Submission to the


May 2014
Introduction

The Australian Healthcare & Hospitals Association (AHHA) welcomes the opportunity to provide a submission to the Australian Human Rights Commission’s (AHRC) National Inquiry into Children in Immigration Detention (2014).

The AHHA is Australia’s national peak body for public hospitals and health care providers. Our membership includes state health departments, Local Hospital Networks and public hospitals, community health services, Medicare Locals and primary healthcare providers, universities, and individual health professionals and academics. We are uniquely placed to be an independent, national voice for universal high quality healthcare to benefit the whole community.

AHHA’s vision is for equitable access to excellent and efficient universal healthcare, a system characterised by:

1. Evidence based practice;
2. Equity of access to safe and high quality healthcare regardless of location or personal characteristics;
3. Socially, economically and environmentally sustainable policy;
4. Efficiently and adequately resourced services; and
5. Efficient and effective coordination with all levels of government.

It is AHHA’s submission that each of the key indicators of a healthy healthcare system is compromised in the delivery of services to children in Australia’s immigration detention centres, both onshore and offshore.

Evidence based practice

Evidence based practice has been defined as "...the integration of best research evidence with clinical expertise and patient values". Evidence based practice ensures the use of current best available evidence to aid in decision making about the care of individual patients to provide better outcomes for patients.

It is understood that refugees and asylum seekers may have experienced traumatic events such as physical and psychological trauma or torture, deprivation and prolonged poverty and poor access to health care prior to arriving into Australia’s care. As a result, many refugees have multiple and complex physical and psychological health problems on arrival, including high levels of avoidable illness and associated mortality which require intervention and long-term care to achieve the best clinical outcomes.

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There is substantial evidence from health professionals which demonstrates periods in immigration
detention cause additional harm to all persons in the short and long term leading to poorer health
outcomes. It is also noted that the Commonwealth Ombudsman’s 2013 report, Department of
Immigration and Citizenship (DIAC): Suicide and self-harm in the immigration detention network,
identified a strong correlation between the average time in detention and the increase in self-
harming behaviour.

Further the last Human Rights Commission investigation into immigration detention of children
made two major findings in relation to health as follows:

- Children in immigration detention for long periods of time are at high risk of serious mental
  harm. The Commonwealth’s failure to implement the repeated recommendations by mental
  health professionals that certain children be removed from the detention environment with
  their parents amounted to cruel, inhumane and degrading treatment of those children in
  detention (in breach of Convention on the Rights of the Child, article 37(a)).

- At various times between 1999 and 2002, children in immigration detention were not in a
  position to fully enjoy the following rights: the right to enjoy the highest attainable standard
  of physical and mental health (in breach of Convention on the Rights of the Child, article
  24(1)).

In that report, the Human Rights Commissioner, Dr Sev Ozdowski OAM stated:

...I hope that “A last resort?” removes, once and for all, any doubts about the harmful effects
of long term immigration detention on children.

3 Royal Australian and New Zealand College of Psychiatrists, Position Statement 52 Children in Detention
September 2011; Dudley M, Steel Z, Mares S, Newman L, Children and young people in immigration detention,
Developmental Impact of Immigration Detention, Child and Adolescent Psychiatric Clinics of North America 17
(2008) 665-683; Alliance of Professionals Concerned about the Health of Asylum Seekers and their Children,
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Conversation, 5 February 2014; Proctor, N., De Leo, D., Newman, L.K., 2013, Suicide and self-harm prevention
for people in immigration detention, Medical Journal Of Australia [P], vol 199, issue 11, Australasian Medical
Publishing Company Pty Ltd, Australia, pp. 730-732; Newman, L.K., 2013, Seeking asylum - trauma, mental
health, and human rights: an Australian perspective, Journal of Trauma & Dissociation [P], vol 14, issue 2,
Routledge, United States, pp. 213-223; Newman, L.K., 2012, Seeking asylum in Australia: Mental health and
human rights of children and families, AIFS seminar series presentation, Australian Institute of Family Studies,
Melbourne Australia, pp. 113-114; Hodes, M, “The mental health of detained asylum seeking children”
European Child & Adolescent Psychiatry vol 19.7 (jul 2010) 621-3; Newman, L., 2011, Children seeking asylum:
the psychological and developmental impact of the refugee experience, in International Perspectives on
Children and Mental Health: Volume 1 Development and Context, eds Hiram E Fitzgerald, Kajsa Puura, Mark
Tomlinson and Campbell Paul, Praeger, USA, pp. 217-224.

4 Available at http://www.ombudsman.gov.au/files/suicide_and_self-
harm_in_the_immigration_detention_network.pdf


6 Australia has ratified the Convention of the Rights of the Child.
The current policies, in particular those involving immigration detention on Manus Island and Nauru, appear to impose even harsher conditions upon children than those which the 2004 Report examined. These include the poor and insecure facilities in Manus Island and Nauru for children and their families, extremely limited oversight by the Commonwealth Ombudsman, lack of independent oversight from health professionals and the inability to be resettled in Australia. Together these conditions create instability and compromise safety in more significant ways than onshore processing used primarily in the past.

AHHA notes specialist materials have been developed for health professionals that acknowledge the damaging effects from periods in immigration detention. In A Last Resort, the Human Rights Commission reported children had been diagnosed with clinical depression, post-traumatic stress disorder, developmental delays and suicidal ideation resulting from detention, referring to their existence as a “culture of despair”. With the vast majority of children detained eventually found to be refugees and settled in Australia, the medical (mental and physical) needs created and exacerbated by detention, have flow on effects for individuals, their families and the healthcare system.

Peak bodies representing health professionals have repeatedly asserted that immigration detention of children causes health problems. In November 2013, the Australian Medical Association’s NT President, and paediatrician, Dr Paul Bauert condemned the policy of keeping of children in detention, saying the risk of psychological and physical damage that children were exposed to in detention centres represented gross negligence. Dr Bauert stated, “…this prolonged ongoing detention is damaging these kids and has the potential to damage them further.” The Australian Medical Association’s Dr Choong-Siew (formerly a representative on the Government’s Immigration Health Advisory Group) states “the research is very clear, that the longer you’re in detention, and the greater the uncertainty, the greater the possible psychological harm”.

The evidence available suggests that immigration detention of children is likely to result in an increased burden on the public health system in the medium to long term, due to the damage caused to the mental and physical health of children.

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8 Bracey, A. “Too much damage done to asylum children” Medical Observer 26 Nov 2013.

9 Interview with AMA Psychiatrist Representative on IHAG, Dr Choong-Siew Yong, ABC 666, 16 December 2013.
Equity of access to safe and high quality healthcare regardless of location or personal characteristics

and

Socially, economically and environmentally sustainable policy

The right to health is articulated in a number of human rights treaties, to which Australia is a party. AHHA’s vision of equity of access to safe and high quality healthcare regardless of location or personal characteristics embodies the right to health. An assessment of healthcare policies and programs requires vigorous independent review to ensure that those services meet key indicators on a range of standards.

However there is a lack of vigorous independent review in the detention environment despite the vulnerability of the populations held there. Mental health of children and adults held in detention is a key indicator of the health outcomes being delivered at immigration detention centres. Recent data describing the dramatic increase in psychological problems among people in immigration detention centres is an indicator that health services are not being provided efficiently or effectively as well as being an indicator of the poor conditions of that detention. As this data is not disaggregated by age, it is not possible to assess the impact of detention on the mental well-being of children. Yet given their vulnerability, it can be assumed that the outcomes for children are just as poor and most possibly, worse than outcomes for the overall cohort.

The Immigration Health Advisory Group provided an independent mechanism to review the delivery of healthcare to children and adults in immigration detention centres. This professional group allowed psychologists, nurses, psychiatrists, and general practitioners to provide advice to the government on a best practice model of healthcare, regardless of the detention settings. Its abolition by the Government in December 2013 has been heavily criticized by health professionals and has created even greater information void.

The result is an inability to accurately assess the equity of access, safety or quality of the healthcare being provided to children (or adults) in immigration detention centres. It is the AHHA’s view that this lack of transparency is unacceptable and is in direct contrast to the standards required of public hospitals and other providers of public health services through a range of authorities, such as the Productivity Commission’s Report on Government Services, the Australian Institute of Health and Welfare, or the National Health Performance Authority.

In other places the Commonwealth Government has recognised that “health is not merely the absence of disease”, rather “it includes broader issues of spiritual, cultural, emotional and social

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10 See Article 25 UDHR; Article 12 ICECSR; Article 12 CEDAW; Article 24 CRC; Article 5 CERD; Article 28 CMW; and Article 25 CRPD.
11 Australian Medicine “Depression, anxiety soars among asylum seekers” 18 February 2014 states; “Information compiled by International Health and Medical Services, which is contracted to provide health services at the Department of Immigration and Border Protection’s detention centres, shows that almost 45 per cent of detainees were diagnosed with in the September 2013 quarter, almost double the 23.1 per cent reported with a similar diagnosis six months earlier.”
12 See Australian medicine “Government drops shutters on asylum seekers health” 21 January 2014
well-being as well as physical health”.  

This broad concept of health ought to form the basis for policies and programs for children (and adults) seeking asylum or refugee status from Australia, rather than punitive or restrictive responses which cause greater harm at an individual level and generate greater costs at a societal level.

AHHA notes the AHRC will not travel to Nauru or Manus Island due to jurisdictional limits placed upon it, but will nonetheless make observations on the transfer to and detention of children in those offshore detention facilities. AHHA welcomes this focus.

A number of factors and findings reported about the conditions in these centres are of significant concern to the AHHA. We note in particular, that in October 2013 the United Nations High Commissioner for Refugees reported the following failures in the most basic compliance with international standards at both Nauru and Manus Island Detention Centres, finding that the current policies, conditions and operational approaches:

a) constitute arbitrary and mandatory detention under international law;

b) do not provide a fair, efficient and expeditious system for assessing refugee claims;

c) do not provide safe and humane conditions of treatment in detention; and

d) do not provide for adequate and timely solutions for refugees.

These findings demonstrate systemic problems in the provision of a range of needs, including healthcare.

**Efficiently and adequately resourced services**

From an accountability basis, key indicators which must be in place to ensure public funds are being spent in the most efficient way include activity based funding focused on pricing, quality and performance measures within a national framework.

The AHHA submits it is not possible to determine if the health services being delivered in onshore or offshore immigration detention centres are efficient or sustainable, as the framework for review which exists to measure the productivity of all other health services are not used in the immigration detention policy matrix and the independent Immigration Health Advisory Group has been dismantled.

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16 Ibid.

17 Independent Hospital Pricing Authority, National Health Performance Authority, Australian Commission on Safety and Quality in Health Care.
However, our understanding is that there are limited specialist health services available to support the particular needs of children in immigration detention, particularly in offshore locations such as Manus Island and Nauru. Transparent information is required in order to ensure Australia is complying with its international obligations relating to the protection of child refugees and asylum seekers.

**Efficient and effective coordination with all levels of government**

The AHHA notes the AMA position statement on refugees and asylum seekers\(^\text{18}\) highlights the importance of service coordination as follows:

- Health and welfare services for asylum seekers in detention and in the community should be adequately resourced and integrated at State and Federal level. This includes staff education, training, and support.

- Refugees, and asylum seekers living in the community, should have continued access to culturally appropriate health care, including specialist care, to meet their ongoing health needs, including rehabilitation.

The AHHA supports this position and submits the current provision of services to children in onshore or offshore detention facilities appears to lack integration with the healthcare sector generally or between the State, Federal and Territory level.

**Conclusion**

The AHHA is concerned that the available evidence suggests that the physical and mental wellbeing of children may be at risk as a result of immigration detention, particularly in locations without specialist health services available to support their needs.

Our concerns are exacerbated by the lack of data and transparency regarding health services and the inadequacy of complementary services which influence health (such as housing). For Australia to demonstrate that it is meeting its international obligations including the right to health, the quality of services and the lack of transparency must be addressed.

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