Background

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) welcomes the opportunity to provide feedback into the Australian Human Rights Commission National Inquiry into Children in Immigration Detention. The RANZCP welcomes this inquiry. Detention of children is detrimental to children’s development and mental health and has the potential to cause long-term damage to social and emotional functioning. The RANZCP submission focuses on the key areas identified Australian Human Rights Commission in its discussion paper and addresses the questions raised.

In addition to this submission the RANZCP has two position statements relevant to this inquiry.

- Position statement 53 – Children in Immigration Detention
  https://www.ranzcp.org/Files/Resources/College_Statements/Position_Statements/ps52.pdf.aspx
- Position statement 46 – The Provision of Mental Health Services to Asylum Seekers and Refugees
  https://www.ranzcp.org/Files/Resources/College_Statements/Position_Statements/ps46.pdf.aspx

The RANZCP is responsible for training, educating and representing psychiatrists in Australia and New Zealand. The RANZCP has more than 5000 members, including around 3700 fully qualified psychiatrists.


You may write under one, some, or all of the headings. Read the full list of headings and questions before you make your submission. The questions are prompts to assist you with your responses and they do not need to be answered directly.

1. The appropriateness of facilities in which children are detained

- How would you describe the immigration detention facility? Are there fences, checkpoints and mechanisms that limit the movement of children?
- Is there access to a natural environment for children?
- Is there private space for children and families for living and sleeping?
- Is the immigration detention facility a clean and pleasant environment?
- In your view, what is the impact of detention on children? Describe your response to the conditions of detention for children.

Detention facilities vary. It is closed detention itself that is inappropriate given that there is now significant evidence to confirm that prolonged detention (greater than 3 months), particularly in isolated locations with poor access to health and social services, and uncertainty of what the future holds has severe and detrimental effects on mental health. The RANZCP is aware of the large body of literature which identifies a strong relationship between mental and physical health issues among children and adolescents in immigration detention in particular post-traumatic stress disorder, self-harm, suicidal ideation, depression and anxiety (Bull et al., 2012, Dudley et al., 2012, Steel et al., 2004, Mares and Jureidini, 2004). The RANZCP does not seek to present this evidence in detail as the Australian Human
Rights Commission has well documented this evidence itself in previous publications. The RANZCP has a position statement on Children in Immigration Detention and a position statement on The Provision of Mental Health Services to Asylum Seekers and Refugees. These outline the position of the RANZCP that:

- detention of children is contravention of Australian responsibility under the United Nations Convention on the Rights of the Child (UNCROC) and violates children’s rights to care in developmentally appropriate environments
- detention of children is detrimental to children’s development and mental health and has the potential to cause long-term damage to social and emotional functioning and
- all child asylum seekers and families with children should be removed immediately from detention and be placed in the community, unless there are special circumstances preventing this that are in the best interests of children.

The RANZCP has a body of members who work, or who have worked, to provide mental health services to asylum seekers and refugees in detention, or who have undertaken research into the mental health of children in detention. These members have observed anxiety, depression, developmental regression and emotional and behavioural dysregulation, self-harm and suicidality in detained children which is exacerbated by the process of the detention system and the poor conditions in which children are detained. This compounds distress in children with prior experience of trauma or torture in their homeland or on the journey to Australia, and where parental mental health and parenting capacity is impaired as a result of prolonged detention.

There are further reports that detention facilities have oppressive levels of security that limit the normal freedom of children, undermine parenting and family life, and are not natural environments. Families are subjected to intrusive surveillance and monitoring limiting privacy. Arbitrary rules and restrictions apply and these are changed on an ad hoc basis by local staff from The Australian Government Department of Immigration and Border Protection (DIBP) and security without clear oversight or governance. Particularly concerning is that frequently these are reported to be contrary to stated written policies and procedures.

2. The impact of the length of detention on children

- 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? Please give examples.

There is evidence that establishes a clear relationship between the length of detention and severity/comorbidity of psychiatric disorders (Mares and Jureidini, 2004, Bull et al., 2012, Proctor et al., 2012). Children are particularly vulnerable and adversely affected by time in detention, both directly and by the impact on the wellbeing of their caregivers. In particular children detained for long periods of time are at high risk of suffering mental illness and post-traumatic symptoms including anxiety, distress, sleep and behavioural disturbances, bed-wetting, suicidal ideation and self-destructive behaviour including attempted and actual self-harm.

In October 2010 the government in Australia announced an expansion of the residence determination program to allow unaccompanied minors and families applying for asylum to move into community-based accommodation. This policy states that children should not be in restrictive detention and should only be in any sort of detention for a minimum period. All newly arrived asylum seekers were to continue to have health, security and identify assessments before being released into the community. This process was intended to ensure that protection/refugee decisions were made faster and more fairly.
This program is supported in principle but the RANZCP remains concerned that this policy is reported by our members to be contradicted in actual practice in this regard. A primary concern is that many alternative places of detention, promoted as community housing, more closely resemble prisons, with severe restrictions in regard to freedom of movement and access to services. Whilst these children may no longer officially be in housed immigration detention centres, the conditions do not provide the natural environment or freedom required to support development and are experienced as ‘detention’.

It is of critical importance that children and families are able to move out of detention (whether that be in immigration detention centres or community detention) and have their claims for asylum processed quickly. Most children – even those traumatised – are resilient and can manage a brief time in detention. Therefore, a policy of “pass-through”, if actually implemented, would be less harmful. There is an established consensus of opinion among psychiatrists working to provide services to child asylum seekers that any period of detention (in any detention like environment) of greater than three months is harmful. At times in the past when government process and throughput was reduced to less than three months dramatic improvements in the health and welfare of detainees was observed. Current policy and practice (in particular off-shore processing) greatly increases length of stay and has resulted in a marked acceleration of adverse mental health consequences from detention and is especially severe in the harsh and uncertain conditions on Christmas Island and Nauru.

It is the position of the RANZCP, in line with the Convention on the Rights of the Child, that detention of children should only be seen as a last resort and should occur if necessary for the shortest possible time to ensure only the most essential health and safety checks are done. Children and their parents should be processed within 72 hours and moved into the community to reduce the development or aggravation of mental distress or mental disorders. Community residence should be accompanied by freedom of movement and access to services, and status determination needs to be expedited as prolonged uncertainty is the factor most associated with mental health problems.

3. Measures to ensure the safety of children

- Can you describe the measures to protect children from harm?
- 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?
- Please describe the security checks for children as they enter and leave immigration detention facilities. Do you think these checks are appropriate for children?

The RANZCP recognises that institutions such as immigration detention facilities create environments where there is an increased risk of child abuse. There are many examples in Australia and internationally of comparable institutions in which a lack of external independent security and monitoring has enabled extensive abuse to have occurred. The lack of clarity around children protection legislation and its role in immigration detention adds to this risk. To reduce the risk of these issues being repeated in immigration detention facilities, increased child protection measures with increased external independent scrutiny and monitoring is required.

Access to protective factors that support the wellbeing of parents and children are lacking in immigration detention. The situation remains critical with asylum seekers often having little access to necessary supports and services pertinent to maintaining adequate quality of life and safety. Meaningful activity, in particular education, is protective for detained children. Security checks limit freedom of movement and freedom of social and material exchange between peers which is inappropriate.

A key concern for the RANZCP is provision of appropriate mental health services, access to education, recreation and supportive relationships. Parents in detention centres also complain of the difficulties they experience keeping their children safe because of the detention environment and the interference in
their autonomous decision making in their parenting role. Evidence would suggest that there are concerning rates of severe mental illness in parents and children in detention setting. These must be comprehensively addressed to reduce level of self-harm and suicidal ideation among child asylum seekers.

The RANZCP is concerned that insufficient services are being provided. Monitoring by independent psychiatric professionals should be mandated for all children in detention. Comprehensive assessment of child asylum seekers in detention should examine the roles of environmental deprivation, availability of parental emotional support and traumatic exposure in contributing to a clinical disorder. Mental disorders in child and adolescent detainees should be assessed by Child and Adolescent Psychiatrists or mental health specialists and, when identified, are better managed outside the detention environment as continued exposure to traumatic stress associated with the detention environment undermines treatment and the possibility for recovery. Children on Christmas Island are particularly vulnerable as there is no screening or assessment of children mental health prior to transfer, and currently no specialist child and adolescent mental health clinicians available to assess the needs for traumatised children.

The RANZCP remains concerned that the limited support for children in detention centres, provided by services such as MAXimus Solutions and Save the Children, are not sufficient to mitigate the harms of detention itself. Similarly, mental health services do not compensate for the harm being imposed by the policy of keeping children in immigration detention, and cannot effectively treat conditions caused by factors in the environment that persist. In considering all the evidence and the alternatives, the RANZCP believes that children and their carers should be removed from closed detention. Any period of children in any form of detention should be limited to less than three months, and immigration status determination of all children and families should occur within a reasonable time-frame of no greater than six months.

4. Provision of education, recreation, maternal and infant health services

- Is formal education available to children? Please describe the types of education that are available. Is it appropriate for the age, the educational level and needs of the child?
- Are there playgrounds and play equipment for children?
- Can you describe the medical services and support that is available for expectant mothers and new mothers? Can you describe the medical support for babies and infants? Do you think these services are appropriate?

Maternal and infant health services

Developmental risk to child asylum seekers is the result of interaction between pre-migration experiences, the detention environment and resulting comprised parenting capacity. Asylum seeker parents experience high rates of depression and Post Traumatic Stress Disorder with effects on emotional availability. Women giving birth in detention are particularly at risk of post-natal depressions/anxiety and attachment difficulties with their infants. The detention centre environment is suboptimal in respect to developmental opportunities, cognitive and education facilities and support for parenting. Infants and young children born in detention are particularly vulnerable and many show signs of developmental compromise.

In its report Planning Prevention and Early Intervention Strategies for Infants, Children and Adolescents (2010) the RANZCP outlines the importance of early intervention and prevention to reduce mental health problems experienced by infants and families during the perinatal period. These can have serious, long-lasting and potentially intergenerational consequences. The report outlines the potential to achieve long
term mental health benefits from strategies which provide quality care in safe, engaging, positive environments which enhance parenting skills and information, promote attachment, and improve the mental and physical health of parent. It is particularly important that positive, consistent, early relationships are promoted among high-risk groups include asylum seeker families. Women in offshore detention are regularly transferred on shore at 34 weeks gestation. Often this has involved separation from other family members and supports. Labour and delivery can be traumatic for women delivering in unfamiliar and unsupported circumstances. A compounding risk in detention is that parents and the family structure are undermined to the detriment of family relationships. Parental capacity to support optimal development in compromised in detention and the risks for infants are cumulative. To assist in provision of services to this group it is the position of the RANZCP that:

- basic standards of health care similar to those received by all must be accessible to all refugees and asylum seekers being processed by on and off shore. In Australia access to mental health care should be accessible to all detainees regardless of their access to Medicare and PBS benefits. This includes mental health maternal support programs, including post-natal depression preventative interventions that enhance infant socio-emotional development.

- except in cases where the baby's or mother's emotional and physical wellbeing may be jeopardised, it is best clinical practice that mother, children and families be kept together. To ensure optimal outcomes, mothers and babies should be housed in the community with information on how to access health care easily available in languages understood by asylum seekers and refugees.

Provision of education and recreation

Access to education and recreation is variable. There is limited access in some locations especially in Nauru and Christmas Island. Children are often not able to attend school and when they do go to school can be treated differently (e.g. denied permission to be photographed in school photos). Even school aged children report limiting their relationships with their peers because of their shame about their families being in detention. They report being bullied in schools, and not exchanging toys or bringing things they have made in school back in case they are discovered in the security checks that school children are subjected to daily. In detention itself basic things such as toys are often not available. Books and games are severely limited also. Attitudes of “no one buys toys and games for Australian kids so these don’t deserve it” are reported.

One tension in allowing proper access to health and education services is that the stated purpose of detention includes the notion of deterrence and coercion. Detention is designed to be aversive so that it is an effective deterrent to others who might arrive by boat, and to coerce compliance with repatriation. This leads to a tension between any positive experience or service provision and the stated purpose of detention.

The RANZCP strongly opposes the notion of causing harm to one group (those detained) even for the purported benefit of preventing harm by deterring others from seeking asylum in Australia in this way.

5. The separation of families across detention facilities in Australia

- 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?
- What forms of contact are available for families to maintain communication?
- What efforts were made to reunite children with siblings and parents?
- What are the effects of family separation on children?
It is the view of the RANZCP that families with children should be removed from detention and have their applications processed in the community. Families with children should be kept together and not separated. Whilst this is the official position of the DIBP, it is clear that this often varies from what actually occurs in practice. The RANZCP has received reports from members working with asylum seekers that families are routinely separated and that this causes immense distress and hardship. For example separation of family members occurs when individuals are transferred to the mainland for pregnancy or medical treatment. In many cases health providers’ attempts to advocate on behalf of these children and families is opposed. Any health advocacy is in general reacted to negatively and staff have been criticised and disciplined for such behaviour. In accordance with the National Standards for the Mental Health Workforce and professional codes of conduct (including the RANZCP Code of Ethics), psychiatrists and other mental health professionals have an absolute ethical duty to advocate for the best interests of people under their care, and more generally from a population health perspective. No mental health professional can practice ethically in this setting if they are restricted in performing this function.

In regard to separation of families, some of the worst cases reported are of young boys who, as a matter of routine when they turn 18 are pulled out of school on their birthday, and suddenly separated from their families and placed with single adult men in detention. Similarly DIBP adherence to unreliable age determination processes has resulted in many instances of persons under the age of 18 being held with adults in inappropriate conditions, including in offshore centres. Many instances of severe hardship have occurred because of the application of such policies. There are reports of institutional pressure applied not to raise concerns about these issues internally and adverse consequences for ‘stakeholder relationships’ when this does occur. Cases are dealt with in a more humane fashion only after strong representation and usually only when there is a threat of adverse publicity and/or legal challenge.

Whilst the removal of children and their families from detention is recommended, there needs to be assessment of the impact of the family separation and the availability of alternative attachment figures if a child is to be released into the community without a primary caretaker. This is also true for unaccompanied minors. Protection and strengthening of the child’s attachment relationship is central to promoting recovery and, if possible, children should be managed in community settings with primary caretakers. Adolescents may be better able to tolerate separation from family if placed with peers and appropriate community supports if this option is acceptable to the young person and their family. However, RANZCP position is that families should be kept together to ensure optimal outcomes to best mitigate already harsh conditions. Unaccompanied children should be housed with siblings or nominated peers who they have formed connections with.

6. The guardianship of unaccompanied children in detention in Australia

- What care and welfare services are available for children who arrive in Australia without parents or family members?
- Are the supports adequate?
- Is closed detention appropriate for unaccompanied minors? How can they be best supported?
- The Minister for Immigration and Border Protection is the legal guardian for unaccompanied children in detention – is this an appropriate arrangement?

With regard to legal guardian process, the RANZCP believes it to be inappropriate for the Minister for...
Immigration and Border Protection to take on the role of guardian at the same time as being responsible for overseeing and determining what services are provided and setting policy in regard to immigration detention. Whilst the Minister delegates most of the daily responsibilities to a “delegated guardian” in each facility, this DIBP employee often has another role (e.g. Manager of Detention Operations) which could be seen to further compound and limit the capacity of the “guardian” to advocate for or consider the best interests on the children nominally in their care. It is believed that this presents a particular conflict of interest especially when children are being harmed by prolonged and unnecessary detention. Independent guardianship is necessary.

Children who arrive in Australia without parents or family members have potential for mental health issues to be compounded by the loss of parental/caregiving figure for emotional and psychological support. Unaccompanied children in detention are at risk of being exposed to conflict, adult distress and self-harming behaviour. Witnessing riots, violence and suicidal behaviours has significantly distressed some children. Adolescents may become involved in protest and self-harming behaviours which occur at rates up to 12 times that of the general community.

MAXimus Solutions provides some support and in the community other service providers such as ARC or MacKillop provide variable levels and quality of support. Often the workers are inexperienced and/or poorly trained and there is little organisation, structure, or governance of these arrangements. Support is generally limited to unaccompanied children in detention especially where parenting capacity is impaired.

It is the view of the RANZCP that closed detention is never appropriate expect for very brief periods and that there should be a limit of three months. Fundamental to the process of providing quality care and support services is the access to properly trained health care interpreters when needed (this is true for all asylum seekers, not only unaccompanied children) and adequate support from mental health services as previously outlined.

7. Assessments conducted prior to transferring children to be detained in ‘regional processing countries’

- Can you describe the pre-transfer assessments conducted prior to transferring children to regional processing countries?
- Are the pre-transfer assessments appropriate for children?
- Does the Department of Immigration and Border Protection respond appropriately to the findings in the pre-transfer assessments?

The initial health assessments conducted in the 48 hours after boat arrival do not include assessment of mental health or developmental status. There is currently no routine mental health or developmental screening of children detained for prolonged times.

The position of the DIBP is that it is government policy that all persons, including children, who arrive by boat are to be sent to regional processing countries and that all pre-transfer assessments need to be made according to this policy. With the exception of specific infectious diseases there are no exclusion criteria and all other conditions are said to be subject to the government’s position that all will go to regional processing centres.

DIBP have resisted attempts to establish clear criteria or list exclusion conditions on this basis which
makes the pre-transfer assessment process essentially meaningless.

The RANZCP would suggest therefore that this process does not adequately allow for an appropriate response to the findings from pre-transfer assessments. The RANZCP views as regretful the disbanding of the Immigration Health Advisory Group (IHAG), which would have been able to monitor continuously the impact of pre-transfer assessments.

8. Progress that has been made during the 10 years
(since the Commission’s 2004 report: A last resort? National Inquiry into Children in Immigration Detention)

- Have alternatives to detention such as community detention and the granting of visas been sufficiently utilised in the past 10 years?
- Have the living conditions for children in detention facilities improved in the past 10 years? What have been the changes?
- 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?

The RANZCP acknowledges that the provision of services in detention has improved over the past 10 years however this has not adequately mitigated harms caused and in recent years some of the improvements have been undermined by changes in policy and practice. Such harms have not been mitigated because there has been insufficient progress at a legal or policy level to ensure compliance with the Convention on the Rights of the Child, especially with respect to children in offshore processing centres.

Whilst government policy is that families with children and accompanied children will not be held in immigration detention centres is laudable, this is not being implemented in practice. At times there appears to be an almost cynical use of language which implies change but is in fact used to disguise what is happening in practice. An example is the designation of facilities on Christmas Island as “Alternative Places of Detention” where as in all ways they resemble a prison environment. The accommodation of children and families in low security facilities within the immigration detention network, for example in immigration residential housing or alternative places of detention, often continue to provide the similar levels of restriction and surveillance as immigration detention centres.

The RANZCP remains concerned that highly vulnerable children are living in conditions known to be damaging to their mental health, development, and social health and emotional wellbeing particularly when more humanitarian solutions exist. Given the significant link between trauma in childhood and future mental health problems, the RANZCP would suggest that there is a need for a change in attitude and practice at a government and societal level that allows for greater compassion and commitment to ensure that supportive, caring, and non-traumatising early experiences are provided for asylum seekers and refugees on their way to joining our community. Given the majority of child asylum seekers are found to be genuine refugees who will join the Australian community at some point anyway, mandatory detention and limiting access to basic services is punitive and harsh and will result in a corresponding health burden in the future. Improving conditions now would have far reaching cost and societal benefits. Further evidence of this is outlined in the RANZCP report Cost Effectiveness of Prevention and Early Intervention Strategies in Infants, Children and Adolescents (2011).

To make any progress in improving outcomes it is imperative that:
• in all cases children should be processed and removed from detention centres into the community within 72 hours of arrival in order to reduce the likelihood of mental distress or disorders, whilst allowing for medical, security and identify checks to be carried out

• all unaccompanied children and children with families who are currently in detention be immediately removed from detention centres and have their applications processed from the community. Community housing should present genuine freedom of movement and access to health and education service, rather than alternative places of detention which still present the same restrictions as detention centres.

• a formal external and independent advisory body is established to review and monitor the management of child asylum seekers and to provide expert professional advice on health and mental health issues. [The RANZCP is concerned that the Immigration Health Advisory Group (IHAG) has been disbanded and there are currently no independent psychiatrists representing the College providing advice when mental health problems are the major health issue facing asylum seekers.]

• independent professional expert monitoring of the conditions and circumstances in which children are being detained is initiated, reported upon and monitored continuously so that new standards and protocols regarding the provision and access to services to child asylum seekers in the community and detention centres can be developed, along with support and training for those who provide care

• an independent guardian is appointed to consider and advocate for the best interests and well being of detained children who arrive unaccompanied or whose parents are incapacitated by physical or mental illness

• asylum applications for unaccompanied children and children with families are prioritised and processed quickly, with a maximum of three months to allow for improvements in health and welfare. [It is noted that there was a brief period of improvement in 2012-13 when the process rate and throughput increased – and average length of stay in detention dropped to less than 3 months. This saw dramatic improvements in the health and welfare of detainees. This has since reversed]

• that a shift in government and societal attitude recognises the humanity of asylum seekers, allowing for greater compassion and a commitment to ensuring that everything possible is done to provide supportive, caring, and non-traumatising early experiences for asylum seekers and refugees on their way to joining our community.

References


