

Provision of services in detention facilities

- 3.1 The previous chapter of this report focused on the type of immigration detention facilities that are available for the Department of Immigration and Citizenship to place unlawful non-citizens.
- 3.2 This chapter focuses on the range of services provided in Australia's immigration detention facilities.

Overview of immigration detention services

Background

- 3.3 Introduced in 1992, the policy of mandatory detention was envisaged as a temporary and exceptional measure for a particular group of unauthorised arrivals or 'designated' persons who arrived by boat. Since that time, the Australian Government has invested in the construction and expansion of a network of secure immigration detention facilities.
- 3.4 Prior to December 1997 detention facilities were operated by the then Department of Immigration and Multicultural and Indigenous Affairs (DIMIA). Security at the detention centres was provided by the Australian Protective Service, an agency within the Attorney-General's portfolio, while other services such as food, health, education and welfare were provided either directly by DIMIA or by individual sub-contractors.¹
- 3.5 In August 1996 the Commonwealth Government announced its intention to privatise the operations of Australia's immigration detention centres

¹ Australian National Audit Office, Audit Report No. 54 2003-04, *Management of detention centre contracts - Part A*, pp 11, 49.

(IDCs) as part of its Budget discussion. The Government of the time had formed the view that detention services should be contestable.²

Privatisation was also viewed as a means of cost savings and improving the efficiency of immigration detention services provision.³

- 3.6 Privatisation was also favoured in the context of an increasing international and Australian trend for private delivery of government services⁴, particularly in correctional management.⁵

Privatisation of detention services

- 3.7 The provision of immigration detention services at immigration detention facilities was subsequently outsourced in November 1997,⁶ when Australasian Corrective Services, through the organisation's operational arm Australasian Correctional Management (ACM), was awarded the detention services contract. The contract was formally signed in February 1998.⁷
- 3.8 The contract was for an initial period of three years 'but was extended as a result of negotiations with ACM, a tender process, negotiations with the preferred tenderer and the formal contract transition period.'⁸ The Detention Services Contract with ACM ran for six years.⁹

2 The Public Interest Advocacy Centre, *Immigration detention in Australia: the loss of decency and humanity*, Submission to the People's Inquiry into Immigration Detention, 2006 p 5; Flood P, Report of Inquiry into Immigration Detention Procedures 2001 para 4.1, viewed on 17 June 2009 at <http://www.spareroomsforrefugees.com/pages/flood.htm>; Bente Molenaar and Rodney Neufeld, 'The Use of Privatised Detention Centers for Asylum Seekers in Australia and the UK' in Andrew Coyle, Allison Campbell and Rodney Neufeld (eds) *Capitalist Punishment: Prison Privatisation & Human Rights* 2003, p 129.

3 The Public Interest Advocacy Centre, *Immigration detention in Australia: the loss of decency and humanity*, Submission to the People's Inquiry into Immigration Detention, 2006 p 5.

4 Reserve Bank of Australia, Reserve Bank of Australia Bulletin, *Privatisation in Australia* (December 1997), p 1.

5 NSW Parliamentary Library Research Service, 'Privatisation of Prisons', Background Paper No 3/04, viewed on 7 July 2009 at [http://www.parliament.nsw.gov.au/prod/parliament/publications.nsf/0/ED4BA0B9D18C2546CA256EF9001B3ADA/\\$File/bg03-04.pdf](http://www.parliament.nsw.gov.au/prod/parliament/publications.nsf/0/ED4BA0B9D18C2546CA256EF9001B3ADA/$File/bg03-04.pdf).

6 Australian National Audit Office, Audit Report No. 1, 2005-06, *Management of detention centre contracts- Part B*, p 11.

7 Australian National Audit Office, Audit Report No.54 2003-04, *Management of detention centre contracts- Part A*, p 49.

8 Australian National Audit Office, Audit Report No.54 2003-04, *Management of detention centre contracts- Part A*, p 46.

9 Australian National Audit Office, Audit Report No.54 2003-04, *Management of detention centre contracts- Part A*, p 12.

- 3.9 At that time, DIMIA incorporated a set of Immigration Detention Standards (the Standards) into its contract with ACM.¹⁰ The Standards, which were developed in consultation with the Commonwealth Ombudsman and a range of agencies, were designed to set out the Government's obligations to meet the individual care needs of detainees in a culturally appropriate way while at the same time providing safe and secure detention.¹¹
- 3.10 The Committee received evidence from a number of organisations that highlighted concerns about the privatisation of detention services. These community concerns are detailed later in this chapter.

Systemic issues in immigration detention centres

- 3.11 Following the privatisation of immigration detention services, evidence began to emerge indicating that there were wide-ranging systemic issues across all immigration detention centres.¹²
- 3.12 In September 1999, an own motion investigation¹³ by the Office of the Commonwealth Ombudsman into the management and operation of immigration detention centres was undertaken in response to an increase in complaints and a number of reported incidents which included escapes and several allegations of detainee assaults.¹⁴
- 3.13 Following its investigation, the Commonwealth Ombudsman's Office released its *Report of Own Motion Investigation into the Department of Immigration and Multicultural Affairs Immigration Detention Centres* in 2001. The report concluded:

[The Commonwealth Ombudsman's] investigation revealed evidence at every IDC of self-harm, damage to property, fights and assaults, which suggested that there were systemic deficiencies in the management of the detainees, including individuals and groups, staff, women and children.¹⁵

10 Human Rights and Equal Opportunity Commission, *Immigration Detention Guidelines* (March 2000), p 3.

11 Department of Immigration and Multicultural and Indigenous Affairs, 'Future Operation of Immigration Detention Services', media release, 17 September 1997.

12 The Public Interest Advocacy Centre, *Immigration detention in Australia: the loss of decency and humanity*, Submission to the People's Inquiry into Immigration Detention, 2006, p 6.

13 The Commonwealth Ombudsman may undertake an inquiry or investigation into a matter or systemic issue without receiving a specific complaint – thus 'own motion' investigation.

14 Commonwealth Ombudsman, *Report of Own Motion Investigation into the Department of Immigration and Multicultural Affairs Immigration Detention Centres* (2001) p 2.

15 Commonwealth Ombudsman, *Report of Own Motion Investigation into the Department of Immigration and Multicultural Affairs Immigration Detention Centres* (2001) p 2.

- 3.14 In February 2001, Phillip Flood reported on immigration detention procedures on behalf of the then Minister for Immigration and Multicultural Affairs, Phillip Ruddock. The report's main focus was on the 'allegations, instances or situations where there [was] reasonable suspicion of child abuse in detention centres' occurring between December 1999 through to November 2000.¹⁶
- 3.15 The Flood report uncovered many problems in DIMIA's processes, administration and management of detention service provision and noted that they required urgent attention.¹⁷
- 3.16 In January 2002, the Woomera Immigration Reception and Processing Centre in South Australia 'was the scene of a number of riots, as well as a prolonged hunger strike by over 200 detainees.'¹⁸ Allegations were made that officers employed by ACM had 'used excessive force when dealing with detainees' and subjected detainees to racial abuse.¹⁹

Immigration detention guidelines

- 3.17 The reports mentioned above emphasised the need for improvement and called for change. It was recognised that the provision of services within the context of immigration detention should be directly linked with respect to the human rights of people in immigration detention.
- 3.18 In response to the serious concerns raised, the Australian Human Rights Commission (AHRC), formerly the Human Rights and Equal Opportunity Commission (HREOC), developed the Immigration Detention Guidelines:
- ...to facilitate further dialogue and cooperation among the Commission, detention authorities (DIMA and ACM) and relevant non-government agencies in the development of acceptable minimum standards for immigration detention in Australia.²⁰
- 3.19 The Immigration Detention Guidelines were based on relevant international standards which set out minimum requirements for the treatment and conditions of detained persons including the International

16 Flood P, *Report of Inquiry into Immigration Detention Procedures* (2001), viewed on 24 June 2009 at <http://www.spareroomsforrefugees.com/pages/flood.htm>.

17 Flood P, *Report of Inquiry into Immigration Detention Procedures* (2001), paras 6.1-7.8, viewed on 24 June 2009 at <http://www.spareroomsforrefugees.com/pages/flood.htm>.

18 The Public Interest Advocacy Centre, *Immigration detention in Australia: the loss of decency and humanity*, Submission to the People's Inquiry into Immigration Detention (2006), p 6.

19 Public Interest Advocacy Centre, submission 84, 27 August 2008, p 7.

20 Human Rights and Equal Opportunity Commission, *Immigration Detention Guidelines* (March 2000), p 3.

Covenant on Civil and Political Rights and Covenant on Rights of the Child.²¹

3.20 The guidelines amongst other considerations dealt with:

- the fundamental principle that immigration detention is not a prison or correctional sentence
- establishing clear communication channels with those people in detention
- ensuring and respecting a person's rights to privacy
- encouraging community contact
- respecting religion
- encouraging education
- recreation and acceptable levels of amenity
- provision of an adequate quantity of food that is nutritional
- comfortable accommodation, and
- well supported and appropriately trained staff.²²

3.21 Using the Immigration Detention Guidelines as a reference, DIMIA further developed the Standards to set out the quality of services that would be expected in immigration facilities with a substantial focus on the individual needs of a person in detention, including the gender, the culture, health and age of the person.²³ It was also deemed necessary that DIMIA officers at each immigration detention centre monitor the 'performance of ACM against these standards'.²⁴

Contract with Global Solutions Limited (Australia) Pty Ltd

3.22 At the conclusion of the ACM tenure, a contract for the provision of detention services was signed between the Commonwealth and Group 4 Falck Global Solutions Pty Ltd (G4S) on 27 August 2003. The contract

21 Australian Human Rights Commission, 'Immigration Detention Guidelines (2000)', viewed on 25 June 2009 at http://www.hreoc.gov.au/human_rights/immigration/idc_guidelines2000.html.

22 Human Rights and Equal Opportunity Commission, *Immigration Detention Guidelines* (March 2000), pp 4-21.

23 Department of Immigration and Citizenship, 'Standard of Care', viewed on 1 June 2009 at <http://www.immi.gov.au/managing-australias-borders/detention/about/standard-of-care.htm>.

24 Australian Human Rights Commission, 'A last resort?', viewed on 24 June 2009 at http://www.hreoc.gov.au/HUMAN_RIGHTS/children_detention_report/summaryguide/4_facts.htm.

came into effect on 1 September 2003 'initially for a period of four years'.²⁵ G4S subsequently changed its name to Global Solutions Limited (Australia) Pty Ltd (GSL).²⁶

- 3.23 The contract with GSL for the provision of detention services was based on the Standards and thus had a greater focus on client well-being, health and psychological services. In particular, the contract required GSL to 'provide a custodial service for people held in immigration detention and take responsibility for the security, custody, health and welfare of detainees delivered into its custody by DIMIA.'²⁷
- 3.24 Specialist services such as health care and psychological treatment were provided under subcontractual arrangements through GSL.²⁸ These services were subsequently removed 'from the GSL contract in October 2006'.²⁹ At that time, International Health and Medical Services (IHMS) and Professional Support Services (PSS) were engaged directly by the Commonwealth to deliver health care and psychological services respectively.³⁰
- 3.25 The contract covered arrangements at immigration detention facilities in NSW, Victoria, the Northern Territory, South Australia, Western Australia and Christmas Island. The contract was extended to also cover a broad range of new accommodation options in capital cities around Australia.³¹

Initiating change across detention services

- 3.26 The complaints about standards in immigration detention centres and treatment of detainees continued after GSL took over the contract in 2003, with evidence of 'defective practices and abuses of human rights in immigration detention centres'.³²

25 Department of Immigration and Citizenship, submission 129, 11 September 2008, p 30.

26 Senate Legal and Constitutional References Committee, *Administration and operation of the Migration Act 1958* (March 2006), Parliament of the Commonwealth of Australia, p 214.

27 Senate Legal and Constitutional References Committee, *Administration and operation of the Migration Act 1958* (March 2006), Parliament of the Commonwealth of Australia, p 214.

28 The Public Interest Advocacy Centre, *Immigration detention in Australia: the loss of decency and humanity*, Submission to the People's Inquiry into Immigration Detention, 2006 p 5; Department of Immigration and Citizenship, submission 129, 11 September 2008, p 30.

29 Department of Immigration and Citizenship, submission 129, 11 September 2008, p 130.

30 Department of Immigration and Citizenship, submission 129, 11 September 2008, p 130.

31 Department of Immigration and Citizenship, 'Detention Services and Health Tenders', viewed on 1 June 2009 at <http://www.immi.gov.au/about/contracts-tenders-submissions/detention-services/>.

32 The Public Interest Advocacy Centre, *Immigration detention in Australia: the loss of decency and humanity*, Submission to the People's Inquiry into Immigration Detention, 2006 p 6.

3.27 In July 2005, the Palmer Report, which inquired into the circumstances surrounding the immigration detention of Ms Cornelia Rau, found the contract established between DIMIA and GSL to be flawed, stating:

The current detention services contract with Global Solutions Limited is fundamentally flawed and does not permit delivery of the immigration detention policy outcomes expected by the Government, detainees and the Australian people.³³

3.28 The Palmer Report added:

The current detention services contract...is onerous in its application, lacks focus in its performance audit and monitoring arrangements, and transfers the risk to the service provider. Service requirements and quality standards are poorly defined, performance measures are largely quantitative and of doubtful value, and are financial penalties for non-compliance. This is not a basis for an effective, cooperative partnership.³⁴

3.29 An independent review of the Detention Services Contract in February 2006 by Mr Mick Roche found that the Government's contract with GSL needed change, and that DIMIA's 'management and monitoring of the contract needed to be improved'.³⁵ The review by Mr Roche also suggested that:

...such contract changes could be used as a basis for a new tender for the Detention Services Contract. It also recommended that health and psychological services be provided under a separate contract.³⁶

3.30 In the face of an increasing range of public criticism from various community groups, stakeholders and oversight agencies, the newly named Department of Immigration and Citizenship (DIAC) set about developing tender documentation that contained stringent contract content, the focus being to 'deliver the least restrictive form of detention, appropriate to an individual's circumstances'.³⁷

33 Palmer MJ, Department of Immigration and Citizenship, *Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau* (July 2005), p xiii.

34 Palmer MJ, Department of Immigration and Citizenship, *Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau* (July 2005), p 176.

35 Roche M, Department of Immigration and Citizenship, *Detention services contract review* (2006); The Public Interest Advocacy Centre, submission 84, 27 August 2008, p 8.

36 The Public Interest Advocacy Centre, submission 84, 27 August 2008, p 8.

37 Department of Immigration and Citizenship, 'Immigration detention services preferred tenderer announced', media release, 31 March 2009.

- 3.31 Whilst the Roche review concluded that the general structure of detention services contract at the time to be sound, it recommended that changes were needed.³⁸ In particular, DIAC needed to review its contract management and monitoring processes and:
- improve performance management arrangements
 - provide for input or process measures in relation to some functions
 - adjust the payment mechanisms to reflect changes in detention arrangements, and
 - meet the drafting and risk allocation issues identified by the Australian National Audit Office.³⁹
- 3.32 DIAC agreed with the conclusions made in the Roche report and, in particular, that changes were required, stating:
- The review by Mick Roche...concluded that changes were required to [DIAC's] contract management and monitoring processes. It suggested that such contract changes could be used as a basis for a new tender for the detention services contract. It also recommended that health and psychological services be provided under a separate contract.⁴⁰
- 3.33 As a result of the Roche review, DIAC announced its intention to re-tender all detention services.⁴¹
- 3.34 In an effort to impose higher standards on the detention services contractors, DIAC developed the Service Delivery Model (SDM) in consultation with stakeholders including the AHRC, Immigration

38 The Palmer Inquiry was opened to investigate the circumstances of an 11 month detention of Cornelia Rau, a German citizen holding Australian permanent residency, who was released from Baxter IDC into a psychiatric care facility. In particular, the recommendations of this report stated that a review of the GSL tender be undertaken with a view to identify where and how changes could be made. It also called for the creation of a Detention Contract Management group that would provide the DIAC with guidance on the direction on management of detention services.

39 Roche M, Department of Immigration and Citizenship, *Detention services contract review* (2006), p 4.

40 Department of Immigration and Citizenship, 'Tender for new client focused detention service arrangements', fact sheet viewed on 2 June 2009 at http://www.immi.gov.au/about/department/perf-progress/dima-improvements/_fact_sheets/Tender_for_New_Client_Focused_Detention_Service_Arrangements.pdf.

41 Department of Immigration and Citizenship, 'Tender for new client focused detention service arrangements', fact sheet viewed on 2 June 2009 at http://www.immi.gov.au/about/department/perf-progress/dima-improvements/_fact_sheets/Tender_for_New_Client_Focused_Detention_Service_Arrangements.pdf.

Detention Advisory Group and the Detention Health Advisory Group (DeHAG).

Service delivery model

- 3.35 The SDM is a culmination of advice and feedback from legal, policy, consultants, professional bodies, community organisations and other sources and represents DIAC's new approach to delivering services to people in immigration detention.⁴²
- 3.36 A brief on the service delivery model by DIAC, and available from its website, provides that crucial elements of the SDM are divided into four main components:
- a supportive culture
 - providing appropriate amenities
 - duty of care and case management, and
 - promoting a healthy environment.⁴³
- 3.37 It is further outlined that the SDM represents DIAC's approach:
- to delivering quality services in a seamless manner from the client's perspective
 - identifying the values and behaviours required for the well being of people in immigration detention, and
 - providing a basis for the evaluation of service providers before they provide services and as part of ongoing performance management.⁴⁴
- 3.38 Table 3.1 below outlines DIAC's nine operating principles for detention, which are based on DIAC's mission statement and its strategic themes of an open and accountable organisation, fair and reasonable dealings with clients, and well trained and supported staff.⁴⁵

42 Department of Immigration and Citizenship, 'Service Delivery Model', viewed on 1 June 2009 at <http://www.immi.gov.au/about/contracts-tenders-submissions/detention-services/service-delivery-model.htm>.

43 Department of Immigration and Citizenship, 'Service Delivery Model', viewed on 1 June 2009 at <http://www.immi.gov.au/about/contracts-tenders-submissions/detention-services/service-delivery-model.htm>.

44 Department of Immigration and Citizenship, 'Service Delivery Model', viewed on 1 June 2009 at <http://www.immi.gov.au/about/contracts-tenders-submissions/detention-services/service-delivery-model.htm>.

45 Department of Immigration and Citizenship, 'Service Delivery Model', viewed on 1 June 2009 at <http://www.immi.gov.au/about/contracts-tenders-submissions/detention-services/service-delivery-model.htm>.

Table 3.1 Operating principles of detention

1. Immigration detention is mandatory 'administrative detention', it is not indefinite or correctional
2. People in detention must be treated fairly and reasonably within the law
3. Detention service policies are founded in the principle of Duty of Care
4. Families with children will be placed in centre-based detention as a last resort
5. People in centre-based detention are to be provided with timely access to quality accommodation, health food and necessary services
6. People are detained for the shortest practicable time, especially in centre-based detention
7. People are carefully and regularly case-managed as to where they are to be located in the detention services network and the services they require
8. The assessment of risk factors underpins operational decision making
9. Detention service operations are subject to continuous improvement and sound governance.

Source Department of Immigration and Citizenship website, Brief on service delivery model, p 3. viewed on 1 June 2009 at <http://www.immi.gov.au/about/contracts-tenders-submissions/detention-services/service-delivery-model.htm>

New detention service provider arrangements

3.39 In May 2007 DIAC released the following requests for tender encompassing all service provision to Australia's immigration detention facilities:

- Detention Services for Immigration Detention Centres
- Health Care Services for People in Detention, and
- Detention Services for Immigration Residential Housing (IRH) and Immigration Transit Accommodation (ITA).⁴⁶

3.40 In a move that signifies DIAC's willingness to incorporate major changes recommended in the Palmer and Comrie reports, the detention services contracts were divided into three main areas:

- provision of immigration health services – incorporating mental, physical and dental health
- provision of services at immigration detention centres, and
- provision of services at immigration residential housing and immigration transit accommodation.

⁴⁶ Department of Immigration and Citizenship, 'Announcement re Requests for Tender', viewed on 26 June 2009 at http://www.immi.gov.au/about/contracts-tenders-submissions/detention-services/_pdf/advert-13-14-april-2007.pdf.

3.41 DIAC, in noting its objectives for the new contracts, stated that:

The contracted services will be provided under a new Service Delivery Model (SDM) that will ensure people in detention are treated with dignity and respect and that DIAC's duty of care is properly exercised.⁴⁷

3.42 In addition, DIAC also stated that:

The new contract encompasses a stronger focus on the rights and well-being of people in detention and provides a comprehensive framework for ongoing quality improvement, including effective performance management systems.⁴⁸

3.43 DIAC deemed five-year contracts to be the appropriate duration for the service arrangements under the new tenders.⁴⁹

3.44 On 24 November 2007, the Australian Labor Party (ALP) was elected to government.

3.45 The Hon Chris Evans, Minister for Immigration and Citizenship, in a statement to the *Age* newspaper stated that 'the re-tendering was well advanced when the Rudd Government came into office and the lack of alternative public-service providers would have required the current contract to be extended for at least two years'.⁵⁰ The Minister added:

After weighing up all the issues and costs, and giving detailed and serious consideration to the options available, the Government has determined the most prudent way forward is to finalise the current tender process.

We will impose higher standards on the detention services contractors and the department will be monitoring the contract more closely than before, it is a question of the values that apply rather than who applies them.⁵¹

47 Department of Immigration and Citizenship, 'Detention Services and Health Tenders', viewed on 1 June 2009 at <http://www.immi.gov.au/about/contracts-tenders-submissions/detention-services/>.

48 Department of Immigration and Citizenship, 'Immigration detention services preferred tenderer announced', media release, 31 March 2009.

49 Department of Immigration and Citizenship, 'Immigration health services contract finalised', media release, 27 January 2009; Department of Immigration and Citizenship, 'Immigration detention services preferred tenderer announced', media release, 31 March 2009; Department of Immigration and Citizenship, 'Immigration residential housing and transit accommodation preferred tenderer announced', media release, 1 May 2009.

50 The *Age*, 'Labor breaks detention promise', viewed on 4 June 2009 at <http://www.theage.com.au/national/labor-breaks-detention-promise-20090119-7ku5.html>.

51 The *Age*, 'Labor breaks detention promise', viewed on 4 June 2009 at <http://www.theage.com.au/national/labor-breaks-detention-promise-20090119-7ku5.html>.

- 3.46 On 27 January 2009, DIAC announced it had signed a contract with the IHMS for the provision of a range of onsite primary health care services, including registered nurses, general practitioners and mental health professionals, as well as referrals to external services.⁵²
- 3.47 In the media release announcing the contract with IHMS, it states that the negotiated contract in accordance with the SDM:
- ...will ensure people in community or facilities-based immigration detention receive health care that is fair and reasonable, commensurate with Australia's international obligations and comparable with that available to the broader Australian community.⁵³
- 3.48 The preferred tenderer for the provision of immigration detention services was announced on 31 March 2009. DIAC reported that Serco Australia Pty Ltd (Serco) would provide services to immigration detention centres and 'a range of transport and escort services to people in detention'.⁵⁴
- 3.49 On 1 May 2009 DIAC announced that GSL had been selected as the preferred tenderer for the provision of a range of services at immigration residential housing and immigration transit accommodation around Australia.⁵⁵
- 3.50 At the time of writing this report, DIAC had entered negotiations with the preferred tenderers, Serco and GSL with the intention of signing contracts as soon as practicable.

Services currently provided across immigration detention facilities

On its website, DIAC states that it provides a number of services to people in immigration detention including:

- education and other activities – activities such as cultural and lifestyle classes, sporting activities and excursions (fishing, shopping trips) and educational services, including English language instruction.

52 Department of Immigration and Citizenship, 'Immigration health services contract finalised', media release, 27 January 2009.

53 Department of Immigration and Citizenship, 'Immigration health services contract finalised', media release, 27 January 2009.

54 Department of Immigration and Citizenship, 'Immigration detention services preferred tenderer announced', media release, 31 March 2009.

55 Department of Immigration and Citizenship, 'Immigration residential housing and transit accommodation preferred tenderer announced', media release, 1 May 2009.

- food – nutritional food that is culturally appropriate is served three times a day and those requiring special diets for cultural or medicinal purposes are catered for on an individual basis. Emphasis is placed on providing people in immigration detention with menu choice, self-catering activities such as barbeques, and allowing their input into food preparation. Access to tea, coffee and snacks between meals is also provided.
- religion – all immigration detention facilities have areas for prayer and worship services, and those in detention are able to practise the religion of their choice on an individual or communal basis. External clergy provide services for most major faiths and special meals are also prepared for religious festivals, such as Ramadan and Christmas.
- medical – all centres have medical facilities with nursing staff on site. Medical practitioners, dentists, psychiatrists, psychologists and counsellors are also available, either onsite or through local community services, depending on the location of the facility.⁵⁶

3.51 The Australian Human Rights Commission (AHRC), in its 2008 *Immigration Detention Report*, noted that recreational activities offered at each immigration detention facility vary but ‘generally include a mix of structured activities such as pool competitions, table tennis competitions, soccer, volleyball, card nights, karaoke and movie nights.’⁵⁷ The report also highlighted that each facility had additional recreational activities which are available for use by detainees on an unstructured basis including access to TV, DVDs, video games, board games, newspapers, internet access and gym facilities.⁵⁸

3.52 The AHRC also noted, in its *Immigration Detention Report*, that other services provided at immigration detention facilities includes:

- access to reading materials including a small collection of books or newspapers⁵⁹
- some internal educational classes for detainees, generally computing classes and English as a second language,⁶⁰ however the education

56 Department of Immigration and Citizenship, ‘Services Provided at Immigration Detention Facilities’, viewed on 25 June 2009 at <http://www.immi.gov.au/managing-australias-borders/detention/services/services-at-facilities.htm>.

57 Australian Human Rights Commission, *Immigration detention report – December 2008*, p 29.

58 Australian Human Rights Commission, *Immigration detention report – December 2008*, pp 29-30.

59 Australian Human Rights Commission, *Immigration detention report – December 2008*, p 31.

60 Australian Human Rights Commission, *Immigration detention report – December 2008*, p 32.

programs provided do not provide the person in detention with a recognised qualification⁶¹

- occasional cooking, music, art or craft classes, although these are generally recreational sessions rather than accredited educational classes⁶²
- access to communication facilities, including mail, phones, fax and the internet, at mainland immigration detention centres,⁶³ and
- access to the Telephone Interpreting Service, except for the Northern immigration detention centre who has two interpreters who work onsite on a fairly regular basis.⁶⁴

3.53 However, services provided at each facility can be varied due to the differences in long and short term accommodation arrangements provided across immigration detention centres, immigration residential housing, immigration transit accommodation and community detention.

3.54 In particular, immigration residential housing residents are able to cook their own food and may visit local recreational facilities and attend community-based educational and development programs when accompanied by an officer or other appropriately authorised person.⁶⁵

3.55 Services provided to people in people in immigration transit accommodation are comparatively limited, due to the short-stay nature of the accommodation. Immigration transit accommodation offers a high level of independence. Provisions are provided by DIAC, and catering on site is arranged as required.

3.56 Services provided to detainees in community detention are, for the most part, provided through non-government organisations and some state welfare agencies.

3.57 Currently community care is provided by the Australian Red Cross, which holds the primary contract for the delivery of community detention services and is funded to source housing and provides allowances to people in community detention to help meet living expenses.⁶⁶

3.58 People in community detention reside in houses and home units without other indications that they are being detained. There is no requirement for

61 Department of Immigration and Citizenship, submission 129, 11 September 2008, p 31.

62 Australian Human Rights Commission, *Immigration detention report – December 2008*, p 32.

63 Australian Human Rights Commission, *Immigration detention report – December 2008*, p 36.

64 Australian Human Rights Commission, *Immigration detention report – December 2008*, p 40.

65 Department of Immigration and Citizenship, submission 129, 11 September 2008, p 31.

66 Department of Immigration and Citizenship, submission 129, 11 September 2008, pp 19-20.

a detainee to be accompanied during daily activities, unlike within immigration residential housing.

3.59 As noted in the Committee's second report on immigration detention in Australia, additional services and support are offered to the most vulnerable and complex detainees through the Community Care Pilot (CCP) which includes:

- Community assistance, including assistance with food, clothing, basic living expenses, health care, and accommodation, which is provided by the Australian Red Cross. Rental assistance is limited to payment of bond and initial few weeks' rent.
- Information and counselling services, provided by the IOM. The IOM provides information on immigration processes and assistance to people and prepares them for their immigration outcome.
- Immigration advice and application assistance to vulnerable people, delivered by providers under the Immigration Advice and Application Assistance Scheme (IAAAS).
- Brokerage funds, administered by DIAC's Case Managers, allows for the one-off needs of people to be met.⁶⁷

Services currently provided on Christmas Island

3.60 For the most part, the services that are provided by DIAC across mainland immigration detention facilities are also provided on Christmas Island.

3.61 In addition to those services, DIAC advised the Committee that a number of non-government organisations also provide services to people in immigration detention on Christmas Island. Some, according to DIAC are contracted to provide certain services:

- Australian Red Cross (as a direct source contractor and as an [non-government organisation] that also regularly visits the centre in an observing capacity)
- United Nations High Commission for Refugees (regular observational visits)
- Australian Human Rights Commission (an independent statutory organisation that also make regular visits)
- The Forum of Australian Services for Survivors of Torture and Trauma (as a direct source contractor) supplies psychological

67 Joint Standing Committee on Migration, *Immigration detention in Australia: A new beginning – Community-based alternatives to detention* (2009), Parliament of the Commonwealth of Australia, pp 36-37; Department of Immigration and Citizenship, submission 129, 11 September 2008, p 36.

support services from its national network of providers as needed, and

- Professional migration agents and qualified interpreters assist each asylum seeker to compile statements of claims for refugee status including accompanying seekers to DIAC interviews and other parts of the process. Agents are drawn from the 10 contracted Immigration Advice and Application Assistance Scheme providers listed below:
 - ⇒ Refugee and Casework Service (Australia) Inc (RACS) (NSW)
 - ⇒ John Vrachnas (NSW/Vic)
 - ⇒ Refugee & Immigration Legal Centre Inc (RILC) (Vic)
 - ⇒ Florin Burhala & Associates P/L (Vic)
 - ⇒ Craddock Murray Neumann Lawyers (NSW)
 - ⇒ Libby Hogarth & Associates (SA)
 - ⇒ Playfair Visa and Migration Services (NSW)
 - ⇒ Legal Services Commission of SA (SA)
 - ⇒ Centrecare (incorporating Catholic Migrant Centre) (WA)
 - ⇒ Legal Aid Western Australia (WA).⁶⁸

3.62 Under DIAC's current tender arrangements, detention service provider GSL is responsible for organising a program of activities for people in immigration detention on Christmas Island.

3.63 GSL has utilised the services of the Coalition for Asylum Seekers, Refugees and Detainees (CARAD) independent volunteers that had previously provided volunteer services under the auspices of CARAD, and Youth With A Mission for the delivery of those activities.⁶⁹

Health care services for people in detention

3.64 As discussed earlier in this chapter, Mr Mick Palmer's inquiry into the immigration detention of Cornelia Rau in July 2005 identified systemic weaknesses in DIAC's compliance and detention processing.⁷⁰

3.65 This was followed by a report from the Commonwealth Ombudsman and Mr Neil Comrie in September 2005 that inquired into the circumstances of the Vivian Alvarez matter, identifying similar failings in DIAC administration and processing.

68 Department of Immigration and Citizenship, submission 129v, 17 June 2009, p 1.

69 Department of Immigration and Citizenship, submission 129v, 17 June 2009, p 1.

70 Department of Immigration and Citizenship, *Inquiry into circumstances of the Immigration Detention of Cornelia Rau Report* (July 2005), p 8.

- 3.66 The Commonwealth Ombudsman was asked by the Australian Government to investigate 247 cases of long term detention between 2000 and 2007. The report from the Ombudsman ‘found that 11 of these cases involved mental health and incapacity’.⁷¹
- 3.67 The findings propelled DIAC into implementing significant reforms of detention arrangements. On 1 March 2006, the former Minister for Immigration and Citizenship announced the decision to re-tender the detention services contract with the formal differentiation of health services to be provided under separate arrangements. These services would subsequently ensure that DIAC properly exercises its duty of care to people in detention.⁷²
- 3.68 DIAC allocated additional resources to detention health services in a bid to address past criticisms.⁷³ This included establishing the DeHAG which comprised of:
- Nominees from the relevant professional health organisations in Australia and provides the Department with advice regarding the design, implementation and monitoring of detention health policy and procedures.⁷⁴
- 3.69 DIAC consulted with DeHAG and other key stakeholders in developing its health services policy. The *Detention Health Framework* sets out ‘the range, level and standard of health care to be provided to people in all detention situations’.⁷⁵
- 3.70 According to the detention health framework there are two main categories that have an impact on the management and delivery of health care:
- The first category consists of generic risks and issues that are associated with the restriction of freedom brought about by detention, and the cultural diversity of the detention population.

71 Department of Immigration and Citizenship, *Detention Health Framework: A policy framework for health care for people in immigration detention* (2007), p 8.

72 Department of Immigration and Citizenship, ‘Detention Services and Health Tenders’, viewed on 1 June 2009 at <http://www.immi.gov.au/about/contracts-tenders-submissions/detention-services/>.

73 Department of Immigration and Citizenship, ‘Immigration Detention Health Services’, viewed on 9 June 2009 at <http://www.immi.gov.au/managing-australias-borders/detention/services/health-services.htm>.

74 Department of Immigration and Citizenship, ‘Immigration Detention Health Services’, viewed on 9 June 2009 at <http://www.immi.gov.au/managing-australias-borders/detention/services/health-services.htm>.

75 Department of Immigration and Citizenship, ‘Immigration Detention Health Services’, viewed on 9 June 2009 at <http://www.immi.gov.au/managing-australias-borders/detention/services/health-services.htm>.

- The second category of health risks and issues are those that are specifically associated with the way people come into detention and their experience in their place of origin or on their journey to Australia.⁷⁶

3.71 The generic health issues and risks include:

- uncertainty of the future for people across a range of immigration detention placements
- the challenge of delivery of health services in a controlled environment, especially with establishing trust within an involuntary detention environment, and
- the challenge of delivering a standard level of health care to culturally diverse populations that is empathetic and dignified.⁷⁷

3.72 In addition, there is the general challenge that medical professionals are presented with in the context of managing complex health care requirements for people in detention placements.

3.73 The obvious challenges include:

- communicable diseases – for example, the prevalence of blood-borne viruses, sexually transmissible infections and other communicable diseases can be higher in some sections of the detained population than in the general population due to the poor conditions in the countries of origin.⁷⁸
- mental illness – the prevalence of risk factors for mental illness among people who enter immigration detention exceeds those in the general population.⁷⁹
- victims of torture and trauma – the Palmer and Comrie inquiries and subsequent reports from the Commonwealth Ombudsman have alerted DIAC to the risks posed by failing to identify torture and trauma survivors. However, identifying people who have experienced torture and trauma is complex and not all display obvious physical or psychological symptoms.⁸⁰

76 Department of Immigration and Citizenship, *Detention Health Framework: A policy framework for health care for people in immigration detention* (2007), p 40.

77 Department of Immigration and Citizenship, *Detention Health Framework: A policy framework for health care for people in immigration detention* (2007), pp 40-42.

78 Department of Immigration and Citizenship, *Detention Health Framework: A policy framework for health care for people in immigration detention* (2007), p 43.

79 Department of Immigration and Citizenship, *Detention Health Framework: A policy framework for health care for people in immigration detention* (2007), p 43.

80 Department of Immigration and Citizenship, *Detention Health Framework: A policy framework for health care for people in immigration detention* (2007), p 44.

- inadequate healthcare prior to arrival in Australia – people will reflect the general health indicators of the circumstances of their residence prior to being placed in detention.⁸¹
- 3.74 DIAC’s website states that initial health assessments are provided to persons entering immigration detention to identify illness or conditions that may need to require attention for the duration of detention. Officers collect personal and medical history, and conduct a ‘physical examination and formalised mental health screening and assessment’.⁸² DIAC coordinates treatment management through:
- ...a general practitioner for all people who have a clinically identified need for ongoing medical treatment. As well as the initial health assessment there are mechanisms in place to identify health needs that may emerge during a person's time in detention, including formal monitoring processes such as the three-monthly mental health review in detention centres.⁸³
- 3.75 As part of policy, a discharge health assessment is carried out for the person being released from any placement within the immigration detention environment. The assessment includes:
- ...the provision of a health discharge summary from the health provider to the individual, which informs future health providers of relevant health history, treatment received during detention and any ongoing treatment regimes. Where appropriate, linkages are made with relevant community health providers to facilitate ongoing care beyond discharge.⁸⁴
- 3.76 It is the intention of DIAC that people to which it owes a duty of care are:
- ...provided access to clinically recommended, health care, at a standard generally comparable to the health care available to the Australian community. Health care services are provided by

81 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention*, p 45.

82 Department of Immigration and Citizenship, ‘Immigration Detention Health Services’, viewed on 9 June 2009 at <http://www.immi.gov.au/managing-australias-borders/detention/services/health-services.htm>.

83 Department of Immigration and Citizenship, ‘Immigration Detention Health Services’, viewed on 9 June 2009 at <http://www.immi.gov.au/managing-australias-borders/detention/services/health-services.htm>.

84 Department of Immigration and Citizenship, ‘Immigration Detention Health Services’, viewed on 9 June 2009 at <http://www.immi.gov.au/managing-australias-borders/detention/services/health-services.htm>.

qualified health professionals and take into account the diverse and potentially complex health care needs of people in detention.⁸⁵

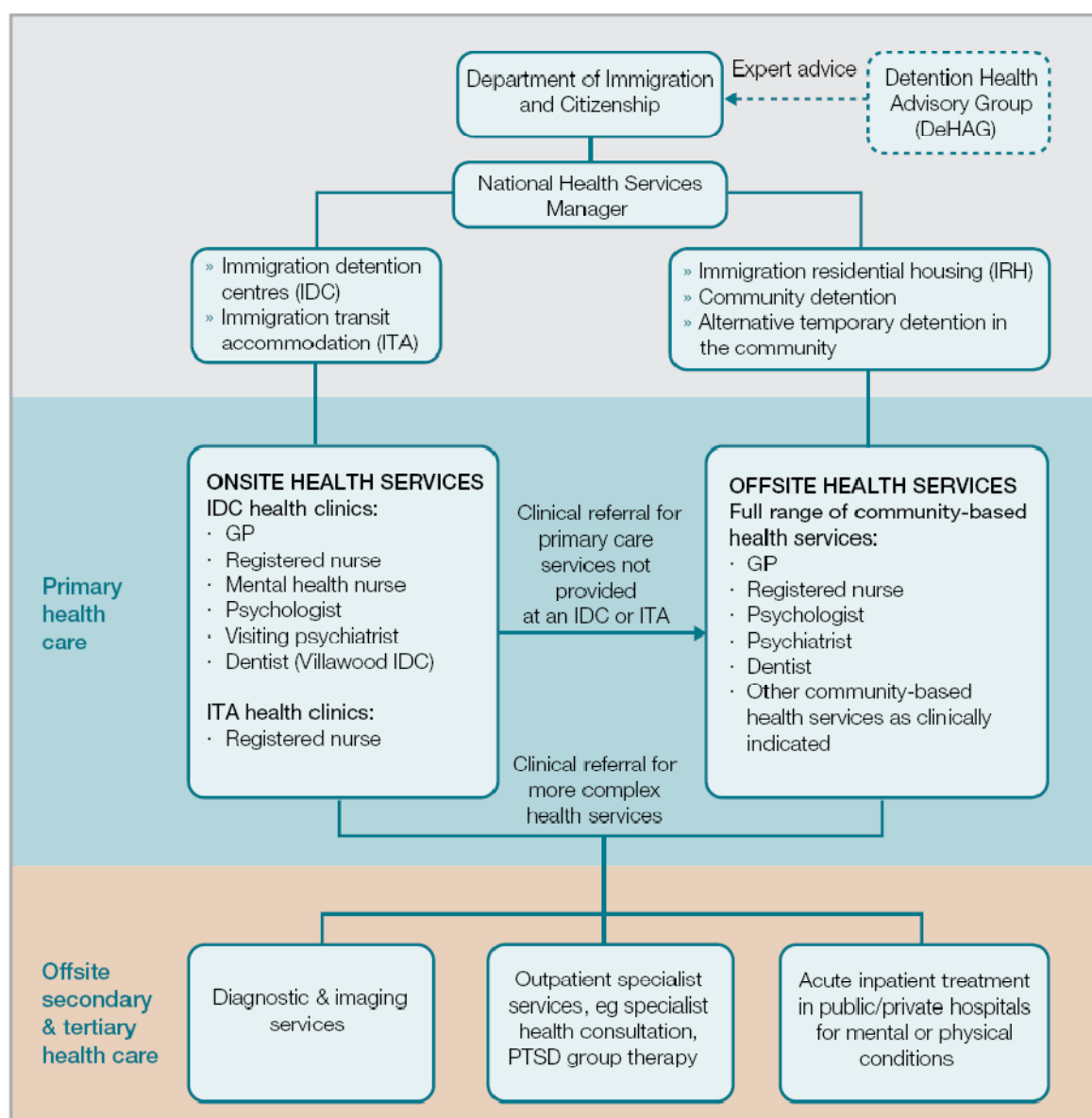
Delivery of health care services

- 3.77 A health services manager (HSM) will manage and organise the delivery of health services at all DIAC detention facilities including alternative detention in the community. Under the detention health framework, the HSM 'may directly provide health care services, or broker these services through a network of external health care providers'.⁸⁶
- 3.78 Figure 3.1 illustrates how health service delivery for people in immigration detention will function.

85 Department of Immigration and Citizenship, 'Immigration Detention Health Services', viewed on 9 June 2009 at <http://www.immi.gov.au/managing-australias-borders/detention/services/health-services.htm>.

86 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 53.

Figure 3.1 Detention health services delivery structure



Source Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention (2007)*, p 53.

Health services provided in immigration detention centres

- 3.79 It is the responsibility of the HSM to arrange sufficient clinical consultation time for a person in detention. A consultation is with a registered nurse or general practitioner as required.⁸⁷
- 3.80 DIAC has specified that there is a minimum requirement for the frequency of when health services such as 'nursing, mental health care and general practice' is made available at each detention centre. DIAC has stated that:

87 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention (2007)*, p 83.

A person in detention would not need to leave an immigration detention centre to receive a routine health assessment...or ongoing primary healthcare services.⁸⁸

- 3.81 According to the DIAC policy, consultations with a nurse or general practitioner will include time for initial health assessments for those placed in an immigration detention centre; time to attend to the ongoing health care management of a person; and to conduct health discharge assessments for a person leaving detention.⁸⁹
- 3.82 It is the HSM's responsibility to make any necessary arrangements for the provision of clinical recommendations for in-patient, specialist or allied health treatment.⁹⁰
- 3.83 After hours health care is triaged with initial responsibility falling on the detention services provider to ensure an appropriate first-aid response. The HSM however is expected to have 'in place an after-hours, on-call, arrangement for medical advice and response to clinical events that require a primary healthcare response.'⁹¹

Health services provided in immigration residential housing

- 3.84 As discussed earlier in this report, the provision of services within the context of immigration residential housing is limited, given the intention that detention at an immigration residential housing facility is not long term. This also includes the provision of health services.⁹²
- 3.85 People detained within immigration residential housing are able to access health care services through community based health care providers. Appropriate arrangements are made by the HSM to ensure that people are provided with an initial health induction assessment, are able to access any treatment for ongoing conditions and also receive a discharge assessment when appropriate.⁹³

88 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 83.

89 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 83.

90 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 83.

91 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 83.

92 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 84.

93 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 84.

Health services provided in immigration transit accommodation

- 3.86 As in the case of detention at an immigration residential housing facility, the HSM ensures that appropriate arrangements are made for registered nurses to conduct initial onsite assessments for people who are detained.⁹⁴
- 3.87 Where a special health need is identified and where a medical consultation is deemed appropriate, the HSM will refer the person requiring medical attention to the appropriate specialist or service provider.⁹⁵

Health services provided in alternative forms of detention

- 3.88 Beyond the regular detention arrangements of facilities such as detention centres, immigration residential housing or immigration transit accommodation, in limited circumstances, people may be detained in a variety of other 'accommodation settings including hospitals, motels or apartments'.⁹⁶
- 3.89 As per arrangements in other facilities, the HSM coordinates the health care response to people in detention. The exception for this arrangement is where a person is being detained in a hospital, in this case all health services can be directly provided by the hospital in this instance.⁹⁷

Health services provided on Christmas Island

- 3.90 The structure of health services on Christmas Island is similar to current arrangements on mainland Australia. The HSM works with a health care provider on the island to ensure an appropriate level of health care is available to people in detention on Christmas Island. The HSM is also responsible for:

...the appropriate transfer of medical records, providing medical escorts and coordinating access to health services as clinically required at onshore destinations.⁹⁸

94 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 84.

95 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 84.

96 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 84.

97 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 84.

98 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 84.

Community detention

- 3.91 As is with the practice of health service delivery at immigration residential housing, the HSM coordinates the health care for people in community detention through community-based health care providers.⁹⁹
- 3.92 However, DIAC acknowledges that it is necessary to ensure that people in community detention are made aware of the range of health care services available to them and most importantly how they can access these services.
- 3.93 As is the practice for the general public, DIAC makes all reasonable efforts to ensure that the treating general practitioner is located in close proximity to the residence of the person in community detention.¹⁰⁰

Mental health care services

- 3.94 Under a raft of improvements that were made to immigration detention health care introduced in September 2005, the Australian Government integrated a comprehensive mental health service which incorporated an enhanced and thorough mental health screening program. DIAC also adopted a range of standardised mental health screening tools.¹⁰¹
- 3.95 As it stands, people placed within an immigration detention environment are assessed for mental health concerns. The assessment involves a suicide and self harm assessment, which is carried out as part of initial processing of the person by the responsible detention services officer. A registered nurse carries out an 'at risk' assessment which also involves the general health assessment.¹⁰²
- 3.96 Where a person is determined to be at risk, the individual is further assessed by a PSS psychologist.¹⁰³ In addition to the assessments conducted above:

...initial screening also includes a clinician-rated health of the nation outcomes scale and a mental state examination. All detainees who screen positive on these instruments are referred to

99 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 84.

100 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 84.

101 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 85.

102 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 85.

103 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 85.

a multidisciplinary mental health team for diagnosis, the development of a specific mental health management plan and ongoing mental health care. This team comprises representatives from a pool of mental health nurses, psychologists, senior counsellors, general practitioners and psychiatrists.¹⁰⁴

- 3.97 Reassessments are arranged as required, usually at the request of individuals, or at the request of staff employed by detention health or management services. Follow up sessions are conducted at 90 days to ensure that persons in detention have not developed previously 'undetected mental health disorders'. If the management plan requires inpatient mental health treatment, this will be arranged through clinical pathways developed with identified public and private sector health providers.¹⁰⁵

Community concerns about detention services

Privatisation of detention services

- 3.98 The Committee received evidence which highlighted concerns about the privatisation of detention services. The Public Interest Advocacy Centre (PIAC) were concerned about GSL's background as a provider of prison services, noting that:

It would appear that part of the reason for its troubled history in the provision of immigration detention services stems from GSL's background as a provider of prison services, which are, by their nature, very different to immigration services.¹⁰⁶

- 3.99 The PIAC added:

The practical experience has been, however, that GSL staff (many of whom have worked as prison guards in GSL's prisons) have failed to heed this difference, and have tended to treat immigrant detainees no differently to prison inmates. In promotional material GSL describes its line of business as "Corrective Centres in Australia." This is indicative of a culture that is focussed on imprisonment, rather than administrative detention.¹⁰⁷

104 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 85.

105 Department of Immigration and Citizenship, *Detention health framework: A policy framework for health care for people in immigration detention* (2007), p 85.

106 Public Interest Advocacy Centre, submission 84, p 17.

107 Public Interest Advocacy Centre, submission 84, p 17.

- 3.100 A Just Australia (AJA) were also critical of GSL's background as a prison service provider, stating:

The current contractor Global Solutions Limited (GSL) has a background as a prison service provider. Many of GSLs staff in IDCs come from, and were trained for, a prison environment and are thus highly inappropriate to work with the vulnerable caseloads found in IDCs.¹⁰⁸

- 3.101 The Law Institute of Victoria was also of the same view, stating:

The core business of GSL, the current operator, is correction services. This core capability seems to have influenced the operation of immigration detention centres, so that they are run like prisons.¹⁰⁹

- 3.102 There was also some concern about the differentiation of responsibility, in that a private institution servicing a non-punitive, administrative detention environment should aim to provide a service with a compassionate and humanitarian approach and without an underlying motivation 'to provide maximum returns to shareholders.'¹¹⁰

- 3.103 Rural Australians for Refugees, the Refugee Council of Australia (RCA) and the PIAC were all of the opinion that the privatisation of immigration detention facilities had impeded accountability and transparency.¹¹¹

- 3.104 The Australian Council of Heads of Schools of Social Work were also concerned about the accountability of detention services managed by a private organisation stating:

The privatisation of detention centres and the imposition of fines for failing to meet standards created a conflict of interest for both the private operators and the department to accurately report on conditions in detention.¹¹²

- 3.105 The Brotherhood of St Laurence was of the opinion that outsourcing the management of immigration detention centres blurred the lines of responsibility stating:

108 A Just Australia, submission 89, 27 August 2008, p 18.

109 Law Institute of Victoria, Liberty Victoria and The Justice Project, submission 127, 3 September 2008, p 24

110 Flesch J, submission 12, 27 August 2008, p 2; Rural Australians for Refugees, submission 91, 27 August 2008, p 4.

111 Rural Australians for Refugees, submission 91, 27 August 2008, p 4; Refugee Council of Australia, submission 120, 3 September 2008, p 4; Public Interest Advocacy Centre, submission 84, 27 August 2008, p 7.

112 Australian Council of Heads of Schools of Social Work, submission 119, 3 September 2008, p 7.

...the practice of outsourcing the operation and day-to-day management of immigration detention centres through public private partnerships significantly obscured the division of responsibility for upholding human rights standards and international law with regards to detention.¹¹³

- 3.106 The majority of organisations listed above were of the view that detention services should not be privatised.¹¹⁴

Immigration detention standards

- 3.107 Another concern brought to the attention of the Committee was that whilst it was the intent of immigration detention services that people in immigration detention are treated humanely, the requirement was not codified and failed to provide people in detention with access to effective remedies for any alleged breaches of their human rights.¹¹⁵

- 3.108 In particular, the PIAC were concerned that the Standards were not legislated, stating:

While the IDS may help to ensure that people in immigration detention are treated with respect and dignity, they are not enshrined in legislation and do not provide people in immigration detention with access to effective remedies for alleged breaches of their human rights.¹¹⁶

- 3.109 Both the AHRC and AJA agreed that the Standards should be legislated.¹¹⁷ AJA stated:

The conditions of detention are also something that needs codification because we have the immigration detention standards, but there is no codification of the conditions of detention as there is in the state prison system, so we have the situation where a convicted criminal has more protection for the conditions in which he is kept than a vulnerable asylum seeker.¹¹⁸

- 3.110 The PIAC also held the opinion that there was no public scrutiny of the Standards, stating:

113 Brotherhood of St Laurence, submission 92, 27 August 2008, p 4.

114 Public Interest Advocacy Centre, submission 84, 27 August 2008, p 4; Australian Council of Heads of Schools of Social Work, submission 119, 3 September 2008, p 7; Rural Australians for Refugees, submission 91, 27 August 2008, p 5.

115 A Just Australia, submission 89, 27 August 2008, p 12.

116 Public Interest Advocacy Centre, submission 84, 27 August 2008, p 18.

117 Australian Human Rights Commission, submission 99, 27 August 2008, p 28; Gauthier K, A Just Australia, *Transcript of evidence*, 24 October 2008, p 14.

118 Gauthier K, A Just Australia, *Transcript of evidence*, 24 October 2008, p 14.

We note that in early 2006, the Detention Services Contract between GSL and DIMA and the accompanying Immigration Detention Standards (IDS) were available through the Department's website, thereby allowing the media and members of the public to scrutinise the private administration of Australia's detention centres to some extent. However, we have recently been informed by DIAC that the Contract and the IDS are no longer publicly available. It is therefore impossible to determine whether the "new performance monitoring system" announced by DIAC in October 2006 now forms part of the contract with GSL, and if so, how it operates. It is also not clear whether any of the IDS have changed, and what role they play, if any, in the contract. Thus, there is no means of assessing the degree to which management and operation of immigration detention facilities protects detainees' rights, complies with Australia's international obligations or accords with community standards.¹¹⁹

- 3.111 The joint submission from Dr Hitoshi Nasu, Mr Matthew Zagor, and Associate Professor Simon Rice also noted that it was hard to assess the service providers adherence to the Standards stating:

...the [Standards] are a non-binding policy, and are impossible to enforce and difficult to access: a search of Department's website merely brings up a description of the standards, not the standards themselves.¹²⁰

Inadequate health services

- 3.112 In its submission to the inquiry, the Commonwealth Ombudsman highlighted that people in detention had raised a number of concerns about their health services, stating:

The Ombudsman's office has received a number of complaints about delays in accessing doctors. We have also received complaints following a decision by nursing staff that a referral to a doctor is not necessary...we would observe that the community standard would not normally involve a process whereby a nurse could determine whether a person should receive attention from a doctor.¹²¹

- 3.113 More specifically, the Commonwealth Ombudsman provided an example of health services provided at the Villawood immigration detention centre:

119 Public Interest Advocacy Centre, submission 84, 27 August 2008, pp 8-9.

120 Nasu H, Zagor M, and Rice S, submission 76, 27 August 2008, p 4.

121 Commonwealth Ombudsman, submission 126, 3 September 2008, p 24.

We have received a number of complaints from detainees in Villawood IDC concerning what they considered to be changes in their medication without consultation with a doctor. On occasion, this apparent change in medication has resulted in disputes with the medical staff distributing the medication. After investigating this issue, we suggested that it would be more in keeping with community standards if detainees were given written details of their prescribed medication and for doctors to provide an updated advice to a detainee if the medication does change.¹²²

3.114 The NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors also provided evidence of inadequate health services in immigration detention facilities, noting:

Counsellors know of cases of asylum seekers being told to drink water for toothache or being given paracetamol only when ill, and of a client with a potentially serious gastro-intestinal complaint treated only with Imodium, with no checks performed.¹²³

3.115 The RCA has also reported that it has received a number of concerns about health services provided at immigration detention facilities in the following areas:

- child health and immunisations
- dental services
- sexual and reproductive health
- preventative health, and
- mental health, including the impact of torture and trauma.¹²⁴

3.116 The RCA noted that 'there have been, at times, failures to provide adequate levels of or appropriate medical, dental and mental health care.'¹²⁵

3.117 The Hotham Mission Asylum Seeker Project pointed out that individuals placed in community detention may 'not know or understand the health services that are available to them and assumes they have no right to any medical assistance in Australia.'¹²⁶

122 Commonwealth Ombudsman, submission 126, 3 September 2008, p 25.

123 NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors, submission 108, 27 August 2008, p 18.

124 Refugee Council of Australia, Australia's refugee and humanitarian program 2008-09, *Community views on current challenges and future directions*, 2008, p 46.

125 Refugee Council of Australia, submission 120, 3 September 2008, p 4.

126 Hotham Mission Asylum Seeker Project, submission 93, 27 August 2008, p 16.

- 3.118 Mr Guy Coffey and Mr Steven Thompson, who have experience in psychologically assessing and treating people held in immigration detention centres, were of the opinion that DIAC had not ‘undertaken or permitted a systematic investigation of the psychological well-being of persons detained in immigration detention centres.’¹²⁷ Mr Coffey and Mr Thompson added:
- The inadequacies in mental health service delivery were a product of the attempt to create stand alone private mental health services for immigration detention centres. Although contractually the private services were obliged to draw on external services as required, the detention mental health services acted autonomously and external State facilities were poorly integrated into treatment approaches.¹²⁸
- 3.119 Mr Coffey and Mr Thompson were also of the opinion that existing mental health services, and in particular decisions regarding mentally unwell detainees, have lacked independence from the influence of the priorities of detention managers and DIAC.¹²⁹
- 3.120 The Australian Federation of AIDS Organisations Inc. acknowledged that significant improvements had been made to the delivery of health services, but that more needs to be done.¹³⁰
- 3.121 The Australian Psychological Society Ltd agreed that DIAC had ‘developed good practice standards of health care for people in detention, but believe that people are better serviced by regular health services.’¹³¹
- 3.122 Overall, the view put forward by most professional groups was that detainees should have high quality medical, mental, and health services irrespective at what facility they are being housed.
- 3.123 The recommendations put forward by these groups called for a coordinated, better resourced, specialised detention health service provider that was in direct contract with the Australian Government.¹³²

127 Coffey G and Thompson S, submission 128, 3 September 2008, p 7.

128 Coffey G and Thompson S, submission 128, 3 September 2008, p 16.

129 Coffey G and Thompson S, submission 128, 3 September 2008, p 18.

130 Australian Federation of AIDS Organisations Inc., submission 94, 27 August 2008, p 1.

131 Australian Psychological Society Ltd, submission 105, 27 August 2008, p 2.

132 Refugee Council of Australia, *Australia’s refugee and humanitarian program 2008-09, Community views on current challenges and future directions*, 2008, p 46; Refugee and Asylum Seeker Health Network, submission pp 1-4; Australian Federation of Aids Organisations Inc, submission 94, 27 August 2008, pp 3-4.

Independent immigration detention health review commission

- 3.124 In its submission to the inquiry, the Forum of Australian Services for Survivors of Torture and Trauma (FASSTT) noted that the Palmer Report 'documented significant deficiencies in a range of areas including access to and adequacy of appropriate health services.'¹³³
- 3.125 The FASSTT added:
- A key Palmer Inquiry finding that has not been implemented is that there is a need for an independent body to audit the delivery of health services to people detained in immigration detention facilities. The Inquiry concluded that 'an expert body specifically dealing with health matters is required to complement and strengthen (the) efforts of bodies such as the Immigration Detention Advisory Group and the Commonwealth Ombudsman.' It recommended the establishment of an 'Immigration Detention Health Review Commission' which would among other things 'initiate reviews and audits of health care standards and the welfare of immigration detainees.' In order to ensure it was able to undertake its functions effectively, Palmer recommended that the body have a statutory basis and be staffed 'with a core of experienced people with relevant skills.'¹³⁴
- 3.126 DIAC agreed that the recommendation to establish an independent immigration detention health review commission was not implemented and that 'a decision was made to establish the Detention Health Advisory Group with nominees from key Australian health bodies and that that would form the basis of the advisory structure.'¹³⁵
- 3.127 However, DeHAG advised that it was not set up to discharge the responsibilities of the immigration detention health review commission recommended by the Palmer Report, and that DeHAG was an advisory body that has no role in monitoring and no statutory right of entry to detention facilities.¹³⁶
- 3.128 The DeHAG was also of the view that the Palmer recommendation should be implemented and that 'such a body remains essential'.¹³⁷

133 Forum of Australian Services for Survivors of Torture and Trauma, submission 115, 27 August 2008, p 13.

134 Forum of Australian Services for Survivors of Torture and Trauma, submission 115, 27 August 2008, p 14.

135 Metcalfe A, Department of Immigration and Citizenship, *Transcript of evidence*, 24 September 2008, p 11.

136 Minas H, Detention Health Advisory Group, *Transcript of evidence*, 11 September 2008, p 43.

137 Minas H, Detention Health Advisory Group, *Transcript of evidence*, 11 September 2008, p 40.

Lack of services on Christmas Island

- 3.129 In contrast to support services available to people in detention on mainland Australia, the geographical remoteness of Christmas Island provides a challenge to the detention service provider, other organisations that provide services to detainees (eg non-government organisations), and the local community.
- 3.130 Collectively, many submissions to the inquiry raised concerns about the inadequacy of mental health and other services on Christmas Island.¹³⁸
- 3.131 In particular, the AHRC noted that it had concerns about the availability of health care for detainees on Christmas Island stating that ‘some medical needs cannot be met on the island at all.’¹³⁹
- 3.132 The Forum of Australian Services for Survivors of Torture and Trauma and the AHRC both expressed significant concern about people in immigration detention on Christmas Island being able to access adequate medical, psychiatric and counselling services.¹⁴⁰
- 3.133 In its 2008 *Immigration Detention Report*, the AHRC stated:
- There is currently almost no local capacity to meet the mental health or psychological needs of immigration detainees on the island. The local health service has only one part-time psychologist. There is no suitable facility for accommodating a detainee in need of admission to a psychiatric facility.¹⁴¹
- 3.134 The AHRC added that ‘the local community is not large enough or sufficiently resourced to be able to provide adequate psychological, cultural or religious support to any significant number of immigration detainees.’¹⁴²
- 3.135 Michelle Dimasi, Social Researcher at the Institute for Social Research, Swinburne University, agreed that the small local community would pose a resourcing issue, stating:

Volunteers from these groups are willing to travel to places like Woomera or Maribyrnong to support asylum seekers. As

138 Uniting Church in Australia, submission 69, 27 August 2008, p 14; Forum of Australian Services for Survivors of Torture and Trauma, submission 115, 27 August 2008, p 19; Amnesty International, submission 132, 17 September 2008, pp 11, 18.

139 Australian Human Rights Commission, *Immigration detention report – December 2008*, p 73.

140 Forum of Australian Services for Survivors of Torture and Trauma, submission 115, 27 August 2008, p 18; Australian Human Rights Commission, *Immigration detention report – December 2008*, p 73.

141 Australian Human Rights Commission, *Immigration detention report – December 2008*, p 73.

142 Australian Human Rights Commission, *Immigration detention report – December 2008*, p 73.

Christmas Island is extremely remote and an airfare from Perth costs over \$2000, asylum seeker volunteer support is left up to the Christmas Island community. While the community is well experienced in providing support reliance on this community could easily result in "volunteer burnout" as the island has only 1400 residents.¹⁴³

3.136 The Uniting Church in Australia was also of the view that the small local community was being placed under undue pressure to support detainees. The Uniting Church in Australia noted other concerns including that:

- church and NGO staff, who provide a wide array of legal and advocacy services as well as casework and support to asylum seekers on the mainland, would be hindered in carrying out these functions¹⁴⁴
- the isolation of the Christmas Island detention centre makes enabling access for asylum seekers to sufficient medical and psychological care expensive, time consuming and traumatic for asylum seekers and their families,¹⁴⁵ and
- Providing asylum seekers the treatment necessary for their often complex medical needs would require flights to the mainland, which separates already extremely vulnerable families and is extremely costly. Establishing and providing these services on Christmas Island would also be incredibly expensive.¹⁴⁶

Training of personnel

3.137 A key theme identified during the course of this inquiry was that there was a lack of appropriate training for staff working at immigration detention facilities.

3.138 Pauline Lovitt, employed by GSL as Pastoral Care Worker between March and June 2008, stated that 'management appears to not have the skills or understanding of planning and implementing programs.'¹⁴⁷

3.139 The AHRC, in its 2008 *Immigration Detention Report*, noted that detainees raised concerns about a lack of cultural respect shown to detainees by GSL staff.¹⁴⁸

143 Dimasi M, submission 52, 27 August 2008, p 5.

144 Uniting Church in Australia, submission 69, 27 August 2008, p 14.

145 Uniting Church in Australia, submission 69, 27 August 2008, p 14.

146 Uniting Church in Australia, submission 69, 27 August 2008, pp 14-15.

147 Lovitt P, submission 3, 27 August 2008, p 8.

148 Australian Human Rights Commission, *Immigration detention report – December 2008*, p 52.

3.140 A key recommendation from the AHRC *Immigration Detention Report* was that all current and future staff should be provided with adequate training. It further outlined that:

Staff training and performance management procedures should ensure that all staff treat immigration detainees in a humane manner, with respect for their inherent dignity, and with fairness and cultural sensitivity.¹⁴⁹

3.141 In a joint report prepared for DIAC, the Centre for Forensic Behavioural Science of Monash University and Victorian Institute of Forensic Mental Health highlighted the importance of ongoing training for staff of the detention service provider, given the emotionally charged, often sensitive situations:

Much more emphasis needs to be placed on staff training. Staff require an enhanced level of training and understanding regarding matters pertaining to cultural awareness, mental health state, distress, and indices of suicidal ideation and self harming behaviour. This needs to be delivered in an ongoing format, with further, ongoing specialist support and supervision by a senior independent mental health clinician.¹⁵⁰

3.142 Similarly, the following comments were provided by the NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors in its submission to the inquiry:

While recruitment of staff with a security background may be suitable for working with detainees with criminal backgrounds, it is not suitable for working with asylum seekers, particularly those who may have received harsh treatment by police and the military in their country of origin. Employment of people with health and welfare backgrounds, who have a professional background in or can be provided with training in working with refugees (including torture and trauma issues), cultural awareness and mental health issues would be preferable.¹⁵¹

149 Australian Human Rights Commission, *Immigration detention report – December 2008*, p 6.

150 Monash University and Victorian Institute of Forensic Mental Health, Centre for Forensic Behavioural Science, Final Report, *Review of suicide and selfharm instrument and protocol*, Prepared for Department of Immigration and Citizenship, 2008, p 6.

151 NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors, submission 128, 3 September 2008, p 21.

Additional community comments on detention services

- 3.143 In addition to the concerns raised above, the Committee heard evidence from a number of organisations recommending that:
- detainees be provided with greater access to education programs, most notably English classes, and other stimulating activities¹⁵²
 - detainees be provided with appropriate spaces for worship, prayer and meditation and receive a diet in keeping with their religion,¹⁵³ and
 - detainees be provided with culturally appropriate food.¹⁵⁴

Committee conclusions

Review of detention service contracts

- 3.144 As noted earlier in this chapter, DIAC announced that Serco, GSL and IHMS had all successfully tendered to provide services in immigration detention facilities over the next five years. The contracted services will be provided under a new SDM.
- 3.145 It is evident that there have been some serious issues relating to the provision of immigration detention services across all immigration detention facilities.
- 3.146 In particular, professional groups, stakeholders, advocacy groups and individuals within the community have voiced their concerns over the

152 Blue Mountains Refugee Support Group, submission 1, 27 August 2008, p 1; Lovitt P, submission 3, 27 August 2008, p 8; Bridge for Asylum Seekers Foundation, submission 5, 27 August 2008, p 2; Bishop I, submission 8, 27 August 2008, p 1; Wallace A, submission 13, 27 August 2008, p 10; Gannon S, submission 22, 27 August 2008, p 3; NetAct, submission 27, 27 August 2008, p 4; The Migrant Health Service, submission 33, 27 August 2008, p 4; Walker L, submission 66, 27 August 2008, p 6; Australian Human Rights Commission, submission 99, 27 August 2008, p 9; NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors, submission 108, 27 August 2008, p 18.

153 Uniting Church in Australia, submission 69, 27 August 2008, p 15; Brotherhood of St. Laurence, submission 92, 27 August 2008, p 22; Centre for Human Rights Education, submission 98, 27 August 2008, p 7; NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors, submission 108, 27 August 2008, p 18; Forum of Australian Services for Survivors of Torture and Trauma, submission 115, 27 August 2008, p 31; Refugee Council of Australia, submission 120, 3 September 2008, p 10.

154 Eggins, N L, submission 2, 27 August 2008, p 1; Labor For Refugees (New South Wales), submission 55, 27 August 2008, p 3; NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors, submission 108, 27 August 2008, p 22; The Justice Project Inc., submission 127, 3 September 2008, p 33; Petersen M and Gould N, submission 138, 26 November 2008, p 4.

privatisation of detention services, immigration detention standards and inadequate health services provided to detainees on Christmas Island. There must be a mechanism to ensure that any additional criticisms are dealt with in an appropriate and timely manner.

- 3.147 The Committee, and many other organisations, continue to have some reservations about DIAC's capacity to effectively achieve the necessary shift to a risk-averse framework where the onus is on establishing the need to detain. The primary concern of immigration detention authorities should be one of care for the well-being of detainees.
- 3.148 It is also equally important that the service providers continue to have a high level of accountability to the Australian Government.
- 3.149 The Committee therefore recommends that DIAC engage an independent auditor, the Australian National Audit Office, to undertake a full review of the level of service provided in immigration detention facilities to ensure that the highest standard of service is maintained.
- 3.150 The review should also focus on:
- the service providers adherence to DIAC's service delivery model and the immigration detention standards, or their current equivalent
 - whether the services provided are cost effective
 - the level of service provided to detainees.
- 3.151 The review should commence within the next three years and any findings should be responded to by DIAC and incorporated into the contracts for either the next re-tender or renewal process.

Recommendation 6

3.152 **The Committee recommends that the Department of Immigration and Citizenship engage an independent auditor, the Australian National Audit Office, to undertake a full review of the current immigration detention service providers and immigration detention facilities within the next three years having regard to:**

- **the service providers' adherence to the Department of Immigration and Citizenship's service delivery model and the immigration detention standards, or their current equivalent**
- **whether the services provided are cost effective**
- **the level of service provided to detainees.**

The Committee also recommends that the review feed into the contracts for either the next re-tender or renewal process.

Adequate training of personnel

3.153 The Committee reaffirms its view that people in immigration detention are exposed and vulnerable. As outlined in the first two reports on immigration detention in Australia, the Committee shares the view of many contributors to the inquiry, and best articulated by the AHRC, that:

...detainees are not held as criminal suspects or because they represent a risk to community safety, the most lenient detention regime is appropriate. The primary concern of immigration detention authorities should be one of care for the well-being of detainees.¹⁵⁵

3.154 The Committee therefore considers that it is essential that all people in immigration detention are treated humanely and with respect and dignity. It is clear that this has not always been the case in the past.

3.155 The Committee acknowledges that over the past few years, DIAC and the detention service provider have sought to address the numerous deficiencies in the provision of immigration detention services through implementation of the Standards, the SDM and the announcement of the new detention service providers.

3.156 However, the Committee is acutely aware that the detention service providers can only be as good as the staff that provide the service.

155 Australian Human Rights Commission, submission 99, 27 August 2008, p 41.

- 3.157 As such, it is the strong view of this Committee that staff, either employed directly or contracted by the detention service provider, are provided with a compulsory range of appropriate training that focuses on the vulnerability of people in such environments.
- 3.158 The training must be ongoing and all staff should be assessed as competent in the areas of cultural appropriateness and sensitivity, basic counselling and first aid. All staff should also be trained in how to deliver appropriate security measures within a non-punitive detention environment.
- 3.159 The Committee recommends that the training program be implemented by DIAC in an expedited manner.

Recommendation 7

- 3.160 **The Committee recommends that the Department of Immigration and Citizenship introduce a mandatory ongoing training program for all staff of the immigration detention service provider, ensuring that all staff dealing directly with people in immigration detention are assessed as competent in:**
- **cultural appropriateness and sensitivity**
 - **basic counselling skills**
 - **first aid**
 - **managing conflict through negotiations**
 - **the provision of appropriate security measures.**

Immigration Detention Standards

- 3.161 In line with its recommendations from its first and second report on immigration detention, the Committee concludes that there are opportunities to improve the accountability and transparency of DIAC's operations.

- 3.162 The SDM states that DIAC is committed to being responsive and accessible and delivering services to prescribed and publicly available standards.¹⁵⁶
- 3.163 However, the Standards are not available from DIAC's website and it is unclear as to whether they have been incorporated into the new contracts or how DIAC monitors the performance of each service provider against the Standards.
- 3.164 The Committee requested a copy of the new tender documents that were released on 24 May 2007, which purportedly contain the Standards. The Committee was advised that the tender documents are commercial-in-confidence and thus not for public release.
- 3.165 The Committee is of the firm view that the general public, and more importantly people in immigration detention, should be provided with access to the Standards, or the current equivalent.
- 3.166 In accordance with the seven values underpinning Australia's detention policy, this will ensure that people in immigration detention have a greater understanding of the services afforded to them and provides an opportunity for detainees to comment on the appropriateness of the accommodation and the services provided.
- 3.167 In addition, the Committee, and many other groups, continue to have some reservations about the capacity of DIAC to monitor the performance of each immigration detention service provider against the SDM and the Standards. The SDM is the high level framework that identifies the values and the behaviours required for the detention service providers. The Standards provide details about the quality of services that would be expected in immigration facilities at the delivery level.
- 3.168 It is also equally important that service providers continue to have a high level of accountability to the Australian Government.
- 3.169 Accordingly, the Committee recommends that DIAC monitor and report on how each immigration detention service provider adheres to the Standards, or the current equivalent. This report, which should be undertaken annually, can be included in the DIAC's annual report.

156 Department of Immigration and Citizenship, 'Service Delivery Model', viewed on 1 June 2009 at <http://www.immi.gov.au/about/contracts-tenders-submissions/detention-services/service-delivery-model.htm>.

Recommendation 8

3.170 **The Committee recommends that the Department of Immigration and Citizenship publish the detention service standards, or the current equivalent, on its website and provide a copy of the detention service standards or the current equivalent, translated into appropriate languages, to all current and future detainees.**

The Committee also recommends that the Department of Immigration and Citizenship should report on the performance of each immigration detention service provider against the immigration detention standards, or the current equivalent, which should be included in the Department's annual report.

Health services on Christmas Island

3.171 As noted earlier in this chapter, the geographical remoteness of Christmas Island provides a challenge to the detention service provider, other organisations that provide services to detainees, and the local community.

3.172 In particular, many submissions to the inquiry raised concerns about the inadequate physical and mental health services on Christmas Island noting that some medical needs cannot be met on Christmas Island at all.¹⁵⁷

3.173 The Committee agrees with the AHRC's view that the local community on Christmas Island is not large enough or sufficiently resourced to be able to provide adequate health support to any significant number of immigration detainees.¹⁵⁸

3.174 It is the Australian Government's responsibility to ensure that all people in immigration detention are treated impartially and humanely. People in immigration detention in offshore facilities such as Christmas Island should be provided the same level of service as those detained at immigration detention facilities in Australia.

3.175 The Committee recommends, therefore, that the Australian Government provide and maintain appropriate physical and mental health facilities on Christmas Island.

157 Australian Human Rights Commission, *Immigration detention report – December 2008*, p 73.

158 Australian Human Rights Commission, *Immigration detention report – December 2008*, p 73.

Recommendation 9

- 3.176 **The Committee recommends that the Australian Government maintain appropriate physical and mental health facilities on Christmas Island commensurate with services provided at other immigration detention centres.**