Professional Practice Guideline 12

Guidance for psychiatrists working in Australian immigration detention centres

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This Professional Practice Guideline provides guidance on key ethical and professional practice issues that psychiatrists may encounter when working with asylum seekers in all forms of immigration detention, or detained under current immigration and border protection laws. Asylum seekers are at high risk of mental and physical health issues, and indefinite detention has been shown to exacerbate this (Steele et al., 2006; Young and Gordon, 2016). It is therefore essential that expert physical and mental healthcare is available to people held in these environments. The impact of detention on the wellbeing of asylum seekers should also be documented and monitored, and professional advocacy by an independent health advisory body in relation to Australia's immigration detention policies and practices should be maintained.

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) is concerned that the capacity of psychiatrists to provide high quality mental healthcare and to practice ethically and effectively in detention centres and alternative places of detention is currently limited. In these settings, the responsibility of psychiatrists to their patients may be incompatible with their responsibilities to the government, or the private organisation contracted by the government to provide services in detention centres (Isaacs, 2015). The remote location of many detention centres means that psychiatrists often negotiate these conflicts of interest without ready access to usual professional supports, such as supervision and peer review. The possible interpretation of the *Australian Border Force Act 2015* (Cth) further complicates this issue, by exposing psychiatrists to risk or perceived risk of legal or professional ramifications when undertaking their clinical duties (Dudley, 2016).

Background

This guidance draws on the RANZCP *Code of Ethics* (2010) and other policy documents and position statements, as well as international medical and human rights documents. It is specifically relevant to psychiatrists, however the information is also intended to inform the professional practice of psychiatry trainees and health and mental health professionals more broadly.

The guidance has been developed by the RANZCP's Asylum Seeker and Refugee Mental Health Working Group members and advisors, a group of senior psychiatrists, with extensive skills and experience in working with asylum seekers, including unaccompanied minors, in immigration detention centres.

Key ethical and professional issues

The Asylum Seeker and Refugee Mental Health Working Group identified five overarching ethical and professional issues pertinent to psychiatrists working with adults and children detained in immigration facilities:

1. *Proper use of professional knowledge and skills:* Psychiatrists should not use, or be expected to use, their professional knowledge and skills in ways intended to cause harm, and should not participate either directly or indirectly in the practice or use of torture or cruel, inhuman or degrading interrogation, treatment or punishment (RANZCP, 2010; RANZCP, 2015).
2. *Responsibility to the patient:* Psychiatrists' professional and ethical responsibility to their patients is set out in the codes of the profession and gives priority to the duty to act in the best interests of the patient, with integrity and dedication to human wellbeing, regardless of context (RANZCP, 2010).
3. *Clinical independence:* Psychiatrists should have the capacity to practice without undue external influence. This includes the capacity to undertake assessment, report on conclusions, independently institute evidence-based treatment options, foster a therapeutic relationship with the

patient and recommend modifications to the patient's environment when required to improve outcomes (WPA, 2011). This includes, where the psychiatrist recommends that it is safe to do so, the removal of shackles or handcuffs, or that detention officers and immigration department employees leave the consultation room for the purposes of confidential, independent and therapeutic engagement during assessment and/or review.

4. *Advocacy:* Advocacy in the context of psychiatric practice is a non-partisan activity integral to delivering quality healthcare. This includes advocating for the wellbeing of individuals as well as for policies or practices that promote mental health or against those that harm mental health (WPA, 2011).
5. *Confidentiality:* Patients have a right to have their confidentiality upheld, with only very specific exceptions, for example to maintain safety. Maintaining confidentiality of information during interviews and of patient records is necessary for achieving optimal outcomes. The therapeutic alliance between patient and psychiatrist hinges on patient confidence that personal disclosures will not be improperly used (WPA, 2011).

Practice guidance

The following points of guidance for practice are organised under the five themes described above. These are intended as a resource for psychiatrists who are engaged in, or considering work in, immigration detention settings, or in services that treat patients who are being held in immigration detention.

The RANZCP acknowledges the complexity of working in immigration detention centres, where factors such as legislation, geographical isolation and under-resourcing may impede capacity for best practice. In these situations psychiatrists should be mindful of their own wellbeing and consider those actions which are in the best interest of their patients and also themselves (for more information please refer to the RANZCP's self-care for psychiatrists resources, listed further below).

1. Proper use of professional knowledge and skills

- Psychiatrists should not participate either directly or indirectly in the use of punishment or behavioural control of asylum seekers who are in immigration detention, including solitary confinement and segregation.
- Diagnoses and treatment strategies should not be misused to directly or indirectly influence the documentation of the physical and mental health of people in immigration detention centres, including minimising the overall impact of detention on physical and mental health.
- When the purpose of an evaluation or intervention is not inherently therapeutic, psychiatrists should ensure that that the person being evaluated clearly understands the role and duties of the psychiatrist. In immigration detention settings, examples include mental health evaluations of protestors as well as more traditional medico-legal assessments.

2. Responsibility to the patient

- Psychiatrists should always act in the best interests of their patients, with respect for the essential humanity and dignity of every patient, including the patient's culture, ethnicity, language, religion and developmental circumstances, including those of children and unaccompanied minors.
- When this is in conflict with a psychiatrist's responsibility to employers and/or other third parties, the needs of the patient must always take priority.

3. Clinical independence

- Psychiatrists should have the opportunity to practice their speciality at the highest level of excellence. This includes having the capacity to implement best practice guidelines and clinical wisdom, undertake independent assessment and institute effective treatment (WPA, 2011).
- Where the patient is experiencing ongoing deterioration of their health, and medical recommendations concerning their care are not being followed, the psychiatrist should consider their ethical obligations and seek guidance through structures such as peer review groups or second opinions. Psychiatrists should document their concerns and escalate as appropriate. Doing so should not expose psychiatrists to risk or perceived risk under the *Australian Border Force Act 2015* (Cth).

- Psychiatrists should have the opportunity to foster a strong therapeutic alliance with the patient, and their family members when appropriate, have an appropriate range of treatments available, and be able to implement treatment recommendations as indicated (RCPsych, 2014).
- Psychiatrists should ensure that the clinical environment promotes the therapeutic alliance and patient comfort and dignity. Psychiatrists can and should request modifications if this is not the case, including requesting that third parties such as detention centre officers and immigration department employees leave the room; and that the patient is not restrained during the interview.
- As a core component of their practice, psychiatrists should be free to discuss their work in external clinical supervision and peer review, and other independent supports as appropriate. Accessing these professional supports should not expose psychiatrists to risk or perceived risk under the *Australian Border Force Act 2015* (Cth).

4. Advocacy

- Where the needs of the patient cannot be met in the current setting and/or the setting is contributing to the patient's mental deterioration, psychiatrists should advocate for changes to their patient's situation. There should be the opportunity to document and progress these concerns via clear and appropriate channels. In an immigration detention context this may include advocating for the patient to be managed in a less restrictive setting, to be transferred to another environment including inpatient psychiatric treatment or to have their immigration determination expedited.
- Advocacy may also be appropriate in relation to the return or otherwise of patients to immigration detention or other forms of detention following inpatient treatment, where this is likely to result in the deterioration of the patient's physical or mental health.
- Psychiatrists working in immigration detention centres should be free to advocate for broader structural or systemic issues when these are relevant to promoting and protecting mental health. This includes the overall ethics of providing medical care in an environment that is not conducive to the patient's recovery, and which has been shown to be deleterious to mental health (AHRC, 2014; Méndez, 2015; RCPsych, 2014). Doing so should not expose them to risk or perceived risk under the *Australian Border Force Act 2015* (Cth). The College has a role in advocating with regards to the implications of the *Australia Border Force Act 2015* (Cth) including the implications on individual medical practitioners.

5. Confidentiality

- It is a psychiatrist's duty to first inform and advise the person being assessed about the purpose of the assessment, the use of the findings, and the possible repercussions of the assessment (WPA, 2011).
- Psychiatrists should ensure that the patient's personal health information is not disclosed or used by third parties without express informed consent.
- Psychiatrists should not conduct clinical interactions where third parties are present except with the patient's consent, and should request that third parties such as detention officers and immigration department employees leave the room during clinical interactions.

Additional resources

Royal Australian and New Zealand College of Psychiatrists	*Self-care for psychiatrists* (2015) *Code of Ethics* (2010) Position Statement 52 'Children in immigration detention' (2015) Position Statement 46 'The provision of mental health services to asylum seekers and refugees' (2012)
Royal Australasian College of Physicians	'Position Statement: Refugee and Asylum Seeker Health' (2015)
Royal College of Psychiatrists, United Kingdom	*Mental Health of Refugees and Asylum Seekers* (2012)

World Psychiatric Association	*Madrid Declaration on Ethical Standards for Psychiatric Practice* (2011)

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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.

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