was shown “community centres” - larger indoor multi-use spaces where groups of primary to teenage aged children were gathered. There is nothing inviting or child-centric about these shed-like spaces. Some new toys and activities were apparently made available just in time for our visit. Price tags were still on some items, others were still wrapped in plastic. Families told us that in the days leading up to our visit, new posters appeared and new schedules showed activities they had never heard of. ChilOut took along sets of UNO cards, and these were greatly appreciated as a reprieve from the monotony of people’s days (both children and adults). The physical limitations of each detention facility, the nature of the buildings, the lack of natural environment and a chance to make decisions, explore and discover means that recreation inside detention is completely insufficient for all age groups..

Excursions to recreational facilities outside detention are incredibly limited and it is reported to us that children can wait months before being taken outside even in a mainland facility such as the Melbourne Immigration Transit Accommodation (MITA).

Young women detained at the MITA longed for some female-only recreational activities. The weekly disco or dance was fun for the younger children and the boys but the girls’ religion prevented them from dancing and taking part in the mixed gender disco which was usually hosted by male DJs.

“A gold cage is still a cage”

- many detained children have told ChilOut this.

EDUCATION

Convention on the Rights of the Child – Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates

Overall, ChilOut refutes any statements about “education” being provided to children on Nauru or Christmas Island. The same can be said for many children in onshore detention facilities. ChilOut is aware that for children transferred to the mainland, possibly for a family member to receive medical treatment etc., there is no school enrolment, and the gap in their education can last months. All the while, the child sees peers dressed in their local Australian school uniforms each day, coming back talking about their day, their friends. In Melbourne we met one such girl, she was 12 years old and had been detained for 19 months. Over that period, she had been in four detention facilities and had received approximately two months of schooling. She and her family were always told by detention authorities that it was “too hard,” “too late in the term,” “she could go next term,” and so on.

The current Minister for Immigration and Border Protection has announced that a budget has been allocated to ensure that ‘any children who are on Christmas Island can go to school five days a week’.¹⁰ ChilOut would welcome pre-school, primary and secondary education for every detained child. The Minister did not explain if this schooling provision would be inside the detention facility (something ChilOut opposes) or external. Christmas Island District School services Kindergarten through to Year 12 and has in the past made exceptional efforts to educate asylum seeker children. Yet it was acknowledged as numbers in detention grew, that the small school simply could not facilitate education for each detained child. ChilOut understands that some children presently detained on Christmas Island have had no curriculum-based education for a whole school year. The infrastructure and investment needed for the District School to accommodate detained children and meet their diverse needs is immense. The proposition seems more unrealistic given the that the same Minister for Immigration and Border Protection has announced the APODs on Christmas Island will close by end 2014 (suggesting that children will no longer be detained on Christmas Island at all).

¹⁰Operation Sovereign Borders, Nauru, Federal Budget, Cambodia. Thursday, 22 May 2014 Press Conference, Sydney <http://www.minister.immi.gov.au/media/sm/2014/sm214759.htm>

Following the unresolved issues between the Commonwealth and the Government of Western Australia, there was no “education” for many hundreds of unaccompanied boys detained in Leonora. When ChilOut visited Leonora in May 2011 there were 140 boys detained there. DIBP (then DIAC) advised us that “education” was provided. ChilOut observed one of these “classes” which had no curriculum content and in which the boys appeared completely disengaged. Some later told ChilOut they were attending only in order to receive more points to “spend” at the canteen. Often what the Government and DIBP refer to as “education” amounts to approximately one hour of English language lessons per day, occasional classes akin to an “Australia 101” lesson and sometimes craft or cooking lessons. In all cases, these are “taught” on-site and children have no opportunity to leave the detention premises.

In planning for the Manus Island detention facility, the Department of Immigration and Border Protection (then DIAC) stated a preference for education to be inside the RPC so as to “minimise impact on the local community.”¹¹ This approach completely ignores the positive learning and health benefits of providing education in a purpose built, equipped facility outside the detention compound.

ChilOut understands that on Christmas Island and Nauru there is no physical space set aside for a dedicated and even remotely suitable “classroom”. Available space must be shared across all age groups, for many purposes and for adult activities as well. This leaves very few options for staff even if they attempted to run “classes”.

Bi-lingual dictionaries have been a constant source of tension due to limited availability, despite being a standard item to be provided by detention facility operators. The result has been charities donating these to asylum seekers.

In the case of Nauru, ChilOut has offered material gifts and is directed by Save the Children that items needed include pencils, school note-books, pencil cases, school bags, water bottles and hats. ChilOut has provided these items, however, it is disappointing to learn that these items are not supplied as standard provisions by contractors well-resourced to provide “welfare and education services” to children on Nauru. If children already on Nauru for the past eight months have not had these items it is concerning to consider what other basic teaching resources are missing.

Going to school, albeit under Serco escort, provides some sense of normality in the day of a child and for their parents (if they are there with them).

Whilst not strictly an issue related directly to secure immigration detention, one concern raised by many children and young people that ChilOut works with is the complete unknown of education past the age of 18. Unaccompanied teenagers often arrive to Australia with an education heavily interrupted by war, being on the move and other factors resulting in lost school years. Many are detained for lengthy periods and are 17 years old once released. Even for those in CD, there is no certainty as to whether they can remain in school past their 18th birthday. ChilOut understands this issue is a DIBP one and that school principals in several states have proven their willingness to display flexibility. However, there have been many occasions where a child turns 18 mid-way through a school year or even term and is unable to stay at the school they had been enjoying. This is despite the fact that their Australian peers may turn 18 at any point in Year 11 or 12 and continue their studies. The issue appears to be one of Commonwealth financial contribution and it is incumbent on the Department of Immigration and Border Protection to ensure consistency on

¹¹DIAC Submission to Public Works Inquiry, Manus Island, 20 March 2013 http://g.virbcdn.com/_f2/files/b2/FileItem-287229-DIAC_sub_publicworks.pdf

this issue, consistency so that it doesn't take the work of refugee advocates or outspoken School Principals to ensure continuation of education.

There is a misconception that the children detained in Villawood, MITA, Inverbrackie and even Darwin are "doing ok" because they attend local schools. It is true that primary school attendance is a very positive thing for the child and for their family. However they are not fine and the situation is far from normal. An asylum seeker child is escorted to and from school by a guard, the child cannot ride a skateboard "home", he or she cannot play in the park after school, when invitations are given out for birthday parties, the asylum seeker child can wish for one and may receive one but would never be permitted to attend. There is complete confusion about an asylum seeker child being in their class photo, soccer team picture for the school newsletter - even if their parent/s have signed the necessary approval form. The DIBP has not given approval and if there is a Serco guard present he or she can intervene and remove the child from the photograph.

A teacher who has had detained asylum seeker children in her classroom for many years explained to ChilOut;

*We have noticed that since last year many of the children, who were initially keen to learn and perfect students, are becoming more and more poorly behaved. There is a lot of fighting between the children; and angry, rude behaviour towards adults, and in general, the children are unhappy and not keen to engage with learning. Being hungry after lunch does not help!**

Many of the children have been in a detention centre for over seven months now. We are observing the damage (hopefully not irreparable) and although we try our best to make school a good place for them to go to - every day they have to go back! After lunch, their behaviour becomes more restless. Then they have to be rounded up and counted and off they go to goodness only knows what toxic mix of anger, depression and frustration emanated by the adults who have been "home" all day long.

*The hunger issue refers to changes in the caterers and decreased involvement of parents in packing lunches. The teacher described children being sent to school with food they don't like in disposable plastic containers.

HEALTHCARE

Overall the detention network damages people's health. The locations, indefinite nature, physical spaces and lack of trained professionals means that asylum seekers often do not receive community standard healthcare. For years ChilOut has been told by asylum seekers in all locations that if they present to IHMS or Serco with a medical complaint they are dismissed with a standard answer of "take two Panadol." One child told us he was given six to eight Panadol tablets per day by IHMS as pain management, he "felt weird" after a few days and so decided to live with the pain instead.

Services we seek more clarity on – with regards to if they are even employed by IHMS and if so, at which sites:

- Dental (in remote and offshore locations);
- Child psychiatry (not just a fly in senior observation once/month but trained staff on hand);
- Peri-natal psychiatry;
- Midwifery;
- Obstetrics;
- Speech therapists;
- Nutritionists (not just external advisors but those who are on-site, see the realities of exercise (often none), the physical confines and speak with parents about their children's eating habits , and with expectant mothers who have expressed many concerns about insufficient nutrients; and,
- Paediatricians.

Across the whole detention network ChilOut is concerned about people's access to their own medical files, and those for their children. The 'process' as described by IHMS is very different to the experiences relayed by asylum seekers and from the cases ChilOut has been involved in. In most circumstances, gaining medical files involves lawyers, advocates and sometimes Freedom of Information requests. As a person does not have their own records, it is unclear what information is passed on to health professionals in the community, or even in other detention facilities when a person is moved from one to the next. A pregnant woman detained in Darwin with gestational diabetes was prescribed a specific diet by the local hospital, after one month this was implemented. The woman was then transferred to another detention facility and the meal plan has not followed. For parents, already unable to make so many decisions about their child's health care and for whom English is usually a second, third or fourth language - having the written information would be of some comfort and assistance.

MATERNAL HEALTH AND NEWBORN HEALTH

ChilOut believes there are currently more than 80 pregnant women in detention (mainland, CI and offshore).

This section is written by Professor Caroline deCosta MBBS PhD MPH FRANZCOG FRCOG

Conditions of detention offshore especially on Nauru appear to be very inappropriate for pregnant women and newborn children; the hot humid crowded tent environment is conducive to the development of serious infections including gastroenteritis which can be life-threatening for infants in the early weeks of life. It is not appropriate to transfer babies from Australia at 4 weeks as we understand is done for Christmas Island and is apparently intended for Nauru.

Doctors interviewed in Darwin had no recent obstetric experience and no specific obstetric training. It was not clear who has made the decisions about when women are to be transferred; it is important that this be done by a medical practitioner with appropriate obstetric training.

It was unclear in Darwin APODs whether a midwife was available to provide appropriate care and advice for pregnant women. Women should certainly have access to a midwife for both antenatal and postnatal care and help with breastfeeding. It is unclear whether registered midwives are now employed in the many locations where pregnant asylum seekers are detained.

In Darwin, women who were having difficulties breastfeeding were observed; none of the women had been able to discuss this with any staff they knew to be a midwife. One was mother to a baby born four weeks premature; she was one of many who had requested a breast pump. Pumps were only supplied at the continual insistence and chasing up by ChilOut. When ChilOut visited Darwin, there were more than 50 pregnant and new mothers detained there with no lactation support or breast pumps available.

Detained mothers are provided by Serco with a pack upon returning from hospital with their newborn, usually day 3-5 after birth. Senior Serco staff in Darwin clearly confirmed to ChilOut that this included formula and bottles as standard items, not upon request. There does not appear to be any midwifery guidance provided with these items, nor support for breastfeeding. This is completely at odds with World Health Organisation and UNICEF recommendations for newborns and infants.¹² Given most women and babies are now destined for Christmas Island, Nauru or potentially Cambodia - breastfeeding to keep the baby's immunity levels as high as possible would seem even more crucial.

¹²<https://www.breastfeeding.asn.au/who-code>
<http://www.who.int/topics/breastfeeding/en/>

The WHO Code

1 ...

2 Health facilities and health professionals do not have a role in promoting breastmilk substitutes

3 Free samples of breastmilk substitutes or items that promote breastmilk substitutes should not be provided to pregnant women, new mothers, or health facilities

4 Health risks to infants who are artificially fed, or who are not exclusively breastfed, should be highlighted through appropriate warnings and labelling

It is not clear if women in detention are being provided with appropriate contraception advice and services post-natally.

Many asylum seekers and hospital staff told us that Serco insist that when a woman is taken to hospital, including to give birth, there is a guard for the woman, another for her partner and the baby and more for anyone who may visit the hospital from detention (siblings etc.). This is unnecessary and very humiliating and intimidating for the woman and her family and also causes difficulties for staff performing their jobs, on occasion in emergency situations.

I understand that the remit of this Inquiry does not extend to Nauru. However, having worked there and having met women who are now detained there I am compelled to make some comment on the issues specific to this location. I understand a woman was recently transferred from Nauru to Brisbane at 32 weeks gestation after her membranes spontaneously ruptured. The decision to move her to the mainland was life saving, there is a very strong likelihood that if she delivered her baby on Nauru, he would have died in the neo-natal period. Keeping pregnant women detained on Nauru is likely to result in more of this unnecessary and potentially fatal risk. There is simply no medical justification for such a decision and I very much hope that pre-transfer assessments from CI to Nauru include very guidance that no pregnant woman is to be sent there. "Fit to travel" is a completely insufficient test with regards to maternal and neo-natal health – consideration must be given to potentially arising medical needs and the services available at the next location.

Professor deCosta's recommendations:

- Pregnant women in detention should be provided with antenatal and intrapartum care of the same standard as that offered to women who are Australian residents.
- All pregnant, detained women should be seen in the first or early second trimester of pregnancy by an appropriately trained doctor and a midwife and their general health and obstetric risk assessed.
- All appropriate screening tests should be offered for themselves and their unborn child including screening for foetal anomalies. Ultrasound scanning (USS) should be available and providers of USS appropriately trained.
- Pregnant women and their existing children and partner should be onshore for the duration of the pregnancy and have access to appropriate levels of antenatal and intrapartum care (i.e. tertiary care when pregnancy risk is high). Women in detention facilities should have easy access to care if problems arise at any time during the pregnancy including out of normal working hours (noting here, the example provided by Dr Emma Adams below relating to a 12-day-old baby seen in Darwin).

POSTNATAL/INFANT HEALTH

ChilOut believes there are presently 80+ expectant mothers, 20+ newborns and approximately 150 babies (up to 12 months) detained by Australia.

This section is written by Dr Emma Adams, Perinatal psychiatrist

It is now widely recognised that perinatal mental health disorders are a significant burden for mothers in the wider Australian population and may have a deleterious effect on families and healthy infant development. As a result of the likely universal experience of parents and infants in detention of; 1. exposure to trauma in their country of origin and 2. ongoing trauma in facing ongoing detention, it is clear that perinatal mental health difficulties and their negative ongoing effects are going to be much higher.

Risks of perinatal mental disorders are not limited to suicide or infanticide. There are cumulative risks to the mother's health and parenting capacity, infant development and the social and emotional wellbeing of the whole family in not recognising and treating perinatal depression and anxiety disorders.

Psychiatric Conditions in the Perinatal Period and implications for asylum seeker families

Despite the cultural expectation that women should be "blooming" in pregnancy, the prevalence of depression and anxiety in the general population is about 12%.¹³ Studies of other groups such as migrant women show even higher prevalence. It is to be assumed that prevalence in women in detention are under similar or greater stress and have consequently greater risk. Antenatal depression can impact on poor self-care, even to the extent of self-injuring behaviours. There is also a growing body of evidence that if a mother is stressed or anxious whilst pregnant, the child is substantially more likely to be anxious (thought most likely due to increased exposure to cortisol in-utero), have cognitive problems and language delay, and have an increased risk of attention deficit & hyperactivity disorder regardless of postnatal anxiety or depression.¹⁴ General observation along with considerable research shows high levels of stress and anxiety amongst detained populations.

Antenatal depression is one of the strongest predictors of postnatal depression and it does not often disappear after childbirth.

Postnatal depression has a general prevalence of 15%¹⁵ in the general population. Other studies of groups show a much higher prevalence. There are no screening programmes for asylum seekers so the prevalence is unknown. Experiencing pervasive sadness, hopelessness, feelings of inadequacy and guilt and suicidal thoughts are indicative of mental illness.

Postnatal depression is often referred to as a smiling depression, as it is common for women to be suffering worse than appearances suggest. This is more likely in

¹³O'Hara, M, & Swain, A Rates and risk of postpartum depression—A meta-analysis. *Int Rev Psych.* 1996; 8, 37–54.

¹⁴Talge N Neal C Glover V. Early stress, translational research and prevention science network: Fetal and neonatal experience on child and adolescent mental health. *J Child Psychol Psychiatry.* 2007; 48 (3-4), 245-61.

¹⁵Buist A, Austin MP, Hayes B, Speelman C, Bilszta JL, Gemmill AW, Brooks J, Ellwood D, Milgrom J. Postnatal mental health of women giving birth in Australia 2002-2004: findings from the beyondblue National Postnatal Depression Program. *Aust N Z J Psychiatry.* 2008; Jan;42(1), 66-73

asylum seeker women for cultural and safety issues, fear of being judged mentally unwell or an “unfit mother”. Because symptoms may be minimised by the patient, it is important to have a high index of suspicion. It was observed in visiting new mothers at Darwin Airport Lodge (now closed), Blaydin Pt and Wickham Pt, that many showed a decrease in self-care, a wooden facial expression and slowed movements. Typical of severe depression, some mothers were observed to be unresponsive to her increasingly distressed baby. This is a red flag warning for later infant’s psychosocial and developmental difficulties unless the mother is helped.

Postnatal anxiety is as common as depression. These symptoms are very distressing and can significantly impact on parenting confidence and the mother-infant relationship. Symptoms can be feelings of apprehension and dread, panic, physical symptoms such as vomiting, bowel upset, tachycardia, and hyperventilation, inability to relax, sleeplessness and exhaustion or obsessional thoughts that are intrusive and upsetting, often involving thoughts of their baby being harmed, or more distressing, unwanted thoughts of harming the baby themselves. Obviously these are very distressing thoughts for new mothers to have, in particular asylum seekers, many who already had trauma-stress disorders already.

Risks for perinatal depression and anxiety in the general population include very young mothers, poverty, stressful life events, grief and loss, domestic violence and low levels of social support, past psychiatric or substance abuse, history of childhood abuse or a perfectionistic personality style. Obstetric factors such as a history of termination, miscarriage, unwanted pregnancy or a traumatic delivery can also add “fuel to the fire”.

Witnessing war or violence in one’s country of origin, being locked up indefinitely and without trial and being treated as an “enemy” are clearly traumatic and likely to be risk factors for perinatal mental illness. Post traumatic stress disorder, which can result from such situations has symptoms that include re-experiencing through flashbacks, intrusive memories or nightmares, feeling detached and numbed emotionally, and having intense anxiety responses. PTSD is highly co-morbid with depression, anxiety and substance use. In clinical practice, it can be strongly associated with bonding difficulties. Perinatal PTSD requires specialised psychiatric or psychological treatment. This is not offered as far as I could tell in any detention facility.

Puerperal psychosis occurs in 1-2 per 1000 births¹⁶ most often a few weeks after childbirth. Puerperal psychosis can begin insidiously. Quiet confusion, a delirious state, restlessness, or excessive anxiety or inability to sleep may be the initial symptoms. Mood symptoms are common, with erratic or inappropriate emotions, manic symptoms of excessive energy and activity, disinhibition, pressured thoughts and speech, loss of contact with reality and hallucinations. Puerperal psychosis is a psychiatric emergency requiring urgent assessment and usually hospitalisation as the risks of self-harm or harm to the baby are high.

There appeared to be a very low understanding of mental health needs in general and a lack of responsiveness in first-line nursing assessments, an attitude of “not believing” asylum seekers. These problems of providing adequate monitoring and care in detention combined with the insidious response of puerperal psychosis including potential for suicide or infanticide is a very worrying combination.

¹⁶Kendell R, Chalmers K, Platz C. Epidemiology of puerperal psychoses. Br J Psychiatry. 1987; 150: 662-73

Consequences of Perinatal Mental Illness for Fathers and Consequences of Detention on Family Dynamics

Depression is recognised to affect about 5-10% of new fathers in the general population.¹⁷ It is often hard for men to disclose their symptoms and seek help. Depression may be reflected in an increased risk of substance abuse and domestic violence. Paternal depression may have a detrimental effect on children's emotional and behavioural development even after controlling for maternal depression.¹⁸ Fathers in detention, for the same reasons as mothers are likely to have a high incidence of perinatal depression and anxiety. The altered family dynamics due to ongoing immigration detention, for example, fathers being unable to take on a role of protecting or providing for their infant and partner are likely to aggravate their stress.

Family breakdown is likely to be more common in long-term detention. Reasons for this are that usual roles cannot be played out in detention, parents are not able to provide, decision making at all levels is taken out of parents hands (meal times, school, what your child wears, whom your child plays with) and there may be the additional sense of being disempowered when their children (who can learn English at school) are left to translate for them. Living spaces are confined and parents have no privacy.

Older siblings are dealing with their own stress and distress and a newborn in the family can add to this. They are locked up, there are difficulties with education and a deficiency of stimulation already. They have no extended family support when their parents are away with the baby for medical appointments and parents are often too preoccupied with their own distress and disempowerment to be able to support children to the best of their capacity.

Infant Development

Overwhelming research data concurs that infant development occurs in the context of the caregiver relationship. If this caregiver has a mental illness or is severely distressed it is more difficult for them to see their child's emotional and physical needs. This may have consequences on the infant's social, emotional, cognitive and language development. Infants are more likely to have physical illnesses, failure to thrive and are more at risk of severe mental illness in their adult life.

Depression may impact on a mother's perception of, and behaviour towards, their infants and children. Depressed mothers can be disengaged, withdrawn and unresponsive to their infants, or they may be overly intrusive. Babies of depressed mothers may have learnt to avert their gaze from their mother (whilst giving other people such as the clinician big smiles), or indeed seem depressed themselves.

Unfortunately, likely as a result of these repeated unsuccessful interactions, children of depressed mothers are more likely to have difficulties in social-emotional, behavioural, and cognitive functioning and are at greater risk for later psychopathology, particularly if the postnatal depression becomes chronic.¹⁹

¹⁷Fletcher, R. (2011). *The Dad Factor*. Finch Publishing, Warriewood NSW; 374

¹⁸Ramchandani P, Psychogio L. Paternal psychiatric disorders and children's psychosocial development. *Lancet*. 2009; Aug 22(9690):646-53

¹⁹ Grace S, Evindar A, Stewart D. The effect of postpartum depression on child cognitive development and behavior: a review and critical analysis of the literature. *Arch Womens Mental Health*. 2003; 6(4),263-74

It is important to recognise that postnatal depression is not the only factor impacting on infant outcomes. Risks accumulate. When a mother is thriving and not depressed, she is more able to buffer these risks. Risks may include developmental disorders, prematurity or infant medical illnesses, social adversity including incarcerated indefinitely in immigration detention, maternal stressors such as grief, relationship difficulties. Being incarcerated indefinitely without trial or the fear of being sent back to their country of origin is clearly a risk.

Suicide and Infanticide

Having a baby does not protect against suicide. Although the rate is low, suicide is one of the most common and preventable causes of maternal mortality in Australia, the UK and New Zealand.²⁰ Due to data collection issues, suicide is likely under-reported. The majority of suicides by mothers with young children have occurred by violent means. Many of these women have had a previous documented history of mental illness issues. These are generally not just a “cry for help”, but a determined effort to die.²¹ Even if not successful, the consequences of a suicidal attempt are devastating for the mother and infant.

Intimate partner violence is an associated risk with suicidal ideation and completed suicides worldwide and homicide is also a significant cause of maternal mortality.²³

Infanticide is also rare, but likely under-reported meaning that research and understanding is limited. It appears that maternal neonaticide (murder of a baby in the first 24 hours after birth) is often associated with unwanted pregnancy, pregnancy denial and a young, poorly educated woman. Maternal infanticide (defined as murder of an infant under twelve months) is more likely associated with mental illness, in particular, psychosis.²⁴

I am concerned by the 2013 findings of the Commonwealth Ombudsman that; “... self-harm data collected and reported by the department to be poor in quality and breadth. The department only started regularly analysing self-harm data in May 2012, which was well after the incidence of self-harm had peaked.”²⁵ It is my hope that data collection and monitoring is consistent and thorough and that individualised health responses are actioned.

I concur with the Department of Immigration’s own assessment:

Factors associated with detention may adversely affect a person’s mental health and wellbeing. These factors include isolation, uncertainty, separation from loved ones and friends, inability to make decisions and a lack of access to normal ways of coping.

²⁰Sullivan E, Hall B, King, JF. Maternal deaths in Australia 2003–2005. Maternal deaths series no. 3. Cat. no. PER 42. 2007 Sydney: AIHW National Perinatal Statistics Unit and,

Oates, M. Perinatal psychiatric disorders: a leading cause of maternal morbidity and mortality. *Brit Med Bul.* 2003; 67: 219–229 and PMMRC. 2012. Sixth Annual Report of the Perinatal and Maternal Mortality Review Committee. Reporting mortality 2010. Wellington: Health Quality & Safety Commission 2012.

²²Austin M, Kildea S, Sullivan E. Maternal mortality and psychiatric morbidity in the perinatal period: challenges and opportunities for prevention in the Australian setting. *Med J Aust.* 2007; 186 (7): 364-367

²²Gentile, S. Suicidal mothers. *J Inj Violence Res.* 2011; 3(2): 90-97

²³Sullivan E, Hall B, King, JF. Maternal deaths in Australia 2003–2005. Maternal deaths series no. 3. Cat. no. PER 42. 2007 Sydney: AIHW National Perinatal Statistics Unit.

²⁴Spinelli M. Maternal Infanticide Associated With Mental Illness: Prevention and the Promise of Saved Lives. *Am J Psychiatry* 2004;161, 1548-1557

²⁵Suicide and self-harm in the detention network, report by the Commonwealth and Immigration Ombudsman, May 2013 <http://www.immi.gov.au/media/publications/pdf/2013/report-response-suicide-self-harm-idn-130521.pdf>

Mental illness may be episodic or chronic. As thinking, perceptions, feelings and behaviours may change over time and in response to circumstances, people in immigration detention may require access to assessment and treatment services a number of times while in detention. Mental health assessment and treatment services should be flexible and able to respond to changes in an individual's mental state.²⁶

CASE STUDY 12 day old baby – detained in Darwin

We met the parents of a 12 day old baby. The mother was almost constantly breastfeeding through our very long visit explaining that she was having some difficulties with breastfeeding and was told to express milk by hand. She did not have access to a breast pump, despite requests. The parents tell me that Serco only provided the baby with pants yesterday, a necessity in this mosquito-infested swamp. We, as visitors, were offered insect spray for the official tour, which for a week afterwards I regretted not using. This brought home the humiliation to parents of being unable to access the basics for their children. During this talk with the family, both I, and the other visiting specialist physician observed many infected pustules on the baby, consistent with bacterial infection. This infection, combined with feeding issues in a newborn were a serious medical concern. My medical experience tells me that it standard practice that any neonate would not be discharged from the ER unless examined by a senior doctor.

The parents told us that they had tried to show the lesions to IHMS on site who were not interested. Although we were not there in a clinical capacity, we felt obliged to do something. Serco declined our offer to accompany the family to the onsite IHMS clinic, so we wrote a letter, signed with our qualifications to take to the nurse indicating the urgent need to see a doctor. The nurse on call in the clinic read the note, ignored the instructions and sent the baby and family back to the visit room without examining her, telling the couple they could see a doctor in two days!

This level of negligence (and I do not use this word lightly) is a grave concern. That nurse, and the medical service as a whole has a much higher level of responsibility to be careful. The asylum seekers here have no other way of seeking medical help, or a second opinion.

I understand that a doctor did come to look at the baby a few hours later and she was provided with a prescription treatment. I am certain this course of action only took place because we and ChilOut were on site and had access to phone numbers of senior management from all service providers. Basic medical treatment should not require such measures and leaves serious concern about the medical care of those who do not happen to meet with people like us on a particular day of need.

²⁶Detention Health Framework, Department of Immigration and Citizenship, 2007 <http://www.immi.gov.au/managing-australias-borders/detention/services/detention-health-framework.pdf>

Dr Adams' recommendations:

Perinatal depression and anxiety do not spontaneously resolve, they often worsen or become chronic. There are significant risks to women, their families and their infant's emotional, cognitive and physical development if not treated.

In the wider Australian community the first and most challenging step to treating perinatal psychiatric disorders is recognition. The stigma of mental illness, or concerns about being forced into taking medication may lead to women (or their families) being reluctant to discuss their difficulties. It is important to give mental health issues time and space. Asking a patient how they are faring and showing concern about mental health will set expectations that this is an important aspect of obstetric care and gives permission for discussion and disclosure. The Edinburgh Postnatal Depression Rating Scale (EPDS) is a useful self-report screening tool that may help break the ice on this sometimes difficult topic. There was no reassurance that this was done in any way in these detention centres. Within Australia's immigration detention network, from the information available, there does not appear to be adherence to general community standards for mental health screening commensurate with the dearth of appropriately trained midwives. Access to specialist obstetricians and psychiatrists is also less than Australian community standards.

The most significant change the Australian government could make to prevent risk and harm (with ongoing physical, social and emotional repercussions) to infants and parents is to not have them detained. Community treatment and community support is the safest (and most inexpensive) option. Community midwives and maternal and child nurses, rather than nurses and medical staff with an incarceration (gaoler) mindset will be more acutely aware and sensitive to patients needs and will be able to screen in accordance with evidence-based community standards.

If parents and infants are going to be detained, then the outlay on obstetric management during pregnancy, psychiatric screening, midwifery and maternal and childhood nursing input, lactation consultants, psychotherapy, social work and paediatrics will be phenomenal to prevent extreme risk brought about by the fact that detention itself is traumatising.

TODDLERS & PRE-SCHOOLERS

ChilOut refers to the work of and submission to this Inquiry by Early Childhood Australia (ECA). It is representations of this nature that would be instructive in an Expert Panel advising the Department for Immigration and Border Protection and its Minister on child detention issues. ECA and others have expertise in working with children who have experienced trauma and in best practice care to mitigate harm to children.

The poor sleep routines common in detention facilities, the fact that in all but one detention facility infants first and often only foods are out of jars (avocados not available, parents unable to mash vegetables etc) and the lack of stimulation are all health, recreation, education and development concerns when studying the 0-5 age range.

We walked past an accommodation area. In a sandpit, sitting by himself, with no-one around was a young child of just-started-walking age. He had an empty face, and was flicking the handle of a brightly coloured plastic bucket. I do not know his story. However, I know that in what I saw, something was terribly wrong. One did not need to be a psychiatrist to see this, 'blind Freddy' could see. He was not playing, he was frozen. There was no-one around to gather him up and make it alright. One of our Serco escorts laughed and commented how 'cute' he was.

- Dr Emma Adams

UNACCOMPANIED CHILDREN

One young person with whom ChilOut is in regular contact, a boy without any relatives, has now been detained for 10 months is seeing a counsellor three times a week. ChilOut have been formally told this is "because he shows signs of depression". It is completely obvious that the boy would display such signs. Alternative models of care exist for unaccompanied children in detention, but this boy's arrival to Australia falls on the wrong side of an arbitrary date meaning he is 'not able' to go into Community Detention. In the case of this particular boy an Australian family has even offered to house and care for him at their own expense and undergo any necessary checks and meet reporting requirements. Instead the detention system around him is in a flurry of activity trying to mitigate the harm it causes to him.

"As I speak to detained teenage boys they look to the ground and fiddle with plastic wristbands emblazoned with the words 'resilience' and 'courage'. The irony and overwhelming sadness of this is completely obvious to the children themselves."

- Sophie Peer, Campaign Director, ChilOut.

Every single unaccompanied teenager that ChilOut has been in contact with over the past two years (around 50) is on some form, or several forms of medication. These generally relate to sleeping issues, anxiety and or depression. ChilOut hopes that this Inquiry compels IHMS and DIBP to publicly release the current and historical frequency and nature of medication being given to children in immigration detention.

ChilOut maintains its long-standing recommendation that unaccompanied children seeking asylum need an independent guardian. It has held this position through successive governments and it comes from wanting to see the best interests of each child truly assessed and met. Other nations have models of guardianship Australia could look to.

UNHCR specifically argues that “[c]hildren seeking asylum should not be kept in detention and that this is particularly important in the case of unaccompanied children.”²⁸

The dual responsibilities of guardianship and decisions regarding who remains in detention are a compromising position for any individual. The result for 50 children today, one only nine years of age, is that the Minister for Immigration and Border Protection has relinquished his guardianship duties and handed them to the Nauruan Justice Minister.

ChilOut is not satisfied with the arrangement that some guardianship duties for the unaccompanied children sent to Nauru are delegated to Save the Children (STC). Information has become public that on more than one occasion, STC staff have raised allegations of guards assaulting children detained at the Nauru RPC. Far greater transparency is needed around this delegation and the processes involved. For example: where does STC send its recommendations and how is the response or course of action decided upon?

In addition, a completely independent agency must be involved, not one whose contract is written by and paid for by the Commonwealth of Australia. It is unclear whether STC recommend a child be brought to Australia for reasons based on mental health concerns? If they make such a recommendation does it need joint sign off with IHMS and the Nauruan Justice Minister? Who has ultimate responsibility, who can oversee such recommendations and ensure that appropriate action is taken? If that child is harmed or dies who is held accountable?

Convention on the Rights of the Child – Article 22

... a child who is seeking refugee status ... whether unaccompanied or accompanied ... [shall] receive appropriate protection and humanitarian assistance...

No claims for asylum have been processed for the approximately 50 unaccompanied children (estimated number as of May 16, 2014) detained on Nauru and Christmas Island. Most of these

One unaccompanied child in detention told ChilOut;

“If all the people live together happy no more war just love doesn’t matter if I stay whole my life in detention centre and I will be more happy then them just to see the other people happy”

children have been in detention for close to one year, they have not been afforded any protection and Australia's treatment of these children could well be considered inhumane.

Upon first meeting this child he did not have such a demeanour, he was hopeful, engaged and in good spirits. The best way to describe this child six months on (and now 10 months into his detention) is "broken".

The vast majority of unaccompanied children in detention are teenage boys. They are bored, frustrated, they count their days in detention but have no release date to count to, they count their lost education and their potential lost income. They feel guilt over their detention as in some cases they were the hope of safety and a new life for their families, they feel worry for their remaining family (especially the numerous whose fathers have already been killed). Over months in detention these boys disengage from learning, from activities and from each other.

ChilOut has worked with boys who have lived in the community for years now but who are still affected by their time in detention. Formative years where they were institutionalised, where any sense of control and decision making was taken away from them, where they were medicated and where they felt completely alone despite being trapped with so many other people. Some of these boys still take medication, some struggle to find their way in a new community, some still think about being detained, all have lost years in their education and feel the difference of, for example, being 19 years old and in Year 11.

CHILDREN AS NUMBERS

ChilOut has for many years observed children respond to their boat ID numbers and know their friends' ID numbers. This indicates that ID numbers are used routinely, despite Serco and DIBP assurances that they are not. Whenever ChilOut plans to meet someone in detention or makes initial contact, a parent will always supply their own and their child's ID number. All the artworks ChilOut has seen, by adult or child in detention, are signed with an ID number.. The three letter / three digit combinations are etched into woodwork pieces, scrawled in the hand of a 5yr old across their drawing, meticulously added to the painting by a talented teen. The use of numbers permeates all parts of people's daily lives. Upon visiting a facility, a pre-arranged meeting with an asylum seeker had not eventuated, when the situation was checked with the guard on duty a list of people who had visits that day was shown. The checklist included numbers only, no names were listed alongside. Upon visiting the new IHMS facility at one Darwin centre, on the back of a clinic door was a list for staff to mark off who had been for their regular check-up - the list contained numbers only, no names alongside.

So institutionalised are people that families with newborn babies were worried when their babies had no ID tag. Some families were at a loss to understand where their baby officially fitted given he/she was not Australian, was not a national of the parent's homeland and did not have even a Serco ID tag.

ChilOut has been assured by Serco that families are now provided with one photograph of their newborn (in hard copy and digitally) so they have some record and can share their joy with family overseas or in the Australian community. ChilOut is aware of this happening in only a handful of instances and it is of limited comfort as babies have now been in detention for over 15 months and have changed greatly in that time – learning to crawl, walk and speak. Parents are unable to capture any of this for the families, and in some cases, fathers who are outside the detention facility and unable to visit.

LANGUAGE

ChilOut has already noted its rejection of terms such as 'APOD'. There are many deliberately de-humanising words used by Governments and the Department of Immigration and Border Protection. The problem extends to some service providers in the immigration detention space, and is perpetuated throughout the asylum seeker policy debate. ChilOut considers it essential to note such issues as they have an ongoing impact on children. In October 2013 a directive came out from the Minister of Immigration and Border Protection that people in detention were to be referred to as "detainees"²⁹, whereas previously the term "clients" had been used. A Serco officer ChilOut met mused this point frankly:

"If at my next staff training I am directed to call a person a "detainee" what will I do? How can I say that to the face of a pregnant lady, of a child?"

As noted above in section 5 children play games involving "officers". "UAM" is a phrase commonly used by detention staff in speech, both in front of children and when they are not in the room, teens will refer to themselves and their friends as "UAMs". ChilOut uses the term, child alone or unaccompanied child, rather than Unaccompanied Minors. In her evidence to the AHRC³⁰ School Principal, Dorothy Hoddinot used the term 'sole flyers'. The juxtaposition is depressingly obvious. As children start to view themselves as numbers and acronyms their sense of self erodes. Already in prolonged detention, a child's ability to express individuality is diminished and any outlets of creativity or pursuit of interests are quashed by the environment in which they are detained. Add to this the institutionalised language and a child's own adoption of this language about themselves and the damage mounts.

Serco has gone to great lengths to remind ChilOut that their staff in facilities are "officers" not "guards". Whatever title staff are given, the power relationship is clear and the Serco staff member is clearly there to keep the asylum seeker contained. Children know this, every asylum seeker knows this. A four year old girl was insistent on getting the attention of a visitor busy chatting to her mum, Freedom of Information requests have revealed much about "incidents" within detention, many of

"my case manager said I can't say FREEDOM anymore." I glanced over at the girl's Mum who nodded in confirmation of the announcement."

which relate to children. These show both the disconnected language used and the concerning prioritisation of "incidents," for example when media presence at a facility is a higher level incident than an asylum seeker (adult or child) engaging in self-harm.

***Brisbane ITA | 28/07/2010 6:15 pm
Serco officers notified by Minor female client that her mother was in bed and not responding to her verbally. The belief is that she may have possibly overdosed on medication.³¹***

There is a complete disconnect between the reality that is indefinite immigration detention ruining people's lives and the cognitive dissonance used to mask the truths and make people's daily jobs bearable.

²⁹<http://www.smh.com.au/federal-politics/political-news/minister-wants-boat-people-called-illegals-20131019-2vtl0.html>

³⁰Oral evidence given to the AHRC Public Inquiry, Sydney 6 April 2014. Transcript not available at the time of submission.

³¹<http://www.theglobalmail.org/blog/behind-the-wire-project-your-foi-requests/650/>

RESPONDING TO SPECIFIC AHRC INQUIRY QUESTIONS

How would you describe the immigration detention facility? Are there fences, checkpoints and mechanisms that limit the movement of children?

ChilOut has long disputed the use of the term APOD. It maintains that there is nothing 'alternative' about the facilities in which children are held. Without exception they are oppressive, designed to lock children in and keep community out. It is correct that since the 2004 HREOC inquiry we have seen the removal of electrified fences, razor wire and other such perimeters around facilities holding children. However with the expansion of the detention network in 2011/12 ChilOut has seen children again subject to such environments. Wickham Pt was designed as an IDC not an APOD. There is a double set of perimeter fencing around 20 metres high, with an area that staff openly refer to as no-man's land, these are within meters of the children's "playground".

Onsite, ChilOut asked if the fence's visible electric system was turned on, a guard replied that he could not tell us for "operational reasons". Wickham Pt has a series of gates, huge locks, systems of doors, and caged areas between gates. There is nothing about this facility that could constitute being "low or minimal security". With the recent closure of the cyclone fenced, shade cloth wrapped Darwin Airport Lodge, the physically oppressive and more remote Wickham Pt and Blaydin Pt facilities are now the main onshore locations for detaining children.

Is there access to a natural environment for children?

There is nothing natural about a child being locked up and their realm of exploration being limited to an area the size of a few football fields.

No, there is very limited access to nature. Most detention facilities have limited if any natural grass, few trees, some are commencing gardens. A child in detention once asked a visitor; "Why don't you have flowers in Australia?"

In Leonora (now closed as an APOD), in the middle of the hot desert we observed "education" that can only be described as an "Australia 101" class. Children were being shown pictures of eucalypt trees, koalas, native flowers. All around the detention facility were images and information about the snakes and spiders they should look out for in the camp.

ChilOut notes some detention facilities have vegetable and ornamental gardens started by asylum seekers.

Is there private space for children and families for living and sleeping?

All asylum seekers in detention, including children and families are woken for routine room checks. In Darwin this is done at 11pm and 5 am, times when children would most likely be asleep. If the door knock is not answered, the guard can open the door and shine a light in. This is culturally offensive and inappropriate for many women and girls in detention.

Sleep routines are a struggle inside all immigration detention facilities. Signs are put up about recommended sleep times dependent on ages. The fact is children run about the corridors well beyond what would be considered bed-time. If one family were to try and be stricter about this it would be very difficult given the confined spaces and noise from children running directly outside bedroom doors. Depression and lack of exercise are proven to affect sleep, both are issues inside detention facilities. Getting a baby to sleep and to then stay asleep in such small, shared rooms is

a constant source of stress for many families, having one child wake the other and then go through it all again for a room-check only adds to the stress of daily life for detained families.

ChilOut observed sleeping practices that were inconsistent with SIDS and KidsSafe advice.³² There were no rails on beds - bottom or top bunks, and no cots or bassinets were observed. Several families of newborns told us that their babies remained in their prams for each sleep. There were prams filled with many soft cushions.

Is the immigration detention facility a clean and pleasant environment?

ChilOut consistently receives reports from people currently and formerly detained on Christmas Island that the bathroom facilities on CI are completely unsanitary. We are told water pools constantly on the floor, toilets aren't cleaned, showers are timed from when you enter making it more difficult to get undressed quickly and keep yourself and your clothing clean. There are no baby baths on CI, women are standing in these dirty shower areas and holding their 28-day-old babies under the water. In Darwin, ChilOut observed pallets of baby baths (and other baby items) stacked outside the facility in the Darwin sun and rain.

No mother observed in Darwin detention has been provided with a change mat for their babies. There is one in the visits area of one facility, but none provided inside.

The environment of Leonora in WA was harsh, hot and desolate. There was a small artificial grass soccer pitch but it was too hot to use for most of the year. There was little effort to improve the appearance of the facility. The prayer room comprised of sheets on the floor that people had taken from their beds. When ChilOut inquired about rugs for the floor as would have been the cultural norm throughout Australia and the world it was advised that this was logistically difficult given the remoteness of the facility.

For many months the Christmas Island APOD facilities were filled to more than double capacity. Plastic dividers were hung in the dining areas to give families "rooms". This can hardly be described as appropriate and certainly created privacy issues along with stress and anxiety over sleep patterns, especially for very young children.

Facilities in Darwin are named using oceanic themes which seems a macabre choice given the trauma of a boat journey that many are living with. It seems completely callous or careless at best, to detain people whose relatives drowned seeking protection in a compound entitled "surf" or "sand".

³²Child Accident Prevention Foundation of Australia, 2011 Parent's Guide to Kidsafe homes. Downloaded 16 December 2013, Falls are the most common cause of injuries to children

The most common injuries from falls are head injuries and fractures. Safety Steps to Prevent Falls:

Bunk Beds: Make sure bunk beds have guard rails, a fixed ladder and the Australian Standards tick of approval. Children under nine should not sleep in the top bunk bed

In your view, what is the impact of detention on children? Describe your response to the conditions of detention for children.

The mental health damage caused to children by prolonged periods in detention is well documented and detailed evidence was submitted to HREOC and well summarized in the *Last Resort* report of 2004. These impacts have not changed. Children still suffer the same anxieties, depression, stress and trauma related disorders, sleep disorders, behavioural issues and related physical health impacts. Much of this is well documented in Australian Parliamentary research³³ and has been publicly noted on many occasions by the Department of Immigration and its relevant advisory bodies such as IHAG, DeHAG et al.

An Australian study of ten asylum-seeking families (14 adults and 20 children) detained for a prolonged period found that all but one child suffered from major depressive disorder and half from Post Traumatic Stress Disorder (PTSD). A majority of children frequently contemplated suicide, and five had self-harmed. Most of the younger children showed developmental delays as well as attachment and behavioural problems. One third of the parents had attempted suicide.³⁴

A four-year-old child in detention said to a regular visitor;

“please can you tell the minister I don’t want to live inside this prison anymore. I am very boring in here. I want to go outside and I can’t go outside and it makes me very sad and it makes my mummy cry and I don’t want everybody to be crying anymore and please ask him why I must live inside this prison and I can’t go to school and I don’t have the other children to play with and I don’t want make him angry at me but why he make me stay inside this prison please ask him”

In January 2012, four asylum-seeking children won a “six-figure” settlement from the UK government in compensation for the negative impact of their 13-month detention. During detention, the children had developed multiple problems including hand tremors, refusal to eat, hair loss, recurrent nightmares, and severe anxiety. Eight years after release, the four children still had numerous symptoms, including insomnia, intrusive frightening memories of detention, phobic reactions, and reduced ability to concentrate and study. Their academic performance, which had been excellent before their detention, remained impaired.³⁵

³³Children in Immigration Detention, August 2012. Information and research from Australia’s Commonwealth Parliamentary Library <http://parliamentflagpost.blogspot.com.au/2012/08/children-in-immigration-detention.html>

³⁴Steel Z, Momartin S, Bateman C, Hafshejani A, Silove DM. Psychiatric status of asylum seeker families held for a protracted period in a remote detention centre in Australia. *Australian and New Zealand Journal of Public Health* 2004; 2(6):527-36.

³⁵The harmful effects of detention and family separation on asylum seekers’ mental health in the context of Bill C-31 April 2012. Brief submitted to the House of Commons Standing Committee on Citizenship and Immigration concerning Bill C-31, the Protecting Canada’s Immigration System Act Janet Cleveland, Rachel Kronick., McGill University http://www.csssdelamontagne.qc.ca/fileadmin/csss_dlm/Publications/Publications_CRF/brief_c31_final.pdf

The drawings provided to the AHRC in April 2014 by children detained on Christmas Island are indicative of those provided to ChilOut over many years from several detention locations. The themes of large bars, giant locks, imagery of birds and sunshine out of reach, people crying, even blood flowing are all common in the drawings of detained children aged 5 – 17. ChilOut has collated drawings from the children who were detained on Manus Island in 2012/13³⁶. ChilOut has not yet been provided with similar from children on Nauru however, the trend dictates that they would contain very similar themes and expressions.

PTSD among children and adolescents may become chronic when factors such as a lack of support network, inadequate mental health services and ongoing trauma persist. On the other hand, maintenance of attachment relationships and enabling adults to support traumatised children has been found to protect children from the development of chronic PTSD.³⁷

Does the timeframe of the detention have a particular impact on children? For example, is there any difference in the ways in which a child responds to immigration detention after 1 week, 1 month, 3 months, 6 months, 1 year?

Since 2001 ChilOut has witnessed the effects of long-term detention of children. It has seen average detention periods jump from one year, three months (2003) to almost two years (2004). One child spent almost 5½ years in detention. By June 2004, all 74 detainee children on Nauru had been there for at least 30 months. Today with 190 children detained on Nauru and 254 in limbo on Christmas Island similarly long periods of detention can be expected. DIBP states that 'the average length of time spent in detention is on the increase'³⁸. Now at 305 days, this figure is arrived at without the inclusion of statistics from Manus Is and Nauru. From the early 2000s there were babies born into detention who knew nothing else past their third birthday. One notable case witnessed by ChilOut and many others was that of ██████████ who was locked inside the Villawood Immigration Detention Centre for the first three years of her life. ██████████ exhibited numerous disturbing traits including banging her head against a wall, being mute, unresponsive, and listless. Today, baby ██████████ has spent his entire 16 months of life inside the Sydney IRH, which regardless of its title and the fact it may be a physically better location than ██████████'s childhood prison, is more than likely to cause similar harm and developmental adversities for ██████████.

The biggest factor relating to the impact of detention on children is that it is indefinite and for most, long-term. It is known that after 4 months in detention people's mental health can begin to deteriorate.

United Kingdom research into children in immigration detention has found that after an average 43-day detention, children showed symptoms such as post-traumatic stress, depression, suicidal ideation, behavioural difficulties, weight loss, difficulty breast-feeding infants, food refusal, and loss of previously obtained developmental milestones.³⁹

³⁶www.outofsite.org.au A collaboration between ChilOut and GetUp! Giving a platform to the drawings and thoughts of children detained on Manus Island. We note there are no longer children detained on Manus Is but know that the impact remains with these children and that the same fears and impacts are felt by children detained today in Nauru.

³⁷Australian Centre for Posttraumatic Mental Health. (2012). Fact sheet: Trauma and Children. Melbourne, VIC: University of Melbourne. Accessed November 26, 2012 accessed via http://www.acpmh.unimelb.edu.au/site_resources/factsheets/ACPMH_trauma_and_children.pdf

³⁸Immigration Detention and Community Statistics Summary, Department of Immigration and Border Protection, 30 April 2014, p.10 http://www.immi.gov.au/managing-australias-borders/detention/_pdf/immigration-detention-statistics-apr2014.pdf

³⁹Lorek A, Ehntholt K, Nesbitt A, Wey E, Githinji C, Rossor E, et al. The mental and physical health difficulties of children held within a British immigration detention center: A pilot study. *Child Abuse & Neglect* 2009; 33:573-85. and <http://www.ruthdesouza.com/2014/04/22/babies-on-board-families-in-detention/>

⁴⁰No Place for Children: Immigration Detention on Christmas Island, June 2011 Section 7 Mental Health http://g.virbcdn.com/_f/files/db/FileItem-258605-NoPlaceforChildren_CI2011report.pdf

ChilOut has met children who have been detained for 3 months, they usually present as bright and bubbly. Upon meeting them again 6 months later, still in detention they are withdrawn, displaying concerning behaviours such as aggression or near silence. This is the case across all age groups.

ChilOut's Christmas Island report following a 2011 visit outlines in detail some of the studies done on the issue of mental health impacts of detention on children.⁴⁰ The overwhelming finding was that all children are suffering in some way as a direct result of their environment on a spectrum from boredom / lack of stimulation through to self-harm and suicide ideation.

For children now living in the community, new Departmental protocols and an overall harsh policy mean there is a constant fear of being re-detained. In many cases it was possible for people to put aside their detention experience and move on once released, even if only superficially. Now with the behavioural clauses and uncertainty over government policy, teenagers in particular think constantly about their time in detention, whether they could be locked up again and whether they could be sent to detention offshore.

ChilOut spoke with a parent in detention a few days before the fifth birthday of their daughter;

"I should be happy, she is growing, she is learning much. But I have no happiness for it, she should be at school and she is not. Now she is five we can all go to Nauru any day now."

Now that asylum seekers are well aware of the offshore policy, dread fills every day of detention. People know it brings them a day closer to being banished to an even more remote location. Constantly 17 year olds speak of the dread surrounding their impending 18th birthday. There is no cause for celebration. What it means is that one day this child lives with his friends and has something of a support network through the service providers employed in welfare roles specifically for unaccompanied children. The next day he knows that he can be moved to Manus Is or Nauru without any notice. ChilOut is aware that moves do not seem to be happening straight after the birthday, yet the dread is rightly there, it will happen.

For parents and children alike, with each passing day locked up comes the understanding of what is missed and how hard it will be to make this time up if they are even going to be released.

Can you describe the measures to protect children from harm?

The fundamental reality is that no matter what measures are put in place inside detention, if it is indefinite it will cause harm. As Professor Patrick McGorry noted about treating mental health issues of detained asylum seekers whilst they are still detained, "it's like trying to treat malaria in a swamp"⁴¹.

⁴¹<http://www.theaustralian.com.au/national-affairs/watchdog-to-probe-treatment-of-asylum-seekers/story-fn59niix-1226039377906>

Below is an excerpt from ChilOut's 2013 Darwin Report⁴²;

At every turn we were struck by the sheer madness of the whole system. Each and every day it (detention) causes harm to people then follows a flurry of ineffective activity aimed at mitigating the harm. There is immense irony in the need for 150+ baby gates we saw stacked on pallets outside Blaydin Pt - keeping a child safe inside the very environment that damages him or her. Beside the gates were piles of plastic baby baths exposed to Darwin's summer storms and searing heat meanwhile a woman on Christmas Island hopes to keep hold of her baby whilst standing in a dirty, shared shower. Toys still in plastic wrapping are neatly stacked up whilst children stare emptily in the sandpit. There are huge numbers of staff, extra prescription medications for people, brand new health clinics, air conditioning running 24/7 even in rooms not utilised for months on end. None of this is necessary, there are far more humane, far more cost effective ways of accommodating this relatively small number of people.

The whole system needs a child-centric overhaul. If children are to be detained for one year or more of their lives (or even for a few months), there must be staff with necessary expertise, programs with a development focus. Overall we were told time and again that service providers want decisions to be "parent-led" and senior staff repeatedly explained away issues as being "cultural differences". There appeared to be no acknowledgment whatsoever that parents' sense of agency, their dignity was taken from them. That the system itself destroys the family unit and makes pro-active parenting nearly impossible. There appear to be many expectations placed on parents but no support or room for them to play their role. Children are witnessing the mental anguish of their parents, parents are unable to work, no adult is furthering their education, a parent cannot even make their child's breakfast. No amount of one-hour tai-chi sessions (with a male volunteer teacher) is going to cancel out these factors.

It was evident that there were a number of individuals working within the detention network in Darwin who are genuinely attempting to provide a level of care to asylum seekers. There is simply no way even the most well-intentioned staff could give a child or adult what they require in this environment. There was great care taken to ensure that our delegation did not refer to Serco officers as "guards", there are staff called "vocational trade officers", the NT Police regularly referred to people's lives in the community. There is a complete disconnect between the reality that is indefinite immigration detention ruining people's lives and the cognitive dissonance used to mask the truths and make people's daily jobs bearable.

⁴²ChilOut, Darwin Detention: Damaging Children, December 2013 <http://media.virbcdn.com/files/11/7ab4e1dd0c5ca616-DarwinReportf.pdf>

⁴³<http://www.mindframe-media.info/for-media/reporting-mental-illness/priority-population-groups/culturally-and-linguistically-diverse-populations#sthash.a7M6gsZO.dpuf>

[26] Australian Centre for Posttraumatic Mental Health. (2012). Fact sheet: Trauma and Children. Melbourne, VIC: University of Melbourne.

Is there support for children who may be suffering from trauma either as a result of previous life experiences or in relation to the experience of detention?

It has been reported to ChilOut that a four year old child had commenced bed wetting, was having nightmares and clearly distressed. Her parents requested an appointment with trauma counselors, the visiting counselors offered to see the young girl, advocates asked on behalf of the family. The girl was denied this appointment and told that onsite IHMS Mental Health team would monitor the situation. There is no funding issue, no reason whatsoever why this child should have been denied such an appointment.

It is vital to look at and support the whole family unit when considering a traumatised child. If the parent is traumatised, depressed and stripped of their agency as a parent, their ability to support their child will be severely compromised.

Post-Traumatic Stress Disorder (PTSD) among children and adolescents may become chronic when factors such as a lack of supportive parents or other adult attachment figures, inadequate mental health services and ongoing trauma persist. On the other hand, maintenance of attachment relationships and enabling adults to support traumatised children has been found to protect children from the development of chronic PTSD.⁴³

Dr Emma Adams:

We met a family who had reached out to us the day before, pleading for help for their young toddler. They were concerned about him as he was not eating or sleeping and they thought he was depressed. They had taken him to IHMS mental health staff who told them nothing was wrong. I was not in a position to do a full psychiatric and family assessment, but my observations told me there was clearly something wrong (again this was not rocket science). The mother was depressed, shut off and had the 'thousand yard stare'. She had another younger baby which she kept on her lap, but there was no interaction between them. The toddler came up to his mother, and became super-animated in order to get a response (all parents know this behaviour!). Nothing. He then reached over and cuddled the baby in her lap. Mother did not react. After a time, he tried another technique; he gave the baby a little bite. The baby cried and mother did not react to either child. So this toddler then comforted the baby. He then ran over to the translator, (not family), and sat in his lap. Later I observed him to be hitting his (apparently equally) depressed father, and he slapped one of my group, a kindly smiling woman who was playing with him. This family is not getting adequate mental health support. They are not having any family support. This will end badly.

Do you have experience of family separation due to immigration detention?

Are you aware of instances of family separation as a result of immigration detention?

ChilOut understands that the practice of family separation has been addressed at a senior Departmental level (DIBP). Until very recently it was common practice for families to be separated for weeks, even months at a time if one member required medical treatment. ChilOut is aware of mothers being sent to mainland Australia for pregnancy scans and other procedures whilst their very young children (aged 8 months – 5 years) are left behind on Christmas Island. In one case a father was transferred to Perth for mental health treatment which left his son as an unaccompanied child on CI. While these examples have not taken place for a few months, this practice in no way provides adequate protection for the family unit. There is no written policy or PAM attached to the Migration Act, decisions about transfers can go awry and officials on site, particularly on CI, Manus Island and Nauru can make operational decisions that may be at odds with the views of senior Canberra staff and the result is traumatic for families and children.

Young children separated from their parents are completely at a loss as to where their parent is. One father on CI with his young daughter whilst his wife was in Australia for a pregnancy scan told ChilOut;

“Every day my daughter asks if her mother is dead in the sea. She cries all night, we don’t get any sleep. I cannot help her and I cannot help my wife”

There can be feelings of abandonment and even once the parent returns to the same detention location, uncertainty as to whether someone else in the family, or the same person, will be taken away again.

Whilst it touches on issues outside the remit of this Inquiry, it is important to note the separation of families caused by non-reviewable, adverse ASIO findings. ██████ is the obvious high profile case in point. The current ‘solution’ is that after they suffered bullying, torment and serious problems with their education, ██████ is separated from two of her sons (as well as her husband, who in turn is separated from his infant son). In cases such as this caution is urged, and ChilOut insists that the best interests of the child be paramount and flexible arrangements be made. ██████ had previously lived in the Australian community, she had Department of Immigration and Border Protection ‘approval’ to marry. There are most definitely alternatives to the family’s current enforced trauma. This family’s separation is not the result of the ASIO Act, and the Minister for Immigration and Border Protection can find other solutions.

Appendix B - confidential case example of 6-year-old child in long-term detention involving family separation and sever trauma both in seeking asylum and via the detention network and decisions made by DIBP.

What forms of contact are available for families to maintain communication?

Insufficient. Communication to CI, Manus Is and Nauru is incredibly difficult. Calling in to any of these facilities is near impossible. ChilOut has met women detained in Darwin who were not able to make contact with their husbands until a week after they had had their pregnancy scan.

Skype and Facebook do make contact better for those using such mediums, however not all detained asylum seekers are able to use these methods. For those detained on Nauru, CI and Manus Is there is very limited internet access in any case. Contact with family overseas and in Australia is vital for people’s wellbeing and sense of self.

Pre-transfer assessments conducted prior to transferring children to regional processing countries?

Overall it is ChilOut's position that there is a complete lack of transparency surrounding this process. ChilOut has consistently called for the presence of a legal representative in any such interview involving a child. The health component of this assessment is a complete failure to meet community standard healthcare when it comes to sending pregnant women offshore, as has happened in many cases. The result is 100% that the woman is brought to the mainland for care and to deliver her baby. ChilOut seeks clarity as to whether an obstetrician is consulted in reaching this pre-transfer finding. With regards to infants being sent offshore, it is entirely unclear at what age DIBP intends for this to happen. ChilOut is aware of baby weight scales and other items for very young infants being made available on Nauru, indicating that transfers of babies are likely. ChilOut strongly urges that the test in such a situation be "fit to thrive" not "fit to travel". This would require involvement of someone with paediatric training and an assessment of the healthcare options available in the arrival location, not simply the infant's health on one day on CI.

Have alternatives to detention such as community detention and the granting of visas been sufficiently utilised in the past 10 years?

No, not consistently. Community Detention is an effective model for unaccompanied children and even for some family groups. There have been periods where CD has certainly been the preferred option and the benefits to the children involved are clear. For example children in CD display positive rates of school attendance and completion, engagement in community activities and less need for medication. The number of detained children has remained above 1,000 every month since November 2012, despite there being no new arrivals in over 6 months.

Many models of care have been put forward to the Department and to successive Ministers and Governments. These have not been acted upon and in some cases not even considered despite their clear humanitarian, health and cost benefits. ChilOut urges the Government to engage fully with child protection, health and development experts. ChilOut has established a roundtable of such experts who are more than willing to provide independent advice based on experience in areas such as crisis care, working with traumatised children,, assisting families at risk, working with children from refugee backgrounds, temporary housing models, and hostel and foster models of care.

Have there been changes to laws and policies dealing with children in immigration detention to ensure that they comply with the Convention on the Rights of the Child?

As stated earlier, ChilOut holds the view that only CD can be compatible with the CRC. An immediate change is required within the detention network so that every on-site staff member with client interaction be trained in dealing with torture / trauma and in working with children at risk. Every interaction, from running an activity, being asked for Panadol, watching a child play could all present signals of a child at risk that may not be picked up or appropriately handled by someone who is not trained. Current levels of Serco staff training are completely inadequate to meet the complex needs of children enduring long-term detention and their anxious parents. For staff employed on Nauru, aside from STC staff, very little is known about required training and skill-sets.

ChilOut calls for changes to the *Immigration (Guardianship of Children) Act 1946* (Cth) (IGOC Act) to ensure that the Minister for Immigration and Border Protection is not the guardian for any child seeking Australia's protection. Domestic legislation must reflect the best interests of the child. Today, it is legal for the Minister for Immigration and Border Protection to hand their duties on to an MP of another nation, which could potentially result in a child being locked up permanently, receiving no curriculum based education or having their health jeopardised through limited or no access to health professionals.

Convention on the Rights of the Child – Article 37

Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Children have been sent to Manus Island despite the clear statement by the current Government that the facility is only for single adult males. Such 'administrative errors' as DIBP and the Minister called the transfers, would be far less likely if there were an independent guardian, legal representation, transparency and a process that sat outside the government of the day.

Legislative protections must be put in place setting a maximum detention time, if it is to occur at all. There must be a legislative presumption against detention and an independent review system in place for the circumstances where it is used.

Australia's present system does not resemble "administrative detention" as intended by the Migration Act. Yet it is not subject to the rigorous checks and balances that are in place for judicial incarceration and in many cases, those detained have no access to judicial process (those affected by "enhanced screening", those on Nauru, Manus Island, Christmas Island to some extent and potentially now those held in Cambodia). There is no confidence in the complaints process and external review agencies can only make recommendations. Even the Commonwealth Ombudsman does not have any enforcement authority. As has been seen, the Australian Human Rights Commission and the Federal Children's Commissioner's jurisdiction does not extend to even visiting children detained offshore.

Australia's current treatment of children in immigration detention is at odds with our own state and territory laws pertaining to the care and protection of children. Policy and practice of the Commonwealth government is far from reflective of state and territory standards.

APPENDIX A

Child Expert Roundtable participants – August 2013 / February 2014

Dr Sue Packer	NAPCAN Board, Child at risk unit Canberra Hospital
Jackie Robertson	Policy and Program Development Coordinator, ChildFund Australia
Dr Karen Zwi	UNSW School of Women and Children's health, Sydney Children's Hospital
Tara Broughan	UNICEF Australia, Advocacy Officer
Tim O'Connor	UNICEF Australia, Director Communications and Advocacy
Tanya Jackson-Vaughan	Refugee Advice and Casework Service, Director
Jemma Hollonds	Refugee Advice and Casework Service
Sarah Dale	Refugee Advice and Casework Service
Alison Hutton	President Association for Wellbeing of Children in Healthcare and Flinders University
Dr Graham Thom	Refugee Coordinator, Amnesty International Australia
Nigel Spence	CEO Child Fund
Brian Babbington	Families Australia
Monique Perusco	Manager NSW, QLD, ACT, Good Beginnings Australia
Siobhan McCann	Policy and engagement manager, Plan International
Alison Hutton	President, Association for the Wellbeing of Children in Healthcare
Amy Barry-Macaulay	Save The Children Australia, Domestic Advocacy Manager
Morag Mearthar	Institute of Child Protection, Australian Catholic University
Prof. Linda Briskman	Prof. Human Rights, Swinburne University of Technology
Vicki Mau	National Program Coordinator – Immigration Detention Program, Australian Red Cross
Prof. Fiona Arney	Director, Australian Centre Child Protection, University South Australia
Prof. Chris Goddard	Director Child Abuse Prevention Research, Monash University
Nadine Liddy	Multicultural Youth Advocacy Network, National Coordinator
Dr Sharon Bessell	Children's Policy Centre, Crawford School of Public Policy, The Australian National University
Lucy Morgan	Refugee Council of Australia
Ann-Maree McEwan	Independent Education Union, NSW/ACT Branch Organiser
Dr Georgina Paxton	RACP Fellow, Paediatrician
Brad Swann	QLD State Director, Life Without Barriers
Mary-Anne Kenny	Curtin University
Dr Shanti Raman	RACP Fellow, Paediatrician
Annette Shaw	Early Childhood Australia, General Manager
Sophie Peer	ChilOut Campaign Director

Australian Red Cross, DIBP and the Australian Human Rights Commission have each engaged with this Roundtable in varying capacities and have been kept abreast of recommendations, outcomes and key points of work.