

Human Rights and Equal Opportunity Commission

Summary of Observations following the Inspection of Mainland Immigration Detention Facilities

January 2007

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1 Introduction

The following notes are a brief summary of the observations made by the Human Rights and Equal Opportunity Commission's (HREOC) President, Human Rights Commissioner and staff. HREOC emphasises that these summary notes and recommendations are based *solely* on what we personally observed and heard from staff and detainees during our visits.

After describing the methodology for the detention centre inspections, this document makes a series of observations relevant across the different detention facilities. The document then highlights any additional issues that arose in the context of specific detention facilities. Finally, the document makes some concluding comments and sets out recommendations arising from the detention centre inspections.

HREOC has provided an opportunity to the Department of Immigration and Multicultural Affairs (DIMA), and the private contractors involved in detention centre services, to see an advance copy of these notes. They have also been provided an opportunity to respond to our observations and recommendations.

2 Methodology for visits

2.1 *Schedule of visits*

HREOC visited all Australian mainland detention facilities according to the following schedule:

Maribyrnong IDF (Melbourne)	23-24 October 2006
Northern IDF (Darwin)	1 November 2006
Perth IDF	10 November 2006
Baxter IDF & Residential Housing Centre (Pt Augusta)	14-15 November 2006
Villawood IDF & Residential Housing Centre (Sydney)	20-22 November 2006

In addition, HREOC visited various alternative detention locations in Melbourne, Darwin, Perth and Adelaide. Those alternative detention locations were:

- three private homes (Melbourne, Perth, Adelaide)
- a motel in Darwin
- a motel in Perth
- Royal Darwin Hospital
- the Glenside mental health facility in Adelaide

The Human Rights Commissioner, Graeme Innes AM, visited all the centres other than the Northern centre. HREOC's President, John von Doussa QC, visited the Northern centre.

The Commissioner and President were accompanied by two staff members for all visits other than at Perth, where one staff member accompanied the Human Rights Commissioner.

HREOC did not visit the Christmas Island facility due to the small numbers of detainees and the incomplete construction of the facility. In the event that there are a significant number of detainees on Christmas Island in the future, HREOC will contact the Department of Immigration and Multicultural Affairs (DIMA) to arrange a visit to that facility. We note that DIMA has offered to arrange transport to the centre on DIMA charter flights in those circumstances.

We may also consider visits to the Arthur Gorrie immigration detention unit and the Women's Correctional facility in Brisbane in the near future.

2.2 Program during visits

Before each visit, DIMA provided relevant detainee statistics to help HREOC staff get a sense of the numbers and demographics of the detainees.

As in the past, the Commission engaged in the following activities during each of the visits:

1. Tour and general inspection of the detention facilities.
2. Interviews with relevant GSL and DIMA management staff.
3. Separate interviews with:
 - (a) Health care staff
 - (b) Mental health care staff
 - (c) Education and recreation staff
 - (d) Kitchen staff
 - (e) Security staff.
4. Lunch with detainees in the communal dining areas (in most centres).
5. Discussions with members of the detainee representative committee (where there is one).
6. Individual interviews with any detainees wishing to speak to HREOC about their detention. (All detainees were informed in advance of HREOC's visit and asked to indicate their interest in speaking to HREOC staff. In addition, HREOC staff approached detainees during its tour of the facilities.)

7. Inspection of documents relevant to the systems in place to ensure the appropriate treatment of detainees in the facilities.
8. Follow-up of any issues arising during the visits with GSL and DIMA management staff.

In addition to its general inspection questions, HREOC spoke to staff and detainees about DIMA's new case management system. HREOC also met with staff of DIMA's new case management units in Melbourne, Adelaide and Perth.

3 Changing attitudes

HREOC welcomes the recent changes in government policy regarding immigration detention. In particular we welcome the introduction of residence determinations as an alternative to detention. We also welcome the legislative principle that children should only be detained in detention centres as a measure of last resort.

The change in policy is also reflected in the new approach of DIMA staff. It is clear to HREOC that DIMA has gone to great lengths to improve the attitude of staff towards detainees in immigration detention centres over the past year. Similarly, the private contractor, GSL, appears to have taken substantial steps to create a more relaxed environment inside the facilities.

Both DIMA and GSL staff appear more open to requests, suggestions and concerns voiced by detainees.

During our visits, HREOC staff repeatedly asked detainees about their treatment by detention staff and, unlike in previous years, most detainees had no complaint about the attitudes of and treatment by staff.

We congratulate both DIMA and GSL on their efforts in this area.

4 Length and uncertainty of detention periods

It is important to remember that immigration detention is for administrative purposes only. Yet many detainees who spoke with HREOC staff asked the question 'why the time when there is no crime?'

Despite efforts to improve the environment inside detention facilities, the fundamental problem with immigration detention has not changed – namely the length of detention and the uncertainty about how much longer that detention will last.

HREOC staff met many detainees who expressed extreme frustration about the length of time they had been detained. And discussions with mental health teams confirmed what is already well-known: the uncertainty and length of detention inevitably leads to mental health problems.

There are still some people who have been in detention for years. But it does not take years of detention for mental health problems to begin. HREOC staff met some detainees who were starting to suffer symptoms after just months of detention.

4.1 Alternatives to detention centres

HREOC notes that over the past 18 months the federal government and DIMA have increased the options available to people detained under the *Migration Act 1958 (Cth)*.

4.1.1 Residential Housing Centres

The Residential Housing Centres in Port Augusta and Villawood are undoubtedly softer detention environments than the Baxter and Villawood detention facilities. However, it is important to remember that the housing centres are still detention facilities. People are not free to come and go as they please.

The mental health problems associated with restricted movement and uncertainty as to the future also apply to the detainees in these facilities, although they all acknowledge the improvement as compared to the main facilities.

4.1.2 Alternative detention

HREOC visited several people in different alternative detention arrangements. They included a motel where children were held, a public hospital, a mental health facility and three private homes.

HREOC welcomes DIMA's openness to placing mentally unwell detainees in private homes under the care of appropriate 'designated persons'. It is clear that the detainees in these places of detention are much happier in those environments.

However, HREOC notes that alternative detention requirements place a substantial burden on the 'designated persons'. Further, the requirement that a detainee be accompanied by a designated person 24 hours a day is a clear limitation on the person's liberty. As noted below, residence determinations seem a preferable option.

4.1.3 Residence determinations

HREOC did not visit any person currently the subject of a residence determination. However HREOC did speak to DIMA staff about the arrangements under residence determinations and has conducted its own investigations about residence determinations.

HREOC believes that if a person must remain in detention, then residence determinations are the best of the three alternative arrangements. This is because residence determinations offer freedom of movement and relative autonomy to the individuals in question.

HREOC urges DIMA to make greater efforts to arrange for residence determinations for most, if not all, people in detention for three months or more. This is particularly important for people who are not, and will not be eligible for a bridging or other visa within that time. The only qualification to this recommendation is where the person is a high security or public health risk.

4.2 Mechanisms to transfer or release detainees

Detainees told HREOC that the process of applying for transfer to alternative detention and residence determinations is haphazard and confusing.

Similarly, detainees still seem very unsure about the bridging visas that may be available to them.

In HREOC's view there should be earlier and more routine consideration of the options for transfer or release and more transparency in the process.

This is particularly important given the increasing time taken to reinstate visas or deport those in detention because of section 501 cancellations.

4.3 DIMA case management

HREOC understands that DIMA has recently introduced its own case management system. On our understanding, the system allocates a DIMA case manager to people deemed vulnerable due to their age, their physical or mental health and women at risk (destitution). Additionally, anyone in detention for more than 14 days should be allocated a DIMA case manager.

Under the new system, DIMA case managers should be in frequent contact with their clients in order to, amongst other things:

- inform detainees about the progress of their visa application
- inform detainees about their detention alternatives and assist them in being transferred out of detention centres, and

- consult with detainees regarding their general well-being in detention.

Most detainees who spoke to HREOC said that they had a DIMA case manager, although we suspect that some of the detainees were confusing the DIMA case *manager* and the DIMA case *officer* (who is the visa decision-maker).

However, most detainees also said that they had not been informed of the various detention options available to them.

HREOC urges DIMA to ensure that DIMA case managers actively explore and discuss with each detainee the various alternative detention arrangements available – including residential housing centres, alternative detention in the community and residence determinations.

4.4 Bridging visas

In HREOC's view, DIMA case managers should also actively consider and explain the various bridging visa options available to detainees and assist them in applying for those visas.

HREOC acknowledges that it is very difficult for some detainees to qualify for a bridging visa under the current Migration Regulations. In particular, those in detention pursuant to a section 501 cancellation do not seem to have any bridging visa available to them at all. Unauthorised boat arrivals also experience difficulty qualifying for a bridging visa.

We therefore look forward to seeing the outcome of DIMA's recent review of the bridging visa system and hope that that review will rectify those two problems, amongst others.

5 Children in detention

It was disappointing to find 13 unaccompanied children in the Northern centre when HREOC visited on 1 November. All of these children were Indonesian boys found on illegal fishing boats. As at 1 November, those 13 children had been detained for between 8 and 15 days.

We understand that all 13 children had been returned to Indonesia as at 1 December. We are unaware whether there are any more minors in detention at this time.

HREOC detailed its concerns about children in immigration detention in the report of its National Inquiry into Children in Immigration Detention, '*A last resort?*'. The report can be accessed at:
www.humanrights.gov.au/human_rights/children_detention_report/index.html

While we understand that DIMA is making efforts to return children found on illegal fishing boats as quickly as possible, DIMA must take appropriate steps to ensure their protection for the time that they are in Australia. The following are some suggestions as to how this might be done.

5.1 Accommodation

HREOC acknowledges that there are arrangements for the children to sleep outside of the Northern detention facility in a motel in Darwin. The accommodation there was quite acceptable for overnight stays.

However, the children eat all their meals and spend all their waking hours (approx 7.30am – 7.30pm) inside the detention centre, without any special programs or services (as discussed in section 5.3 below).

We observed that the children have a separate 'resting area' at the detention centre and adults are not supposed to enter this area. Similarly children are not supposed to wander into the adult accommodation area. However, these two areas are extremely close to each other and this separation did not appear to be strictly enforced.

In any event, we remind DIMA that it is well established that exposure to a detention environment can be harmful for children.

We strongly urge DIMA to establish alternative places of detention in the community for these and any future children.

If the children are accompanied then they should be transferred into the community under alternative detention or a residence determination with that family member.

If the children are unaccompanied then DIMA should co-ordinate with the Northern Territory child welfare agency, following the model developed in South Australia.

5.2 Child welfare

There is nobody onsite at the Northern centre with child welfare qualifications. This is particularly worrying when children arrive without family members. And it seems that many children on fishing boats are not with a parent.

HREOC was told that that children are appointed 'minders' by Australian Customs based on relationships that the children have with crew members on the fishing boat. We also understand that DIMA tries to verify that the child is happy with their minder.

However, we were also told that there was nobody onsite with child welfare training and that there was no relationship with the Northern Territory child welfare services (except in the event of a reportable abuse incident).

We understand that there is a 'Child Liaison Officer' on site. But we were told that that person is simply a detention officer who is appointed as a point person for the children. The officer has no special training in child welfare. In our view this is an inadequate safeguard.

We are therefore very concerned about whether a proper judgement can be made about:

- the appropriateness of the child's 'minder'
- the appropriate care of children in the detention environment more generally.

HREOC recommends that DIMA have 'on call' staff with child welfare qualification who can assess, advise and monitor the appropriateness of care arrangements for children who arrive in Australia and are held in detention centres, alternative detention or residence determinations.

5.3 Recreation and education

HREOC saw no evidence of any effort to provide the children detained at the Northern centre with appropriate education or recreation activities.

There was no teacher to conduct classes for them; no contingency arrangements for the children to be placed in external schools in the event that they could not be turned around quickly; no special activities for the children inside the centre; and no efforts to take the children on external excursions (other than to and from the motel at night).

We understand that DIMA hopes to remove these children as soon as possible. But this should not prevent the establishment of appropriate education and recreation facilities for those children while they remain in detention.

HREOC recommends that DIMA have in place an 'on call' teacher and activities officer who can provide immediate and appropriate education and recreation activities to children who arrive in Australia and are in detention centres, alternative detention or residence determinations.

6 Mental health care

The provision of mental health care in detention centres appears to have improved over the past few years, with the possible exception of the Northern centre.

Mental health staff take a more systematic and compassionate approach to assessment and monitoring of detainees than in previous years. Further, DIMA seems to take the recommendations of mental health staff more seriously than it has in the past.

6.1 Ability to treat problems

Discussions with mental health staff in each of the centres reinforced what is already well-known. The fundamental reasons for mental health problems in immigration detention are the same as they have always been:

- the fact of detention itself
- the long periods of detention
- uncertainty regarding the length of detention
- uncertainty regarding the future
- past torture and trauma.

Similarly, it is still not possible to properly treat the mental health problems suffered by most immigration detainees. This is because the main way to treat a mental health concern is to remove the primary cause of the problem. In the case of immigration detainees, detention and uncertainty are amongst the main causes and they cannot usually be addressed by the mental health professionals.

Mental health staff in the various centres noted that the creation of the DIMA Detention Health Task Force has brought great improvements. They now feel that their recommendations regarding treatment, transfer to alternative detention or release are taken much more seriously.

However, the mental health staff still feel constrained. They feel like they have to wait until a person's mental health situation becomes very severe before they can make recommendations of transfer or release to DIMA.

One staff member said that most people in the facility had mental health problems and many of those problems could be solved by prompt resolution of their visa situation and release from detention.

It is for this reason that HREOC reiterates its call for the repeal of the mandatory detention laws. In the absence of repealing mandatory detention,

there should be greater efforts to promptly release detainees and resolve visa decisions.

6.2 Routine assessments

Historically, detainees were only assessed by the mental health team if they were specifically referred to staff as people of concern.

All centres, other than the Northern centre, seem to have introduced new systems to take base-line mental health assessments of all detainees within two weeks of their arrival.

These initial assessments are made against the universal MSE (Mental State Examination) protocol. Under this new system, the mental health teams are required to review the mental health of each detainee every three months against the MSE.

The Northern centre seems not to have introduced this improved system. This may be because of understaffing – there is one part-time psychologist for approximately 200 detainees. However, DIMA has suggested that the system used in other centres may not be appropriate to the detainee population in the Northern centre (illegal foreign fishers).

HREOC recommends that the Northern centre review the adequacy of the mental health staffing levels, as a matter of urgency.

HREOC also recommends that DIMA review the appropriateness of the assessment system used in the Northern centre and explain the reasons for any variation from the other centres. DIMA should provide the results of that review to HREOC and ensure continuing engagement on this issue.

Mental health staff now walk around the facilities to talk to detainees. This helps to build a relationship with detainees and gives staff an opportunity to identify problems at an early stage. Staff also accept referrals of concern from any person, including staff, lawyers, visitors and other detainees.

Where a detainee is identified as a person of concern, they are assessed and treated according to the HoNOS (Health of the Nation Outcomes Scales) protocol.

6.3 SASH and observation areas

The SASH (Suicide And Self Harm) system is intended to provide a close monitoring mechanism for people who are at risk of self-harm or suicide.

Those people at greatest risk are monitored by detention officers constantly. Those at less risk are monitored less closely (for example every hour).

The detention officers on 'SASH-watch' must fill out log sheets which report their observations of the detainees at specific time periods. Those logs are used by mental health teams.

Different centres seem to deal with people on constant SASH observation in different ways.

Baxter will generally place people on 'constant watch' in its *Low Dependency Unit* in the medical centre. People in those rooms can walk around freely within the medical centre area.

In Villawood, people on constant SASH are taken to Stage One and held in the observation rooms under the watch of cameras. They can leave the rooms and walk around Stage One on request. Villawood mental health staff suggested that detainees would be better off being observed in the medical area rather than Stage One, however there are no rooms currently available for this purpose.

HREOC agrees that Stage One is not an appropriate place for detainees at serious mental health risk.

HREOC recommends that DIMA consider building an alternate observation area in Villawood, close to medical staff.

In the Northern centre, people on constant watch are held in a separate smaller compound. They may move around freely within that compound.

In Maribyrnong, staff try not to use observation rooms. Staff said that people placed in those rooms would usually only be held there briefly, as they would be quickly referred to a mental health facility.

In Perth, there is an observation room adjacent to the medical centre. The room is currently accommodating detainees (while refurbishment of the accommodation area is completed).

Some mental health staff expressed concern that the SASH system was sometimes used as a behaviour management tool rather than a mental health management tool.

While recognising that behavioural problems can be related to mental health concerns, mental health staff did not like being involved in disciplinary issues.

6.4 Special Stay Unit at Glenside

While HREOC does not know the full history of the Special Stay Unit at Glenside, it is clear that the unit was of great benefit to several detainees in the Baxter facility.

The Special Stay Unit provided a therapeutically safe place for people who had ongoing serious mental health concerns and who were not coping in the detention environment. We understand that several detainees who were transferred back to Baxter on the closure of the Special Stay Unit suffered recurring bouts of the mental health concerns which lead to their admission in the Unit in the first place.

In the event that it is impossible for the Special Stay Unit to be revived, HREOC recommends that appropriate arrangements be made for people who are suffering serious mental health problems, but who may not require admission to a State mental health facility.

7 Physical health care

The system for the delivery of physical health care appears to have improved in all centres.

Unlike in the past, it seems that all detainees can see a health nurse on the day that they have a complaint. It also seems that most detainees are given the autonomy to self-medicate through pharmaceuticals provided in weekly 'Webster Packs'.

Both these measures address many of the types of complaints that HREOC heard during its past visits to detention facilities.

However, HREOC did hear complaints about the medical care in Villawood and Baxter.

In particular, several detainees in Villawood complained that nurses did not treat health complaints made by detainees very seriously. Chinese detainees in Villawood also complained that some of the nurses did not use TIS interpreters during their examination, so the patients did not really understand what was going on and did not trust that the nurses understood their complaints.

In Baxter and Villawood, detainees complained about delays in the execution of certain health procedures.

HREOC recommends that DIMA investigate these complaints and take prompt remedial action.

8 Recreation programs

We congratulate DIMA and GSL for notable improvements in providing recreation activities for detainees. However, there are still some improvements that could be made.

In particular, the Northern centre should have a dedicated recreation team. The Northern centre also needs to develop an external and internal recreation program as a matter of priority. While the internal activities at Villawood seem to be improving with the installation of a new gymnasium area, the external activities also need to be developed as a matter of priority.

We recommend that staff from Baxter, Maribyrnong or Perth be sent to assist Villawood and Northern develop a robust recreation program.

8.1 External excursions

It is very important to the mental health and general well-being of detainees to have an opportunity to leave the detention centres and experience activities amongst the general community.

8.1.1 Maribyrnong, Baxter and Perth

The Maribyrnong, Baxter and Perth centres have gone to considerable effort to arrange more excursions for detainees.

The Baxter facility stands out in this regard. We were told that there are two lines of six GSL staff on permanent activities and escort duty each fortnight.

There is facility to run two escorts out of Baxter each day with two to six detainees per escort. Due to the small numbers in Baxter at the moment, this means that most detainees can leave the centre at least once a week.

Examples of excursions run out of Baxter include golfing, fishing, ten pin bowling, walking on the beach and shopping. Baxter staff are now exploring the possibility of bushwalking.

In Perth, most detainees have an opportunity to leave the centre every day of the week.

Both DIMA and GSL staff in Baxter, Maribyrnong and Perth seem genuinely open to suggestions and requests from detainees as to where they want to go and it seems that most requests are fulfilled.

This openness to suggestion and the opportunity to leave the closed environment clearly benefits the detainees in these centres.

We note that problems may arise in the future in Baxter in connection with the fact that destinations over one hour away are not covered in the scope of services with GSL. The distance of the location seems an arbitrary distinction, especially when it relates to remote centres. We recommend that DIMA remove this obstacle.

8.1.2 Northern and Villawood

Neither the Northern nor Villawood facilities seem to have catered for the same level of external activities as the other centres. This is particularly disappointing given that these two centres have the highest detainee populations. Further, Villawood has a large number of long-term detainees who would benefit greatly from a change in environment.

Villawood

We were told that Villawood now runs a 'Mystery Tour' approximately every two months. GSL staff select the detainees who can go on the excursion and the destination for that excursion. The participants are told that they have been selected for the excursion just before it takes place. Detainees not selected for the excursion are left wondering why they were left out.

Villawood used to run bowling trips and golf excursions. Villawood is currently trying to arrange access to a local swimming pool and tennis court.

We understand that, as part of 'Project Concord' Villawood is currently conducting a survey of detainees to ask about their desired activities. While this may be a good way to design the activities in the future, *HREOC urges Villawood to commence some excursions prior to the finalisation of 'Project Concord', as a matter of priority.*

Northern

The Northern centre does not have a dedicated recreation and education team, although one officer in each shift is designated to co-ordinate activities.

The centre recently started running two bus trips each week. The bus has two different routes which it repeats over again. While this gives detainees an opportunity to see Darwin, they cannot get off the bus, so the experience is quite limited.

The centre has also arranged some indoor volleyball games outside the centre. It is now exploring the possibility of sports games outside the centre for next year.

We urge the Northern centre to arrange an ongoing program of meaningful external excursions as a matter of priority.

8.2 Internal activities

In addition to external excursions, it is important to develop activities within the centres, to help detainees pass the day.

8.2.1 Structured programs in Maribyrnong, Baxter, Perth and Villawood

All centres seem to have made considerable efforts to increase the structured activities available to detainees within the centre, with the exception of the Northern centre (see section 8.2.2 below).

The four centres have a range of structured internal activities varying between

- Sporting competitions (eg soccer, volleyball, table tennis, badminton)
- Gym
- Games (bingo, board games, computer games)
- Movie nights
- Music and Dancing nights
- Karaoke
- BBQs

Each of the four centres have at least one Recreation Officer dedicated to arranging a structured activities program and ensuring their execution. Those officers also seem genuinely open to ideas from detainees to try new things.

Baxter and Villawood have qualified sport and recreation officers. They have both developed a range of individualised fitness based programs to help detainees with their overall well-being.

The Baxter officer works in conjunction with mental health staff in developing these programs. We encourage the adoption of this model in other centres, if that is not already the case.

Staff at Baxter should be congratulated for initiating the 'Activities Kitchen' which allows detainees to cook food of their choice in an old army barracks kitchen inside the facility. GSL stocks the pantry with fresh vegetables and eggs, oils and spices. Additional ingredients are purchased according to a shopping list provided by the detainees (within a \$7 budget per person). There are two cooking sessions a day. Detainees can combine budgets and cook for each other.

The Activities Kitchen is an extremely popular activity, both in the sense that it gives people something constructive to do and it allows some form of autonomy. *We encourage expansion of this activity in Baxter and the adoption*

of these activities in other centres where facilities may be made available (for example Villawood).

Villawood should be congratulated for its new gymnasium facility and communal 'café' area, which seems to be very popular and well-run.

Maribyrnong should be congratulated for introducing internet access.

8.2.2 Structured programs in Northern

The new outdoor recreation area in the Northern centre opened the week before HREOC visited the centre. The recreation area is a large open space with a sand volleyball court in the centre. There is also sufficient room for a soccer field, although we did not observe any line markings at the time we were there.

There was no structured program for internal activities until the week before HREOC arrived. One activity on the new schedule included washing staff cars. *HREOC does not believe that staff should be using detainees for their personal benefit.*

8.2.3 TV, computers, newspapers, books and other unstructured recreation

TV and DVD

All centres provide detainees with access to communal televisions and DVDs. Detainees can also purchase their own TVs and DVD players.

In the Northern centre the communal televisions receive four Indonesian stations. This caters to most of the population in that centre. However, the Chinese detainees (just under 20 detainees as at 1 November 2006) did not have access to any foreign language television other than the DVDs brought in by one of the Chinese-speaking detention officers.

In Baxter, Maribyrnong and Perth, the communal televisions have access to cable which includes World Movies. In Villawood the television is free to air, so the only foreign language programs are those on SBS.

Computers

Detainees have access to computers to varying degrees in the different centres, other than in the Northern centre. They are generally used to type up documents. There are some games installed.

Maribyrnong has just introduced internet access (see further section 10 below).

Books and Newspapers

There is a small library with some foreign language books in Baxter. In Maribyrnong the local librarian visits with a box of books in different languages. The education officer invites people to her room every Wednesday to share coffee and biscuits and choose new books. The Australian Red Cross delivers books to Villawood.

All centres provide access to some foreign language newspapers either by delivery to the centre, or because centre staff print off the relevant news from the internet.

Dictionaries

The Indonesian fishermen in the Northern centre made strong pleas for Indonesian-English dictionaries to allow better communication with detention officers and DIMA staff.

A low supply of foreign language-English dictionaries was also mentioned in other centres.

Other

Detainees can generally access table tennis, billiards and sporting equipment at their leisure.

In some centres, detainees can maintain small gardens.

9 Education programs

Many detainees complain of boredom in the centre and the desire to do something constructive while in detention.

In most centres the only education offered to detainees is English classes. While this is an entirely appropriate class to offer, it may not be sufficient – especially for detainees who can already speak English. In the Northern centre, not even English classes are offered.

HREOC notes that Maribyrnong has permitted a French speaking detainee to run French classes. Maribyrnong also runs computer classes and Japanese classes.

Villawood also ran some computing classes – although those classes have been suspended for a few months. Villawood allows the Australian Red Cross to come in and run music classes on Sundays. Villawood is also encouraging staff to start up classes in their areas of interest (eg cooking).

Baxter also runs some music classes and Perth runs computer classes on Mondays.

HREOC recommends that all centres develop robust education programs beyond English tuition.

HREOC recommends that the Northern centre appoint a permanent education officer and commence providing English and other education, as a matter of priority.

HREOC understand that DIMA has a policy against permitting detainees to enrol in courses leading to a qualification. HREOC recommends that DIMA cease this policy and allow long-term detainees to enrol in substantive education courses at TAFE and other institutions, irrespective of whether it leads to a qualification. Enrolment could be by correspondence, however DIMA should also consider permitting detainees to attend certain classes in person.

10 Mobile phones and internet

Detainees in all centres can now have a personal mobile phone. We congratulate DIMA on this very positive step forward.

We note that access to fixed outgoing public phones is still available in all centres, except the Northern centre which has not yet connected the public phones. The Northern centre gives access to alternative fixed lines on request.

Access to personal mobile phones seems to have quickly alleviated much of the tension about communication with family and friends in the community and legal advisers.

However, we note that access to mobile phones is quite expensive. The introduction of the new PAS scheme (see further section 11 below) may cause some problems, because detainees may not be able to earn sufficient points to pay for the mobile calls.

The expense of mobile phones may create greater demand for email access.

At the moment only Maribyrnong has internet access. However, we understand that DIMA intends to install internet access in all centres.

We encourage the installation of full internet access in all centres as soon as possible. Internet access will allow freer and cheaper communication by email. The internet also permits access to greater information and more ways to pass the time in the first language of the detainees.

We expect that internet access will increase the usage of computers in the centres. We therefore urge DIMA to consider the installation of additional computers to allow the best possible access to the internet.

11 Purchasing Allowance Scheme (PAS)

Detainees can purchase items like phone cards, chocolates, soft drinks, cigarettes, mobile phones, computers, televisions and DVD players using 'points' earned during their time in detention. These items help many detainees find better comfort during their time in detention.

Under the old merit points scheme, detainees could earn points by engaging in work activities (eg by working in the kitchen) or other designated activities in the centre. A recent Federal Court decision means that detainees can no longer be paid for labour with points. DIMA has therefore introduced the new PAS scheme.

HREOC understands that the PAS and merit points scheme provides that:

- all detainees receive 25 points per week (equivalent to \$25)
- detainees can earn 2 merit points per hour for participation in 'meaningful activities'
- 'meaningful activities' can not include labour (for example kitchen work)
- detainees can not accumulate more than 200 PAS and merit points per month
- detainees can not cash out their points upon departure.

HREOC recognises that DIMA will permit detainees to 'cash out' points accumulated under the old merits points system. This is of course appropriate given that many of those merit points were earned through labour. HREOC also recognises that substantial debts to detainees may arise if detainees are permitted to 'cash out' points accumulated for activities that do not amount to labour.

HREOC recommends that DIMA permit the accumulation of points from month to month so that detainees can still buy the items that they need to make their detention more comfortable. There seems no reason to limit the accumulation of points as long as detainees understand that those points can not be cashed out on departure from detention.

HREOC recommends that there be no cap on the number of points that can be earned in any month.

HREOC also recommends that DIMA consider a lay-by system for long term detainees so that detainees can buy larger items more gradually.

12 Visitors Procedures

HREOC staff experienced different check-in procedures between each facility, and sometimes different procedures within the same facility from one day to the next. Sometimes HREOC staff were asked to sign documents, other times we were not. Sometimes we were asked to sign a phone register, other times we were not. Sometimes we were asked to provide photo identification, other times we were not.

While we recognise that security staff may have been making an effort to comply with the 'special status' of HREOC visitors, these inconsistent experiences reinforce comments made to HREOC by people who frequently visit the facilities. Those visitors have expressed some frustration at not knowing what they will be required to do each time they visit.

HREOC highlights that in the Northern centre, HREOC staff were asked to sign a form agreeing that the items in 'Attachment C' cannot be brought into the centre. The form did not include an 'Attachment C'. We were informed that the items in 'Attachment C' were listed on the 'Contraband Items' posters on the wall (which were only in English).

HREOC recommends that DIMA redesign its Visitors Entry forms so people are clear as to what they are agreeing to prior to entry.

HREOC also recommends that the Visitors Entry forms be translated into several languages.

HREOC further recommends that DIMA ensure consistency between and within centres.

13 HREOC Posters

HREOC has always provided posters to DIMA which set out how a detainee can make a complaint about possible human rights abuses occurring inside detention centres.

Other than in the Maribyrnong facility, there were very few HREOC complaints posters in the communal areas of the facilities.

In the Northern centre and Baxter detainees suggested that the posters were only put up a week before HREOC's visit.

HREOC will ensure that all DIMA management are sent additional copies of the HREOC posters.

14 Northern

The Northern centre requires the most improvements of all the centres we visited. It appears that the services have been designed on the assumption that detainees would be turned around within a two week period. The reality is that this is not occurring for a large number of detainees and the services have not catered to this fact.

Many of the issues of concern have been raised in previous sections of this report, however the following summarises the problems identified during HREOC's visit to the centre:

- **There are children in the detention centre all day** and no appropriate staff to cater to them, including:
 - no staff member with child welfare training
 - no teachers
 - no special recreation activities
- **Mental health** staffing appears to be insufficient for the high detainee population, and the increasing time that the population is staying. There is no routine mental health assessment for incoming detainees.
- **The infrastructure is poorly designed**, especially given that the centre is relatively new. For example:
 - the dining room is not big enough for the detainee population
 - the accommodation areas are very crowded
 - drainage is poor in the accommodation areas and recreation areas. Pools of water are already collecting in corridors – even before the rainy season starts
 - the ensuites in the accommodation rooms have been closed and the new ablution blocks are quite far from some rooms. There seems no good reason to close the ensuites.
- **Adult education and recreation programs are entirely inadequate:**
 - there is no dedicated qualified recreation and education officer in the Northern centre
 - there is no English tuition or other educational activities available to adults
 - an internal activities program has only just been developed and had not yet commenced on 1 November 2006
 - the internal activities program should not include activities that are to the benefit of staff (for example washing staff cars)
 - there are almost no external excursions other than a bus trip around Darwin which does not allow detainees to get on and off.

- There is insufficient **reading material** in foreign languages:
 - no Indonesian or Chinese newspapers available, except those brought in privately by GSL officers
 - no Chinese television or DVDs except those brought in by the Chinese speaking detention officers on a private basis
 - no Indonesian books
 - no Indonesian-English dictionaries.
- There were **no computers** available to detainees.
- **HREOC posters** were only put up two days before HREOC's visit and are only posted in the Dining Room. There are no Ombudsman or Australian Red Cross posters.
- **Public phones** are not yet connected, and there will be an insufficient number of public phones even when they are connected. This could be a problem in the future.
- **Privacy:** A list of medical and legal appointments was put up on a white board in the dining room. The list included detainee names. In HREOC's view this compromises the privacy of individuals who may not want others to know that they are seeing a doctor or lawyer.

15 Villawood

Villawood has a large number of long-term detainees. Consequently, there is a large number of detainees with ever-worsening mental health problems. The mental health team at Villawood appear to be making great efforts to address these concerns, but are largely impotent because they cannot give the detainees what they need – liberty and certainty as to their future in Australia.

Villawood staff should be congratulated for their efforts to improve the look of some of the communal areas including the dining room, gymnasium area and visitors area. However Stage One still has the strong appearance of a prison. Even the renovated rooms are harsh, crowded and inhospitable.

HREOC strongly recommends that Stage One be replaced with a new facility as a matter of priority.

HREOC also congratulates DIMA on its new Residential Housing Centre at Villawood, which clearly provides a more friendly detention environment for detainees. However, at the time HREOC visited the Villawood housing centre there were two completely unused houses. It seems that there are a large number of long term detainees who would benefit from a less harsh environment and nobody could explain why there were so few people in the housing centre.

HREOC recommends that DIMA move more people from the Villawood centre into the Residential Housing Centre as a matter of priority.

As noted in the general observations above, Villawood lags in the provision of some services. The following is a summary of the concerns raised during HREOC's visit to Villawood:

- **Interpreters:** There are a large number of Mandarin-speaking detainees in Villawood but no permanent onsite interpreters. Many Chinese detainees expressed great frustration in being unable to communicate clearly with detention officers and medical staff on a day-to-day basis. The absence of interpreters appears to have caused unnecessary tensions in the centre.
- **Mental health:** Most mental health nurses are on short contracts, making it difficult for detainees to gain trust in any one staff member. Further, many of the mental health problems happen at night when there are no mental health staff available.

DIMA should consider providing access to phone counselling for detainees suffering mental health episodes at night.

- **Health Services:** There were a number of complaints about the medical staff nurses. It was suggested that some nurses did not treat detainees with respect. Others did not use TIS when examining detainees – this created much tension and misunderstanding.
- **External Activities:** More external excursions should be organised for all detainees, as a matter of priority. The Baxter, Maribyrnong and Perth centres provide good models.
- **Asbestos:** There is still a real fear about asbestos after the earlier removal operations. Information about asbestos needs to be provided. The information needs to be in a variety of languages and disseminated across Villawood.
- **Food:** There are several complaints that the food does not cater to Chinese tastes. HREOC understands that menu will be changing in December to take this into account. The menu should be available in other languages so that detainees know what they are eating.

16 Baxter

Like Villawood, there are a substantial number of long term detainees in Baxter. And like all other centres, the main complaint from detainees is about the length of detention and the uncertainty as to their future.

The Baxter facility has made substantial effort to make sure that detainees have opportunities to get outside of the centre on external excursions. There have also been efforts to improve the sport and recreation activities within the facility. In particular, the introduction of the 'Activities Kitchen' which allows detainees to cook their own food has been highly successful.

HREOC recommends expansion of the Activities Kitchen within Baxter, and the adoption of this activity in other centres.

Some of the concerns raised during the visit include:

- **Church attendance:** All detainees can attend internal services on Thursdays. Some detainees have been permitted to attend services on Sundays in the community. However, it appears that decisions as to who can attend those services, and when, are made at very short notice. This creates some distress.
- **Food:** Several detainees complained about the quality and variety of food. HREOC observed that all food is delivered to the compounds in individual take away containers. We note that DIMA intends to build a new dining facility for all detainees to eat together.
- **Residential Housing Centre:** Some detainees said they had requested to be moved to the Port Augusta Housing Centre and were not clear why their requests had been refused. *HREOC recommends greater efficiency and transparency in these decision-making processes.*
- **Red One Compound:** HREOC became aware that the Red One compound is still used for behaviour management purposes on limited occasions. DIMA assured HREOC that any ongoing placement requires very careful consideration, and that the First Assistant Secretary of Detention Operations in Canberra has to 'sign off' on any long term stays. DIMA informed HREOC that there are at least two officers in Red One whenever there are detainees in there. Detainees in Red One are visited by medical, education and counselling staff during their time in the compound.

17 Maribyrnong

Maribyrnong appears to be the 'pilot' detention centre for several programs. The Maribyrnong facility is the first to be renovated to make communal areas and the visitors area more friendly and relaxed. It is also the first centre to introduce internet access. HREOC congratulates DIMA on both these initiatives. HREOC intends to revisit the centre when the renovations are complete.

HREOC further notes that the mental health staff and recreation staff at Maribyrnong have clearly gone to great efforts to improve those services. In addition, DIMA management appears to be open and responsive to suggestions on how to further enhance the services within the facility.

The greatest problem in the centre appears to be the indefinite periods of time for which detainees are held. There is particular frustration for those detainees whose visas have been cancelled under section 501 of the Migration Act, as many of them have strong family ties in the local community. It seems that some of those detainees do not have legal assistance. They are apparently not entitled to legal aid or any other free immigration assistance. Further, it seems that there are no bridging visa options available to those detained under a section 501 cancellation.

HREOC recommends that DIMA develop a system to provide free legal or migration agent assistance to detainees on section 501 cancellations.

HREOC further recommends the creation of bridging visa options for people on section 510 cancellations.

Other issues raised during our visit include:

- **Food:** Several detainees complained about the quality and variety of the food served.
- **Shade cloth:** Several of the new areas were in full sun and would greatly benefit from some shade cloth or awning to make it safer to spend time outside
- **Home visits:** Several detainees explained that they were permitted to visit their family under guard and were very grateful for this opportunity. HREOC hopes that the recently reported escape does not limit this progressive measure for other detainees.

18 Perth

Like Maribyrnong, Perth is also undergoing renovations designed to improve the facility. HREOC intends to visit the facility after the renovations are complete.

Both DIMA and GSL have made significant efforts to improve relations between detention staff and detainees in the centre. Detainees and staff both reported an improvement in the atmosphere in the centre over recent months. Efforts have also been made to expand the recreation programs within the centre.

The main complaint from detainees in the Perth facility related to the length of detention, particularly for those detainees whose visas have been cancelled under section 501 of the Migration Act. A small number of detainees also complained about the crowded accommodation.

19 Concluding comments and recommendations

As stated at the outset, HREOC is pleased to see the improvement in the approach and attitude of DIMA and GSL staff running immigration detention centres.

There have clearly been substantial efforts to improve the physical environment, reduce the tension levels, enhance the programs and activities available to detainees and improve the mental health services.

Nevertheless, detainees are still held in detention for too long. Further, HREOC identified a range of areas in which there could still be improvements within detention facilities.

The following is a list of recommendations arising as a result of HREOC's 2006 detention centre inspections.

Mandatory detention, visas and residence determinations

- 1 Australia's mandatory detention laws should be repealed. HREOC has made this recommendation, and proposed alternative models, in its previous inquiries into immigration detention.¹

¹ See for example, Report of the National Inquiry into Children in Immigration Detention, *A last resort?*, (2004); Report of an inquiry into the detention of unauthorised arrivals, *Those who've come across the seas*, (1998).

- 2 In the absence of repealing mandatory detention, there should be greater efforts to promptly (within three months) release or transfer people out of detention centres by:
 - (a) resolving substantive visa decisions
 - (b) releasing detainees on bridging or removal pending visas
 - (c) transferring detainees to residence determinations
 - (d) transferring detainees to places of alternative detention (in the event that (a) – (c) cannot be achieved).
- 3 Bridging visas should be available to those people whose visas are cancelled pursuant to section 501 of the Migration Act.
- 4 Bridging visas should be more readily available to all unauthorised arrival protection visa applicants.
- 5 Bridging visas should be accompanied by appropriate financial supports.
- 6 Free legal or migration assistance should be available to detainees regarding their section 501 cancellations.

Case management and alternative detention options

- 7 DIMA case managers should actively explore and discuss with each detainee the various bridging visa and alternative detention arrangements available to them (including residence determinations, alternative detention in the community and Residential Housing Centres).
- 8 DIMA should ensure greater efficiency and transparency in the decision-making process regarding transfer to a Residential Housing Centre or home-based alternative detention.
- 9 DIMA should ensure better communication with legal advisers and migration agents regarding the availability and processes regarding transfer to residence determinations and alternative places of detention.

Children in detention

- 10 DIMA should ensure that children do not spend any time inside detention centres, other than as a visitor.
- 11 DIMA should establish, as a matter of urgency, alternative places of detention in the Darwin community for any children apprehended on fishing boats. If the children are accompanied by family, they should be transferred into the community under alternative detention or a residence determination *with* that family member.
- 12 DIMA should ensure the immediate availability of staff with child welfare qualifications upon the reception of children in the Northern IDC, or in the event that a child is detained in any other immigration detention facility or alternative detention arrangement.

- 13 DIMA should ensure the immediate availability of appropriate education and recreation activities for children – no matter how long they are in Australia or whether they are in a detention facility, alternative detention or under a residence determination.

Mental health

- 14 DIMA should investigate the adequacy of the mental health staffing levels in the Northern centre, as a matter of urgency.
- 15 DIMA should review the adequacy and appropriateness of the current systems for routine mental health assessments and ongoing mental health monitoring in the Northern centre, as a matter of urgency. DIMA should provide the results of that review to HREOC once completed.
- 16 DIMA should ensure that the Suicide and Self-Harm (SASH) system is used only for the benefit of a detainee's mental health. The implementation of the SASH system should remain under the control of mental health staff rather than detention staff.
- 17 DIMA should consider building an observation area in Villawood that is not in Stage One and is close to medical staff.
- 18 DIMA should consider providing access to phone counselling for detainees suffering mental health episodes at night.
- 19 DIMA should ensure the availability of an appropriately supported facility to transfer mentally unwell detainees who do not require treatment in a State-run mental health facility, but who can no longer sustain life in a detention centre.

Physical health

- 20 DIMA should investigate and take prompt and appropriate remedial action regarding certain medical nurses in Villawood.
- 21 DIMA should ensure prompt responses to recommendations made by doctors, especially where there are recommendations for external treatment.

Education and Recreation

- 22 DIMA should ensure the appointment of a permanent recreation and education team in the Northern centre, as a matter of priority.
- 23 DIMA should ensure that washing staff cars is removed from the internal activities program in the Northern centre.
- 24 DIMA should arrange for staff from Baxter, Maribyrnong or Perth to be sent to assist the Villawood and Northern centres to develop an ongoing and robust external excursion recreation programs, as a matter of priority.

- 25 DIMA should remove administrative obstacles to arranging excursions to destinations more than one hour away from Baxter (and other detention facilities).
- 26 DIMA should encourage all centres to hire qualified sport and recreation staff.
- 27 DIMA should encourage expansion of the 'Activities Kitchen' in Baxter and the adoption of this activity in other centres where kitchen facilities may be made available (for example Villawood).
- 28 DIMA should ensure greater access to relevant foreign language-English dictionaries.
- 29 DIMA should ensure that all centres develop education programs beyond English classes.
- 30 DIMA should permit enrolment in TAFE and other further education correspondence courses.

Internet

- 31 DIMA should promptly extend internet access to all facilities and ensure sufficient computers to allow adequate access for all detainees.

Purchasing Allowance Scheme (PAS) and merit points system

- 32 DIMA should remove the cap on the accumulation of PAS and merit points. Detainees should be clearly informed that points cannot be cashed out on departure from detention.
- 33 DIMA should consider instituting a lay-by system within the PAS scheme, so that detainees can buy larger items more gradually.

Visitors Procedures

- 34 DIMA should redesign its Visitors Entry forms so people are clear as to what they are agreeing to prior to entry.
- 35 DIMA should ensure that the Visitors Entry forms are translated into several relevant languages.
- 36 DIMA should ensure consistency between and within centres regarding visiting procedures.

HREOC posters

- 37 DIMA should ensure that HREOC posters are posted clearly in all communal areas within detention facilities (including the visitors area).

Infrastructure

- 38 DIMA should reassess the infrastructure in the Northern centre including:
- (a) expanding the dining area
 - (b) improving drainage
 - (c) reopening ensuite bathrooms
 - (d) spreading out the accommodation rooms.
- 39 DIMA should replace Stage One of Villawood with less prison-like accommodation, as soon as possible.
- 40 DIMA should increase the size and fully utilise the Villawood Residential Housing Centre.

Interpreters

- 41 DIMA should, where possible, ensure the availability of permanent onsite interpreters when there is a large detainee population from a single language group.