

| | |
|---|--|
| Authorising Committee/ Department: | Board |
| Responsible Committee/ Department: | Faculty of Child and Adolescent Psychiatry |
| Document Code: | PS 52 Children in immigration detention |

Introduction

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) opposes the routine, prolonged and indefinite detention of child asylum seekers under the policy of mandatory detention. Detention is detrimental to development and mental health and has the potential to cause long-term damage to social and emotional functioning (HREOC, 2004; AHRC, 2014). Unaccompanied minors and families with children are particularly vulnerable. Detention should only ever be used as a last resort, with the child's best interests in mind and for the shortest possible length of time.

Background

Detention of children is in contravention of responsibilities under the United Nations Convention on the Rights of the Child (CRC), ratified by Australia in 1990. Specifically, it fails to uphold:

- Article 3(1): the best interests of the child must be a primary consideration in all actions concerning children
- Article 37(b): detention must be a measure of last resort and for the shortest appropriate period of time; children must not be deprived of liberty unlawfully or arbitrarily
- Article 37(a),(c): children in detention have the right to be treated with humanity and respect for the inherent dignity of the person
- Article 6(2), 39: children have the right to enjoy, to the maximum extent possible, development and recovery from past trauma
- Article 22(1): asylum-seeking and refugee children are entitled to appropriate protection and assistance (UNCRC, 1989).

Under current Australian law, asylum seekers who arrive by boat are placed in mandatory detention until their claim for asylum has been processed and their refugee status determined (DIBP, 2014). Australia's policy of mandatory detention was introduced in 1992, and has been maintained in various forms by successive governments. Under the Migration Act 1958 (Commonwealth) there is no time limit on detention. The Migration Act contains a principle that a minor shall only be detained as a measure of last resort. It has, however, been a source of significant concern that children and their families and unaccompanied minors continue to be subject to routine, prolonged and sometimes indefinite detention, despite this legislation.

As at 31 January 2015 there were 138 children in Immigration Detention Centres (on the Australian mainland), 73 in Immigration Residential Housing and Transit Accommodation (on the Australian mainland) and 119 children in Offshore Processing Centres in the Republic of Nauru (DIBP, 2015). Although this represents a reduction in the numbers compared with six months ago, the fact that there are any children in this situation is of significant concern. As at October 2014, the average length of time for a child in immigration detention was 14 months (AHRC, 2014b).

Evidence

There is now a large body of evidence showing that prolonged detention, particularly in isolated locations, with poor access to health and social services, and uncertainty of asylum seeker claims, can have severe and detrimental effects. It is on the basis of this evidence that the RANZCP opposes the mandatory detention of children.

Most recently, the 2014 report by the Australian Human Rights Commission, *The Forgotten Children: National Inquiry into Children in Immigration Detention*, identifies significant concerns for the plight of

children in these conditions (AHRC, 2014a). The report notes that 34% of children in detention centres had serious mental health disorders, compared with 2% in the Australian population (AHRC, 2014). High rates of serious mental health disorders were also noted a decade earlier in the report *A Last Resort?* (HREOC, 2004).

It is not only psychiatrists who are highly concerned about the social and emotional health and welfare of children and their families in immigration detention. In a recent survey of paediatricians in Australia, over 80% of respondents reported that they agreed with the Australian Medical Association's assertion that 'detention of asylum seeker children and their families is a form of child abuse' (Corbett et al, 2014).

The fact that the Minister for Immigration and Border Protection is responsible for the implementation of current policies as well as being the legal guardian for asylum seeker unaccompanied minors represents a problematic conflict of interest. The Minister's responsibility to act in the best interests of the child is often incompatible with the treatment of asylum seekers, including children (Corbett et al, 2014; RANZCP, 2014; AHRC, 2014a).

Risks to the mental health, well-being and development of children are the result of a combination of pre-migration experiences, the detention environment, uncertainty around visa outcomes, living in a closed environment, witnessing violence and the incapacity of their guardians to provide care due to their own declining mental health. Further, women giving birth in detention are particularly at risk of post-natal depression or anxiety and attachment difficulties with their infants. Children held in detention also have reduced access to education and social development, including limited access to play groups, toys, games and schooling (RANZCP, 2014).

Children detained for long periods of time are at higher risk of suffering mental illness and post-traumatic symptoms including anxiety, distress, sleep and behavioural disturbances, bed-wetting, suicidal ideation and self-destructive behaviour including attempted and actual self-harm (HREOC, 2004). Children and adolescents in detention are 12 times more likely to self-harm and 10 times more likely to attempt suicide than Australian children who are not detained, with suicide attempts documented even in very young children in detention (Steel et al, 2003). Between January 2013 and March 2014 there were 128 reported actual self-harm incidents amongst children in closed immigration detention facilities in Australia (AHRC, 2014).

The detention centre environment is inadequate with respect to developmental opportunities, cognitive and educational facilities and support for parenting. Infants and young children born in detention are particularly vulnerable and show signs of developmental compromise (AHRC, 2014).

In summary, RANZCP remains extremely concerned that highly vulnerable children are living in conditions known to be damaging to their mental health, well-being and development, particularly when more humanitarian solutions, such as community detention, exist. In all circumstances, the human rights and dignity of all should be honoured. Citizenship status must not be a barrier to early childhood education, acceptable living conditions, appropriate means of support, adequate healthcare and access to child protection measures. Increasingly, medical practitioners employed in immigration detention centres are speaking out about ethical dilemmas of concern to them. These include the ethics of providing medical care in an environment that is in and of itself causing harm, as well as the challenge of meeting conflicting obligations to patients, employers and the Department of Immigration and Border Protection, and whether this is possible. There is a growing discourse regarding the ethical dilemma of how best to proceed in these environments and whether or not a professional boycott is appropriate (Sanggaran et al, 2014).

Recommendations

It is the position of the RANZCP that the practice of detaining children should only occur as a last resort, for the shortest possible period of time and with the decision informed by the best interests of the child, for example to enable the most essential health and safety checks. Other than under these circumstances, the RANZCP calls for all children and their families who are seeking asylum to be allowed to live in the community, while their claims for refugee status are being processed, to promote their health and well-being.

To ensure that everything possible is done to provide supportive, caring and non-traumatising early experiences for asylum seeker children and adolescents, the following recommendations are made:

- Australia's immigration detention laws, policies and practice should be amended to comply with the Convention on the Rights of the Child. In particular children should be processed within 72 hours in order to reduce the likelihood of mental distress or disorders. This should be applied to both onshore and offshore Australian detention facilities.
- Comprehensive assessment of child asylum seekers in detention should examine the roles of environmental deprivation, the availability of parental emotional support and the effects of traumatic exposure in contributing to clinical disorder.
- Children, especially young children, should ideally be removed from detention together with their families.
- Protection and strengthening of the child's attachment relationship is central to promoting well-being and recovery and if possible the children should be managed in community settings with primary caregivers. However, if this is not possible there needs to be an assessment of the impact of family separation and the availability of alternate attachment figures. Adolescents may be better able to tolerate separation from family if placed with appropriate community supports, if this is acceptable to the young person and their family.
- Mental disorders in child and adolescent detainees should be assessed by child and adolescent psychiatrists or mental health specialists and, when identified, should wherever indicated be managed outside the detention environment. Continued exposure to traumatic stress associated with detention impacts adversely on recovery. Children with serious mental disorder should be referred for specialist assessment.
- Psychiatrists and other clinicians consulting to, or working in, detention centres should be supported to act in accordance with international ethical guidelines for medical practitioners and in a way that advocates for the human rights of the child at all times.
- Children in detention centres at risk of abuse, neglect or developmental harm should be reported to child protection authorities.
- The RANZCP supports the continuation of a robust, transparent discussion of the ethical, clinical practice and education and training issues amongst health workers, professional medical bodies and other relevant parties regarding children in immigration detention.

Further reading

This statement should be read in conjunction with [Position Statement 46](#) 'The provision of mental health services to asylum seekers'.

References

Australia (1958) *Act No. 62 of 1958, Migration Act 1958 – Volume 1*. 8 October.

Australian Human Rights Commission (2014a) *The Forgotten Children: National Inquiry into Children in Immigration Detention*, November. Sydney, Australia.

Australian Human Rights Commission (2014b) National Inquiry into Children in Immigration Detention 2014. Available at: <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/national-inquiry-children-immigration-detention-2014> (accessed 28 August 2014).

Australian Human Rights Commission (2011) Immigration detention in Leonora – Summary of observations from visit to immigration detention facility in Leonora. Available at: <https://www.humanrights.gov.au/publications/2011-immigration-detention-leonora> (accessed 28 August 2014).

Corbett E, Gunasekera H, Maycock A, Isaacs D (2014) Australia's treatment of refugee and asylum seeker children: the views of Australian paediatricians. *Medical Journal of Australia*, 6 October, vol. 201, no. 7, pp. 393-398.

Department of Immigration and Border Protection (2015) *Immigration Detention and Community Statistics Summary*, 31 January. Available at: <http://www.immi.gov.au/About/Documents/detention/immigration-detention-statistics-jan2015.pdf> (accessed 15 February 2015).

Department of Immigration and Border Protection (2014) *Fact Sheet 82 – Immigration detention*. National Communications Branch, Canberra, Australia. Available at: <https://www.immi.gov.au/media/fact-sheets/82detention.htm> (accessed 28 August 2014).

Human Rights and Equal Opportunity Commission (2004) *A Last Resort? Report of the National Inquiry into Children in Immigration Detention*. April, Sydney, Australia.

Royal Australian and New Zealand College of Psychiatrists (2014) *Australian Human Rights Commission National Inquiry into Children in Immigration Detention*. Available at: <https://www.ranzcp.org/Files/Resources/Submissions/RANZCP-SUBM-AHRC-Children-Detention.aspx> (accessed 29 September 2014).

Sanggaran J, Ferguson G, Haire B (2014) Ethical challenges for doctors working in immigration detention. *Medical Journal of Australia* 6 October, vol. 201, no. 7, pp. 377-8.

Steel Z, Momartin S, Bateman C, Hafshejani A, Silove D, Everson N, Salehi J K, Roy K, Dudley M, Newman L, Blick B, Mares S, Raman S, Everett (2003) *Psychiatric status of asylum seeker families held for a protracted period in a remote detention centre in Australia* The Royal Australian and New Zealand College of Psychiatrists, Hobart, Australia, pp. 8-9.

United Nations General Assembly (1989) *Convention on the Rights of the Child*. 20 November, United Nations, Treaty Series, vol. 1577, p. 3. Available at: <http://www.refworld.org/docid/3ae6b38f0.html> (accessed 28 August 2014).

Disclaimer

This information is intended to provide general guide to practitioners, and should not be relied on as a substitute for proper assessment with respect to the merits of each case and the needs of the patient. The RANZCP endeavours to ensure that information is accurate and current at the time of preparation, but takes no responsibility for matters arising from changed circumstances or information or material that may have become subsequently available.

REVISION RECORD

| Contact: | Senior Manager, Practice Policy and Partnerships | | |
|------------|--|--------------|-------------|
| Date | Version | Approver | Description |
| 10/2013 | 1.0 | GC2003/2 R60 | Adopted |
| 08/2011 | 2.0 | GC2011/3 | Updated |
| 14/02/2015 | 3.0 | B2015/1 R21 | Updated |
| 24/02/2015 | 3.1 | EM #170 | Updated |
| 2018 | NEXT REVIEW | | |

Copyright 2015

Royal Australian and New Zealand College of Psychiatrists (RANZCP)

This documentation is copyright. All rights reserved. All persons wanting to reproduce this document or part thereof must obtain permission from the RANZCP.