



## Australian Government

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### Department of Immigration and Citizenship

## Response to the Australian Human Rights Commission Statement on Immigration Detention in Villawood

### Introduction

The Department of Immigration and Citizenship (DIAC) welcomes the opportunity to respond to the Australian Human Rights Commission (AHRC) public statement on *Immigration Detention at Villawood*.

DIAC places a high value on the work of the AHRC and appreciates the AHRC's substantial recognition of the consistent efforts of staff supporting the management of clients in Villawood Immigration Detention Centre (IDC).

The AHRC has outlined a number of key issues related to Immigration Detention in Villawood. DIAC comments in response to these recommendations are outlined below.

### **Recommendation 1: The Australian Government should end the current system of mandatory and indefinite immigration detention.**

**The Australian Government should implement reforms it announced in 2008 under which immigration detention is to be used as a last resort and for the shortest practicable period, people are to be detained in the least restrictive environment appropriate to their individual circumstances, and there is a presumption that people will be permitted to reside in the community unless they pose an unacceptable risk.**

**The need to detain should be assessed on a case-by-case basis taking into consideration individual circumstances. A person should only be held in an immigration detention facility if they are individually assessed as posing an unacceptable risk to the Australian community and that risk cannot be met in a less restrictive way. Otherwise, they should be permitted to reside in community-based alternatives while their immigration status is resolved.**

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people our business

6 Chan Street Belconnen ACT 2617

PO Box 25 BELCONNEN ACT 2616 • Telephone: 02 6264 1111 • Fax: 02 6225 6970 • [www.immi.gov.au](http://www.immi.gov.au)

The Australian Government remains committed to all measures to prevent, deter and enforce compliance to preserve the integrity of Australia's migration program, while treating clients humanely. The government considers mandatory immigration detention an essential component of strong border control. The government continues to see the need to retain the system of mandatory detention, along with strong border security measures, to ensure the orderly processing of migration to our country.

It remains the government's position that indefinite or otherwise arbitrary detention is not acceptable and the length and the conditions of detention are subject to regular review. Continuing detention is dependent upon factors such as management of health, identity and security risks and ongoing assessments of risks to the community or the integrity of Australia's migration programs. These assessments are completed as expeditiously as possible.

We note the Australian Human Rights Commission's (AHRC) previous position that a legitimate purpose of immigration detention can be for the purposes of conducting security checks. The screening mechanisms in place ensure that a balance is met between the need to protect Australia from people who may pose a risk to our national security, and Australia meeting its obligations to those who are found to be in need of protection.

**Recommendation 2: The Australian Government should comply with its international human rights obligations by providing for a decision to detain a person, or a decision to continue a person's detention, to be subject to prompt review by a court. To comply with article 9(4) of the ICCPR, the court must have the power to order the person's release if their detention is not lawful. The lawfulness of their detention is not limited to domestic legality – it includes whether the detention is compatible with the requirements of article 9(1) of the ICCPR, which affirms the right to liberty and prohibits arbitrary detention.**

DIAC notes the AHRC's view that Australia is not complying with its international obligations in this regard and that the AHRC has cited the views of the United Nations Human Rights Committee in *A v Australia*<sup>1</sup>. The AHRC may be aware that Australia disagreed with that Committee's interpretation of Article 9(4) of the International Covenant on Civil and Political Rights (ICCPR) and expressed to the Committee its view that under that Article, judicial review needs to be available to consider the lawfulness of detention in the context of domestic law, rather than issues of arbitrariness.

Nevertheless, the government is considering ways of improving the review of the appropriateness of detention.

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<sup>1</sup> *A v Australia* [1997] UNHRC 7; CCPR/C/59/D/560/1993 (30 April 1997)

Senior Officer and Ombudsman's reviews consider the appropriateness of the person's detention, their detention arrangements and other matters relevant to their ongoing detention and case resolution.

Senior officer reviews occur every six months - at three months initially, and then if a client is still in detention at nine, 15 and 21 months and so on, for as long as the client remains in detention. These reviews fall between the Ombudsman's six-month reporting periods; the Ombudsman conducts an 'Own motion enquiry' into all clients detained at 6, 12 and 18 months after initial detention. From the two-year mark of a client's detention the Commonwealth Ombudsman has a statutory obligation under the *Migration Act 1958* to investigate and to report to the Minister every six months a client remains in detention. The Minister is obliged to table all Ombudsman reports in Parliament.

**Recommendation 3: DIAC and the Minister for Immigration should make greater use of community-based alternatives to holding people in immigration detention facilities for prolonged and indefinite periods. This should include alternatives to detention such as bridging visas, and alternative forms of detention such as Community Detention.**

**DIAC and the Minister for Immigration should make full use of Community Detention, particularly for people who meet the priority criteria under the Residence Determination Guidelines. This includes children and accompanying family members, people who may have experienced torture or trauma, people with significant physical or mental health concerns and people whose cases will take a considerable period to substantively resolve.**

On 18 October 2010, the Australian Government announced an expansion of its existing Residence Determination (community detention) program to progressively move significant numbers of children and vulnerable family groups out of immigration detention facilities and into community-based accommodation<sup>2</sup>. Whilst Residence determination is not a visa grant, it allows children and their families to move about in the community under the care of the Commonwealth and its Non-Government Organisation (NGO) partners.

As at 18 May 2011, the Minister had approved 799 clients (including 401 children) for Residence Determination, consistent with the terms of the government's 18 October 2010 announcement.

As at this date, 604 clients (including 290 children) are residing in community detention. The remaining clients are either in the process of being transferred into their community-based accommodation or have received protection visas either prior to, or after, being transferred into community detention.

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<sup>2</sup> Minister for Immigration and Citizenship, *Joint Media Release with the Prime Minister*, 18 October 2010, viewed 11 February 2011

<http://www.minister.immi.gov.au/media/cb/2010/cb155484.htm>.

The capacity for this to occur is limited by the availability of suitable accommodation and support services in the community.

The Australian Red Cross is the lead agency contracted by the department to deliver community detention. The Australian Red Cross are working with other NGOs, including church groups to source accommodation without putting extra pressure on housing that is already in demand from vulnerable Australians.

While placement of minors and their accompanying families in community-based accommodation remains the government's priority, there will be a continued need to accommodate them and their families in low to medium-security facilities and alternative places of detention (APOD) whilst community-based accommodation is being sourced.

**Recommendation 4: Until recommendations 1 and 2 are implemented, the Australian Government should avoid the prolonged detention of asylum seekers by complying with its *New Directions in Detention* policy under which detention of asylum seekers is for the purpose of conducting health, identity and security checks. The security check should not be interpreted as requiring a full ASIO security assessment for each individual before they are released from an immigration detention facility. Rather, the security check should consist of a summary assessment of whether an individual would pose an unacceptable risk to the Australian community. That assessment should be made when the individual is taken into immigration detention, or as soon as possible thereafter.**

Beginning in March 2011, the department implemented a new security indicator triage method developed by the Australian Security Intelligence Organisation (ASIO). All clients assessed under the new security methodology are clients found to satisfy the definition of refugee set out in Article 1A of the United Nations' *Convention and Protocol Relating to the Status of Refugees*.

DIAC staff using the new methodology are trained by ASIO to assess several security indicators particular to client cohort nationalities.

During March and April, over 1200 clients were triaged using the new methodology and indicators prepared by ASIO. Of these, around 200 (17%) clients were referred to ASIO for further scrutiny. Over 1000 (83%) other clients did not match a security indicator and they have joined the Protection Visa assessment pathway.

DIAC is now working to prepare robust and resilient operating procedures to streamline the security indicator triage function. It is anticipated 'same day service' will be possible for many clients assessed under the new system.

**Recommendation 5: The Australian Government should ensure that durable solutions are provided for individuals who have received adverse security assessments from ASIO, and that they are removed from immigration detention facilities as soon as possible.**

The government is actively exploring durable solutions for individuals with adverse security assessments that are consistent with Australia's international obligations, including its *non-refoulement* obligations. These solutions may include resettlement in a third country or safe return to their country of origin where country circumstances allow, where the risk of relevant harm occurring no longer exists or where reliable and effective assurances can be received from the home country. However, the government considers that it is not appropriate for individuals who have received an adverse security assessment to live in the Australian community while such solutions are sought.

**Recommendation 6: People whose visas have been cancelled under section 501 of the Migration Act should not automatically be categorised as posing an unacceptable risk to the Australian community. They should only be held in an immigration detention facility if they have been individually assessed as posing an unacceptable risk and that risk cannot be met in a less restrictive way. Consideration of appropriate alternatives should begin as soon as DIAC becomes aware that an individual is likely to have their visa cancelled and be taken into immigration detention.**

An individual who has had a visa cancelled or refused under section 501 of the Act is not precluded from having their case considered by the Minister under section 197AB of the Act for a possible community detention placement.

**Recommendation 7: The redevelopment of Villawood IDC should be undertaken as soon as possible. It should include the demolition of Blaxland compound, ensure that people are detained in the least restrictive form of detention possible, and address the infrastructure concerns raised by the Commission in its *2008 Immigration detention report*.**

The Department of Finance and Deregulation (Finance) is managing the Villawood IDC redevelopment project on behalf of DIAC. The project is subject to the governance requirements of publicly funded Commonwealth projects including review by the Parliamentary Standing Committee on Public Works, heritage referral to the Department of Sustainability, Environment, Water, Populations and Communities and examination by Finance's Gateway Review process. These approvals are being undertaken in a timely manner and the project is currently running on time and on budget.

DIAC is also committed to engaging stakeholders such as the AHRC in an iterative design process to ensure the new facility not only reflects the 2008 and 2009 concerns raised by the AHRC, but that it is able to flexibly respond to evolving immigration policy over the next 50 years.

The provision of \$186.7 million to extensively redevelop Villawood IDC, announced by the government as part of the 2009-10 Budget, includes funding for new facilities to replace Blaxland compound.

**Recommendation 8: DIAC should develop a written policy setting out the decision-making process, criteria and rationale for placing a person in the annexe in Blaxland compound at Villawood IDC. The policy should include requirements for each person's placement to be reviewed on a regular basis and for information to be provided to the person about the outcome of that review and the reasons for the decision. The policy should mandate an individual management plan that specifies the purpose of the placement and the strategies staff will use to contain the risk. The annexe should not be used for managing people who have been involved in violent or aggressive behaviour at the same time as it is being used to monitor people who have been placed on observation because they are at risk of suicide or self-harm.**

The department's draft 'Safe use of more restrictive detention' policy (which is currently under review by the Detention Health Advisory Group [DeHAG] Mental Health Sub-Group) will assist in guiding decisions in relation to placing people in the Blaxland Dormitory 3 Annexe or the Murray Block.

The department is of the view that, in normal circumstances, the Client Placement Review (CPR) managed by the Compliance and Case Resolution Division (CCRD) is the appropriate means of determining a client's placement. The 'Safe use of more restrictive detention' policy will assist in informing decisions made under the CPR.

Where concerns exist as to the self-harm or suicide risk state of a client, the department's contracted Health Services Provider, International Health and Medical Services (IHMS), through the Prevention Committee and/or the Psychological Support Program (PSP) Committee at Villawood IDC, will advise on appropriate accommodation placement, based on clinical factors.

The PSP calls for a safe environment where clients can be monitored and engaged with. Currently, Blaxland and Murray are the only sites within Villawood IDC which allow this type of observation. As a general rule, unless the degree of risk necessitates accommodating an individual in a highly safe and secure environment, every effort is made to accommodate the person in their regular living environment.

**Recommendation 9: An independent body should be charged with monitoring the provision of physical and mental health services in immigration detention, and adequate resources should be allocated to that body to fulfil this function.**

The DeHAG and its Mental Health Sub-Group provide the department with independent expert advice to design, develop, implement and monitor health and mental health care services and policies for people in immigration detention. The department works with the DeHAG and other key health stakeholders to improve the physical and mental health of people under our care.

The department has recently contracted an external provider to assist in the review of clinical governance processes. This includes the development of a health audit tool and a pilot clinical review of health services provided by IHMS on Christmas Island. Following the finalisation of this review, the department will investigate the option of conducting similar clinical reviews at other immigration detention facilities.

**Recommendation 10: In relation to the provision of physical and mental health services, DIAC should:**

- **Consider increasing the staffing level of the IHMS physical health service and the IHMS mental health service at Villawood IDC.**
- **Require at least a minimal IHMS presence at Villawood IDC twenty four hours per day, seven days per week.**
- **Overhaul the clinical governance framework for the delivery of mental health services to detainees within Villawood IDC and across the detention network. This would involve a consultant psychiatrist overseeing mental health service delivery, providing clinical supervision of staff and accepting clinical responsibility for the provision of clinical care.**
- **Amend the IHMS contract to incorporate active outreach work in the accommodation compounds at Villawood IDC, and address this issue in a consistent way across the detention network.**
- **Require that IHMS provide at least a minimal onsite presence at Sydney IRH.**

Clients in immigration detention are provided access to health care at a standard comparable to that available to the general Australian community.

The unique circumstances of clients in immigration detention, including at Villawood IDC, typically necessitates a high proportion of physical and mental health services and resources.

As at 30 April 2011, there were seven full-time mental health staff working at Villawood IDC – a Mental Health Team Leader (psychologist), three additional psychologists, a mental health nurse and two counsellors. An additional counsellor is also employed by IHMS on a casual basis, and provides services as required. In addition to these services, a consultant Psychiatrist is also employed by IHMS on a casual basis and attends Villawood IDC as required.

While the department believes that IHMS staffing at Villawood IDC recognises and reflects the specific needs of clients, we are constantly monitoring health service provision to ensure this remains appropriate to client needs. This recommendation will be considered in the context of this ongoing review process.

With regards to the AHRC's recommendation around clinical governance of mental health services at Villawood IDC, the department notes that the provision of mental health services at Villawood IDC is managed by the Villawood IDC Mental Health

Team Leader (a psychologist), with oversight from the IHMS Psychological Services Manager (also a psychologist) and the IHMS Medical Director (a Psychiatrist). Where required, advice is sought from the treating IHMS Psychiatrist.

The department is currently considering two proposals from IHMS recommending an increase in the Psychiatrist presence at Villawood IDC and the creation of a dedicated Medical Director of Mental Health (a senior Psychiatrist), who would provide strategic and operational leadership for the various mental health disciplines available at each place of detention.

The department acknowledges the AHRC's concerns around the lack of active outreach services provided to clients at Villawood IDC and has reconfirmed the need for outreach services with IHMS.

IHMS plans to provide mental health staff to walk the areas of the centre (as has been done in facilities such as at Christmas Island IDC) to provide staff with the opportunity to better interact with clients.

Currently, IHMS coordinates the delivery of both mental and primary health care services for clients residing at the Sydney IRH, through the use of community network providers.

The department has asked IHMS to review the current service delivery model at Sydney Immigration Residential Housing with regards to its appropriateness.

**Recommendation 11: In relation to self-harm and suicide, DIAC should:**

- **Consult with organisations that specialise in suicide prevention, as well as mental health professionals including members of the Detention Health Advisory Group, for advice about measures that should be taken to mitigate the risk of further suicides across the detention network.**
- **Ensure that a safety audit is conducted across Villawood IDC and all other detention facilities, and that all appropriate measures are taken to minimise the risk of suicide and self-harm.**
- **Ensure that there is a clear written policy in place at each detention facility, including Sydney IRH, setting out procedures for responding to threats of self-harm or suicide, and ensure that all relevant staff are provided with training on the policy and procedures.**

The department shares the AHRC's concern regarding the rate of self-harm across the detention network. The department, through IHMS, endeavours to promote optimum mental health through various programs and also through the screening and management of clients 'at risk' through the PSP. IHMS reviews all critical incidents and provides a comprehensive report to the department.

IHMS Mental Health Team Leaders at sites contribute to the prevention of suicide and self-harm through involvement in the Prevention Committee Meetings and by giving expert advice to the department on placement and client management issues for individual clients. More directly, the IHMS Mental Health Team focuses on the

management of formal mental illness, suicide prevention and the promotion of mental health well being through their direct therapeutic engagement with clients.

The department is working to engage expert advice to help mitigate the risk of further suicides within immigration detention. As noted in the AHRC's report, DeHAG is not mandated to monitor physical and mental health service provision. DeHAG's role is to "provide the department with independent expert advice to...monitor health and mental health care services". Following advice from DeHAG, the department is working to access expert opinion through a Suicide Prevention Working Group.

The department is also currently working with DeHAG to develop an appropriate tool to be used for the purpose of conducting regular safety audits across the detention network.

The department is conducting a review into the implementation of the three new mental health policies, including the PSP, and will take the AHRC's comments into consideration as part of this review. In the meantime, the department will ensure its policies in this area are fully and effectively implemented.

The department is negotiating with IHMS to develop and deliver PSP training to all stakeholders at Villawood IDC and Sydney IRH. Currently, departmental staff working with clients at Villawood IDC and Sydney IRH are able to access training on PSP through courses offered by the department's College of Immigration.

**Recommendation 12: The Australian Government should implement the outstanding recommendations of the report of the National Inquiry into Children in Immigration Detention, *A last resort?*. These include that Australia's immigration detention laws should be amended, as a matter of urgency, to comply with the *Convention on the Rights of the Child*. In particular, the new laws should incorporate the following minimum features:**

- **There should be a presumption against the detention of children for immigration purposes.**
- **A court or independent tribunal should assess whether there is a need to detain children for immigration purposes within 72 hours of any initial detention (for example, for the purposes of health, identity or security checks).**
- **There should be prompt and periodic review by a court of the legality of continuing detention of children for immigration purposes.**
- **All courts and independent tribunals should be guided by the following principles:**
  - **detention of children must be a measure of last resort and for the shortest appropriate period of time**
  - **the best interests of children must be a primary consideration**
  - **the preservation of family unity**
  - **special protection and assistance for unaccompanied children.**

The government takes its international obligations seriously and acts consistently to comply with all of its treaty obligations, including the Convention on the Rights of the Child (CROC).

Minors and their accompanying families are accommodated at low-security sites, such as immigration transit accommodation (ITA) and immigration residential housing (IRH), or other APOD, which includes commercial accommodation such as motels.

Unaccompanied minors (UAM) are subject to the same accommodation arrangements as other children, but are supported by appropriate carers and are held in an APOD while health, security and identity checks are completed. They may then be considered for a community placement if accommodation is available.

Section 4AA of the *Migration Act 1958* states:

"(1) The Parliament affirms as a principle that a minor shall only be detained as a measure of last resort.

(2) For the purposes of subsection (1), the reference to a minor being detained does not include a reference to a minor residing at a place in accordance with a residence determination".

While section 4AA affirms the principle that children should only be detained as a last resort, the principle does not limit the location and nature of any such detention. DIAC maintains that Key Immigration Detention Value 3, which provides that 'children, including juvenile foreign fishers and, where possible, their families, will not be detained in an immigration detention centre', broadly reflects our international obligations under Article 3(1) and Article 37 of the CROC. Although children fall under the broad mandatory detention framework, they are treated considerably differently than adults.

The facilities at Sydney IRH are designed to provide a comfortable environment where children can continue to develop while they remain with their families in detention. The processing of asylum claims by children is accorded the highest priority to ensure compliance with our Article 37(b) obligations under the CROC and that children remain in facilities for the 'shortest appropriate period of time'.

DIAC maintains that children in Sydney IRH have considerable liberties, and are free to attend school, outings and other organised activities in order to best permit them to live as unrestricted as possible while their claims (and those of their families) are assessed.

Policy documents relating to the treatment of children in detention are clear:

'Children can be a vulnerable group of clients, particularly in the context of compliance operations and immigration detention. The case management of children presents particular challenges and requires special consideration of the child's individual and family circumstances. Although a child will not be detained in an IDC, it is possible that a child may be subject to other detention arrangements such as community detention or immigration residential housing. If a child has been detained, whether or not this is with a parent or guardian, the child will be actively case managed. The only exceptions might

be children who have been detained with their families and are on a rapid removal pathway or juvenile foreign fishers.’

The department acknowledges the AHRC’s concerns regarding assessments on the need to detain children and undertaking periodic reviews. As previously noted in the response to Recommendation 3, the Prime Minister and the Minister for Immigration and Citizenship announced the intention to use existing powers under the *Migration Act 1958* to progressively place significant numbers of UAMs and vulnerable families in residence determination arrangements.

This move is in recognition of the increasing numbers of families with children and UAMs in immigration detention and the lengthening period of time which some may have been detained during processing of their claims or finalisation of their cases.

The residence determination arrangements will be rolled out progressively in partnership with community organisations over the coming months and should go a large way to providing suitable longer term accommodation for this group of clients.

A reference group has been formed involving key Council for Immigration Services and Status Resolution (CISSR) representatives, DIAC officers and other external members, including a representative from the Department of Families, Housing, Community Services and Indigenous Affairs.

As noted above in relation to Recommendation 2, DIAC has established Senior Officer and Ombudsman’s reviews that now regularly consider the appropriateness of a person’s ongoing detention, their detention arrangements and other matters relevant to their detention and case resolution. These review arrangements apply to people in Residence Determination arrangements as well as to people in other places of detention.

**Recommendation 13: The Australian Government should, as a matter of priority, implement the recommendations made by the Commission in *A last resort?* that:**

- **Australia’s laws should be amended so that the Minister for Immigration is no longer the legal guardian of unaccompanied minors in immigration detention.**
- **An independent guardian should be appointed for unaccompanied minors in immigration detention.**

The *Immigration (Guardianship of Children) Act 1946* (IGOC Act) provides that the Minister for Immigration and Citizenship is the guardian of certain unaccompanied non-citizen children who arrive in Australia with the intention of becoming permanent residents. It is recognised that the IGOC Act is outdated and not designed for the purpose for which it is now used. The department recognises the concerns that have been raised about the perceived conflict of interest between the Minister’s role as guardian under the IGOC Act and being the decision-maker under the *Migration Act 1958*.

The Minister has asked the department to further develop several options for the Minister's consideration to address not only issues relating to guardianship, but also to better target youth and settlement services for minors and to better assess individual needs of unaccompanied minors. We will consult with the AHRC and other key stakeholders on the implementation of these changes shortly.

**Recommendation 14: In the absence of an independent guardian, DIAC officers and staff members of detention service providers in each immigration detention location should be provided with a clear written policy setting out which DIAC officer has been delegated the Minister's powers of legal guardianship of unaccompanied minors in that location, and how and when that guardian should be consulted.**

Policy setting out the guardianship arrangements for UAMs in immigration detention is contained in the Detention Services Manual which is published on the departmental database (LEGEND). For UAMs who come under the IGOC Act, the Minister delegates his guardianship to either a senior representative of a State or Territory child welfare agency or the relevant departmental Regional Manager. The operation of these guardianship powers are outlined in Serco's operational guidelines.

The department agrees that policies and guidelines relating to the application of the IGOC Act should be consistent, comprehensive and clear; and agrees these should be regularly reviewed and updated, noting that this will be done in line with any decisions taken by the Minister to address issues relating to guardianship, to better target youth and settlement services for minors and to better assess individual needs.

A technical working group with a departmental representative and experts from a variety of organisations including the Australian Red Cross and specialist service providers, Life Without Barriers (LWB) and Marist Youth Care has been established to develop policies and processes specifically related to unaccompanied minors in community detention.

The department also notes the work of the Department of Families, Housing, and Community Services and Indigenous Affairs and the Attorney-General's Department on possible models for a Commission of Children as part of the *National Framework for Protecting Australia's Children 2009-2020*.

**Recommendation 15: DIAC should pursue the adoption of a Memorandum of Understanding with the NSW Department of Community Services in order to ensure clear guidelines are in place regarding responsibilities and procedures relating to the welfare and protection of children in immigration detention at Sydney IRH or other locations in NSW.**

There is an existing agreement in place between DIAC and the NSW Department of Education and Training regarding minors in immigration detention, including those in

community detention. Under that agreement, a set of detailed procedures are in place for the enrolment in NSW schools of minors in community detention.

A meeting between the department and the NSW Government was held on 18 February 2011 to discuss possible variations to the agreement to reflect the expanded numbers of minors in community detention in NSW.

The department has contracted LWB to provide the role of care coordination for UAMs in detention facilities and APODs, including Sydney IRH.

LWB's care is facility based in the form of either 24 hour live-in care or non-live-in daily care and welfare supports visits. Care services provided by LWB includes:

- Pastoral care provided by cultural and linguistically diverse cultural support workers;
- Provision of suitably trained and screened professional care staff to supervise day to day care arrangements;
- Ensuring that the accommodation is maintained by the unaccompanied minors in optimum condition;
- Ensuring health, recreational, emotional and spiritual needs of the clients are attended to, and appropriate referrals made where challenges or issues are identified;and
- Development of care and welfare support services and programs for unaccompanied minors.

The Australian Red Cross provides support for those UAMs in community detention arrangements.

DIAC and its services providers, who work with minors in any capacity, must comply with relevant state child protection legislation.

**Recommendation 16: DIAC should ensure that all relevant DIAC officers and staff members of detention service providers are provided with a localised policy setting out the requirements, procedures and contact details for making child welfare and protection notifications in relation to concerns that arise in respect of children in immigration detention in the location in which they work.**

The departmental policy is that any suspicion or allegation relating to child welfare should be immediately referred to the relevant state/territory welfare authority regardless of whether or not mandatory reporting is a requirement.

Regional Managers are to escalate any concerns they have in relation to child welfare issues, including allegations or suspicion of abuse or neglect, to the Assistant Secretary, Compliance & Case Resolution, East & North or the Assistant Secretary, Compliance & Case Resolution, South & West (depending upon the geographical location of the Immigration Detention Facility), who will liaise with the relevant state or territory welfare authority.

These lines of communication are documented in the departmental instruction concerning minors contained in the Detention Services Manual. These instructions, which were updated on 15 May 2011, provide policy guidance to departmental and Serco staff.

DIAC staff are advised of new or revised instructions by means of an email. Serco is also advised by means of a letter with a copy of the revised instruction attached.

**Recommendation 17: DIAC should ensure that all people in immigration detention at Villawood have access to:**

- **adequate outdoor recreation spaces including grassy and shaded areas**
- **adequate indoor areas for educational and recreational activities**
- **a range of recreational and educational activities conducted on a regular and frequent basis**
- **a freely accessible library area stocked with reading materials in languages spoken by people in detention**
- **adequate access to communication facilities including internet facilities and telephones**
- **opportunities to attend religious services in the community, should they wish to do so.**

The department provides infrastructure to support the provision of passive and active recreation, educational programs, religious observance, access to reading materials and internet facilities. Unfortunately many of these buildings were lost or damaged during the recent fires and the department is in the process of sourcing replacements.

Prior to the incidents in April 2011, Serco had prepared a proposal to upgrade the amenities in Villawood IDC, including Hughes, Fowler as well as Blaxland.

Whilst the recent incident at Villawood IDC has hindered our ability to implement these changes in the initial timeframes as planned, having sufficient equipment and facilities to enable our clients access to activities, library, computers and recreation remains a priority in Villawood IDC.

The immediate priority is restoring essential services such as computer and internet access. IT solutions are currently under consideration to enable facilities to be restored as quickly as possible. Computers for Fowler and Hughes are currently on order and should arrive soon for client use. The replacement of the existing football field in Fowler with an artificially turfed pitch is also being progressed.

New recreation equipment such as sporting equipment has been purchased and is now available for client use independently and as a part of structured activities.

Serco management have also advised that a plan for further improvements in Blaxland is currently under review. One of the aims of this plan will be to address the availability and use of recreation space within Blaxland to provide client opportunities

for further participation and engagement in programs and activities for their welfare and well-being.

### ***Library Facilities***

Library services will be restored in Fowler once sufficient space is made available after repair works are carried out on impacted infrastructure. Blaxland will also be receiving further stock. A well-stocked, language-appropriate library is already established within Hughes. A monitored borrowing system will soon be introduced for clients to access books at Villawood IDC and to better facilitate borrowing and fair distribution of books amongst all clients.

### ***Telephones***

Landline telephones are available in Fowler, Hughes, Banksia and Blaxland. Telephone lines were impacted during the recent unrest but this service has been restored.

### ***Programs and Activities***

Serco have delivered Programs and Activities schedules for Villawood IDC that have met with Regional Management approval with the view that further improvements are implemented moving forward. Serco has recently appointed a new Programs and Activities Manager at Villawood IDC. As a result, we expect to see an improvement in the variety and frequency of structured recreational and educational activities within Villawood IDC. DIAC will continue to monitor the provision of programs and activities and assess the performance of Serco in the delivery of these services as per the contractual requirements.

Community volunteers are also continuing to deliver their services at Villawood IDC as a part of the overall Programs and Activities schedule.

Attendance of religious services in the community is governed by departmental guidelines on external excursions as detailed in the response to Recommendation 18 below.

**Recommendation 18: DIAC should ensure that people in immigration detention at Villawood IDC are provided with regular opportunities to leave the detention environment on external excursions.**

**DIAC should implement consistent standards for external excursions across the detention network. Standards for the conduct of a minimum number of external excursions should be specified in the Serco contracts applicable to all detention facilities, and financial penalties should be applied if those standards are not met.**

Current departmental guidelines on external excursions are detailed in the Detention Services Manual (Chapter 8 - Safety & security Excursions). An update to those guidelines is scheduled to be made on 1 July 2011.

DIAC supports the implementation of meaningful programs and activities, including external excursions, across the detention network. DIAC also supports the implementation, where possible, of consistent standards for external excursions.

The department notes that availability and variety of suitable excursion destinations is not consistent at all locations across the detention network. Within these constraints, however, this recommendation is supported.