



October 2018

RESPONSE TO AUSTRALIAN HUMAN RIGHTS COMMISSION (AHRC) RECOMMENDATIONS

CHRISTMAS ISLAND IMMIGRATION DETENTION CENTRE (CIIDC)

The Department of Home Affairs appreciates the AHRC's role in overseeing detention practices and welcomes review of the immigration detention network that the AHRC's report provides.

Recommendation 1

The Department of Home Affairs should review the current risk assessment and rating process to ensure that:

- a) people in detention are not subject to more restrictive measures than are necessary in their individual circumstances
- b) ratings clearly denote the type of risk that a person is deemed to pose (such as risk to others or risk of escape), with a view to ensuring that people who present a risk to the safety of others can be readily distinguished from those who do not.

Detainees are assessed on a case-by-case basis to determine security and other risk profiles, using the Security Risk Assessment Tool (SRAT). The Facilities and Detainee Services Provider (FDSP) has contractual responsibility for assessing detainees on an ongoing basis to ensure that the assessed rating is commensurate to the level of risk posed, based on both static and dynamic factors.

The Department notes that the SRAT is a risk management tool designed to ensure the consistent application of detainee risk assessments across the immigration detention network and assists to inform decision-making, rather than the output being the 'decision'.

However, in recognition of the changing profile of the immigration detention cohort, the Department has commissioned an independent review of the SRAT, to be conducted by an external consultant. The review is expected to commence in late 2018.

Recommendation 2

The Australian Government should proceed with the planned closure of the Christmas Island Immigration Detention Centre by the end of the 2017–18 financial year.

The North West Point Immigration Detention Centre (IDC) on Christmas Island was placed into contingency on 1 October 2018. The IDC will be maintained in a state of operational readiness so it can be re-opened at short notice if required.

Recommendation 3

As a short-term measure to respond to concerns regarding physical safety, facility staff should continue to closely monitor safety concerns and implement strategies to address these concerns as needed.

The Department advises that any concerns expressed by detainees regarding their physical safety were considered on a case-by-case basis in line with our duty of care responsibilities to detainees, staff and visitors, as well as our responsibility to maintain the safety and security of the immigration detention facility.

Recommendation 4

The Department of Home Affairs and facility managers should monitor interactions between staff and people in detention to ensure that respectful relationships are maintained.

It is a contractual provision that in carrying out its duties, the Service Provider, its Personnel and any Subcontractors are to:

- i. support and promote a stable and harmonious environment, and seek to resolve situations and tensions peacefully;
- ii. treat everyone with respect and courtesy, and without harassment of any kind;
- iii. be supportive and helpful to Detainees who wish to seek legal or other external advice in relation to their detention;
- iv. conduct all duties, and particularly safety and security procedures, sensitively, enabling Detainees to maintain their dignity, and with due regard for their individual circumstances and backgrounds;
- v. share information with other service providers as to the individual needs of Detainees as these needs are identified;
- vi. behave in a tolerant, respectful and culturally sensitive manner towards Detainees and their Visitors and avoid perceptions of discrimination and bias;
- vii. show understanding, respect and sensitivity for Religious Beliefs and conventions of each Detainees and their particular needs; and
- viii. show due regard for the Property of Detainees to ensure that it is not damaged and is treated with appropriate Cultural Sensitivity.

The FDSP Contract requires that all staff, including Departmental and service provider staff, abide by the Department's Code of Conduct and any complaints about staff conduct are investigated. Where further investigation is required, cases are referred to the Department's Integrity and Professional Standards section.

Recommendation 5

The Department of Home Affairs and facility staff should review policies and practices relating to the use of mechanical restraints, to ensure people in detention are not subject to more restrictive measures than are necessary in their individual circumstances in the context in which they are proposed to be used.

The Department acknowledges the AHRC's observations regarding the 'use of force' policy settings, noting that the Department has responded to this recommendation made in earlier inspection reports for Maribyrnong IDC (March 2017), Melbourne ITA (March 2017), Villawood IDC (April 2017), Yongah Hill IDC (May 2017), Adelaide Immigration Transit Accommodation (July 2017) and Perth IDC (August 2017).

The Department's position in relation to its use of force settings remains unchanged:

The 'use of force' in immigration detention, including use of mechanical restraints, is governed by legislation and departmental detention policy and procedural instructions. Detention policy and instructions in relation to the 'use of force' were comprehensively reviewed in 2016 and updated in early 2017. These policy and procedural instructions are also included in the Department's Policy and Procedures Control Framework process currently being undertaken to ensure documents are in a consistent format and centrally available to all staff.

A revised Security Risk Assessment Tool (SRAT) was produced in 2016 to better support the changing nature of cohorts accommodated in the immigration detention network, and takes into account a broader range of considerations when assessing the risk of individual detainees. The SRAT provides a consistent and agreed set of principles around risk assessment and subsequent mitigation strategies. The SRAT considers each detainee's individual circumstances, including consideration of an individual's capability (e.g. age, frailty, medical condition) and intent (e.g. immigration pathway, behaviour, prevalence of incidents).

Detainees who are rated High or Extreme escort risk are restrained under pre-planned escort arrangements, noting Detention Superintendents are required to provide approval for all High or Extreme risk escort plans. If there are concerns that a detainee does not warrant mechanical restraint, then the appropriateness of the risk rating is reviewed and the matter escalated to the Detention Superintendent, who may, where necessary, provide alternative written direction on a case-by-case basis.

Similarly, should the detention Health Service Provider recommend that restraints not be used on medical grounds, this matter is escalated to the Detention Superintendent who may give final written direction on a case-by-case basis.

The 'use of force' policy settings have been recently reviewed and updated, and while the Department acknowledges the AHRC's observations, its view is that the settings provide clear guidance to officers and provide flexibility regarding risk mitigation arrangements and the use of restraints on a case-by-case basis.

Recommendation 6

The Department of Home Affairs should consult with relevant carriers to develop strategies for limiting the use of mechanical restraints during transfers (particularly lengthy transfers) to the extent possible.

The Department is not in a position to provide guidance on the application of the relevant legislation by air service operators as they are the decision maker on the transport of immigration detainees as persons in custody. The approval of these arrangements is informed by the individualised risk assessments provided to gain approval for their carriage, as outlined in the departmental response to Recommendation One.

Recommendation 7

Where a person is being transferred between immigration detention facilities (particularly to remote facilities such as the CIIDC), the Department of Home Affairs and facility staff should ensure that the person:

- a) is given adequate notice of the transfer**
- b) receives a clear explanation of the reasons for the transfer**
- c) is given an opportunity to pack their belongings and notify family members, friends and legal representatives prior to the transfer.**

Transfer operations are conducted and completed in accordance with the Australian Border Force (ABF) standard operating procedures. Where appropriate, detainees should be advised

of a decision to transfer them within the Immigration Detention Network during business hours, no later than the day prior to the day of intended transfer.

Where there are operational concerns about the safety and security of the detainee, staff or detention centre, the detainee may be given reduced notification of a transfer based on a security risk assessment. In both circumstances, the detainees should pack their own property in accordance with policy.

Once notification is given to the detainee, it is their responsibility to notify family members, friends and legal representatives prior to the transfer.

Recommendation 8

The Department of Home Affairs and facility staff should ensure that single separation is only used in exceptional circumstances where a serious risk has been identified, and only for very short periods of time.

High-care accommodation refers to an environment where a higher degree of supervision of and engagement with the detainee can be maintained. This may include the transfer of detainees to facilities with high-care accommodation if the capability of a facility to manage a detainee within the general detention population is exceeded. Placement in high-care accommodation may be involuntary or voluntary (at the request of the detainee).

Placing a detainee in high-care accommodation will necessarily regulate their movement within the facility and their access to activities or services. High-care accommodation is to be used in the best interest of a detainee or in the best interest, or for the safety, of other detainees, departmental staff and contractors. High-care accommodation must always be for the shortest practicable time.

Placing a detainee in high-care accommodation may require a detainee to be transferred to a different location within an immigration detention facility (IDF) or to a different IDF if the current facility does not have suitable or appropriate high-care accommodation facilities.

Placement in high-care accommodation must be approved by the relevant ABF Detention Superintendent (Facility) for periods of less than 24 hours and by the ABF Commander Detention Operations (National) for periods exceeding 24 hours.

Recommendation 9

The Department of Home Affairs should cease using the Red compound at the CIIDC.

Noting that North West Point IDC is now in contingency, Support Compound was used as a last resort by ABF and its service providers to de-escalate situations and was therefore a critical aspect of managing certain high risk detainees, particularly those who have professed a desire for or demonstrated tendencies towards self-harm; the compound was also used to de-escalate situations where a detainee had demonstrated harm to others.

Unlike the accommodation compounds, detainees could only be placed in the Support Compound on a prolonged basis with approval from the responsible ABF Commander (i.e. every 24 hours) and this, along with the detainee's Behavioural Management Plan, documents the portfolio's handling and de-escalation of sensitive and high risk cases. Support Compound, unlike other compounds, had CCTV in detainee rooms in response to potential detainee vulnerabilities and was crucial to monitoring detainee behaviour as well as ABF and service provider responses to such behaviour.

Support Compound was utilised in the maintenance of ABF's duty of care towards detainee individuals and groups. Consequently, the use of the Support Compound was deemed a

necessary part in maintaining safety and good order of the centre overall, subject to the various oversight mechanisms currently in place.

Recommendation 10

The Department of Home Affairs should review the impacts of the controlled movement policy on conditions and access to facilities at the CIIDC, with a particular focus on reducing the amount of time for which people are confined to accommodation compounds.

Noting that North West Point IDC is now in contingency, detainees were encouraged by ABF and its service providers to make the most of CIIDC's schedule of programs and activities (P&A). Controlled movement outside the accommodation compounds was a necessary component of managing the high and extreme risk detainees at CIIDC, noting the diverse and shifting nature of various individual and cohort interactions. Controlled movement of Green Heart to facilitate participation in P&A outside the accommodation compounds was considered a major factor in reducing CIIDC's overall risk rating and the reason there had been minimal disturbances since the controlled movement policy was implemented.

Note that any detainee in Support Compound would only access specific programs or activities in line with their Behavioural Management Plan, approved on an individual basis.

In May 2018, detainees in each accommodation compound were scheduled to have the option to participate in at least eighteen Green Heart/Gymnasium/Education 3 activities. Such access was in addition to the activities available within accommodation compounds (including the Internet, detainee-led activities, movies and video games).

It is considered that detainee access to Green Heart and the Education Compounds was measured and appropriate, along with access to activities within accommodation compounds. To highlight this view, CIIDC was the only immigration detention facility where controlled, non-essential offsite excursions were regularly scheduled for well-behaved detainees and yet, despite the opportunities presented to certain detainees, a number of offsite excursions were cancelled due to detainee non-attendance.

As CIIDC detainee numbers reduced, the P&A schedule were re-adjusted in line with the facility's risk rating and available resources.

Recommendation 11

The Department of Home Affairs and facility staff should minimise shared accommodation arrangements at the CIIDC, including through phasing out the use of dormitory bedrooms.

The Department promotes flexible management of the capacity of each detention facility due to changing requirements of the Department and of the individuals detained in each detention facility. Facilities must also maintain some flexibility in their capacities to support a number of Departmental activities. Capacity pressures did not allow for all detainees to have a room to themselves.

Prior to 1 October 2018 when North West Point IDC went into contingency, CIIDC had reduced its use of dormitories. As of 3 July 2018, only 37 detainees out of 238 were accommodated in dormitories at CIIDC. The Department notes that a number of detainees chose to be accommodated in the dormitories; however, it was acknowledged that most detainees' preference is for single rooms and for that reason, dormitories were only used for detainee accommodation as a last resort. Nonetheless, logistical considerations had a significant impact on placement decisions.

Recommendation 12

The Department of Home Affairs and facility staff should implement strategies to enhance exercise facilities within accommodation compounds at the CIIDC.

All detainee accommodation compounds in CIIDC included exercise and gym equipment.

Although the individual fit out in each compound varied, equipment installed included triceps/pull-up stations, sit-up bench stations, treadmills, rowing machines, cross trainers, rowing machine, pool and table tennis tables.

Recommendation 13

The Department of Home Affairs and facility staff should implement strategies to enhance facilities for activities within accommodation compounds at the CIIDC.

The Department can confirm that seven of eight compounds had a 55" wall mounted LCD TV and an Xbox gaming console installed in the activities room.

Each compound was equipped with table tennis equipment.

Gold 1 and 2 Compounds had an additional TV each installed in the activities room.

Recommendation 14

The Department of Home Affairs and facility staff should:

- a) develop a strategy for providing daily access to the Education compound for people detained at the CIIDC**
- b) implement strategies to provide greater access to educational opportunities for people detained at the CIIDC.**

All detainees (except those in Support Compound, through necessity) were encouraged to enjoy daily access to the Education Compound except on weekends and public holidays. Access to the Green Heart and Education Compounds during business days was limited by controlled movement.

Unlawful non-citizens do not have work or study rights, which are otherwise available to the holders of certain visas. The extension of such rights to a detainee is not supported by legislation and may undermine the integrity of Australia's visa programs. Under policy, detainees' access to educational or vocational opportunities are limited to activities that do not constitute work or lead to a qualification or certification. Although detainees are not permitted to undertake courses that are directed towards achieving formal qualifications, they may participate in workshops and non-award educational programs and receive a 'recognition of attendance' certificate. A number of informal programs are available, such as English lessons and other online learning programs.

ABF believes CIIDC met the minimum standards under international law for access to P&A.

Recommendation 15

Facility staff should consider strategies for providing more regular access to excursions to people at the CIIDC.

The FDSP is required to provide meaningful P&A to the detainee cohort in immigration detention facilities. P&A refers to the range of structured and unstructured social, welfare, recreational and educational events available to detainees. The monthly P&A Schedule took account of a range of factors, including age, gender, religious beliefs, as well as a range of safety and security considerations. It is the ABF position that meaningful P&A can be delivered

to detainees which meets their individual needs, without the requirement to facilitate external excursions.

The provision of P&A to detainees is governed by departmental policy and procedural instructions, whilst maintaining the integrity of Australia's migration program and its legal framework.

Detention policy and instruction in relation to P&A were comprehensively reviewed in 2016 and updated in 2017. These policy and procedural instructions are also included in the Department's Policy and Procedures Control Framework process currently being undertaken to ensure documents are in a consistent format and centrally available to all staff.

The P&A policy settings, including the availability and eligibility of excursions, has been recently reviewed, and while the Department acknowledges the AHRC's observations, our view is that the current settings are appropriate to the current cohorts in immigration detention.

It is the ABF's position that where meaningful P&A which meets detainees' individual needs can be delivered to detainees on site, there will not necessarily be a requirement to facilitate external excursions. Where an offsite excursion is deemed appropriate, the ABF will continue to make assessments against safety and security responsibilities when determining the suitability of a detainee leaving the detention facility.

Recommendation 16

The Australian Government should establish and resource an independent body to monitor the provision of physical and mental health services in immigration detention.

Health care and medical services for detainees are comparable to those available in the Australian community under the Australian public health system. As such, all clinicians who provide health care and medical services to detainees must have an Australian registration and are subject to oversight by the Australian Health Practitioner Regulation Agency.

The Department facilitates regular access by independent external oversight bodies to immigration detention facilities to allow them to review the management of these facilities. These independent bodies include the Commonwealth Ombudsman, the Australian Human Rights Commission and the Australian Red Cross. These regular independent reviews have delivered a wealth of insight and strong recommendations that have served to inform and enhance the Department's operations and services.

Recommendation 17

Wherever possible, the Department of Home Affairs should avoid transferring people who are on waiting lists for specialist treatment between immigration detention facilities in different states.

Placement decisions are part of a process of assessing and minimising risk to other detainees, service providers, visitors and staff. In making placement decisions, medical needs including those who are on waiting lists for specialist treatment are given priority, and family and community links are carefully considered. Detainee needs are considered in line with the Department's duty of care to all detainees.

Recommendation 18

The Department of Home Affairs should review its policy regarding the use of mobile phones in immigration detention facilities, with a view to restricting mobile phone usage only in response to unacceptable risks determined through an individualised assessment process.

Due to the decision of the Federal Court Case in the case of *SZSZM v Minister for Immigration & Ors*, the Department has returned mobile phones and SIM cards to detainees for their personal use within immigration detention facilities. There is no longer a need to consider the recommendation at this time.

Recommendation 19

The Department of Home Affairs should reconsider the facility-specific ban on the use of mobile phones at the CIIDC.

Due to the decision of the Federal Court Case in the case of *SZSZM v Minister for Immigration & Ors*, the Department has returned mobile phones and SIM cards to detainees for their personal use within immigration detention facilities. There is no longer a need to consider the recommendation at this time.

Recommendation 20

The Department of Home Affairs should install private landline telephone facilities within accommodation compounds at the CIIDC.

Each compound was equipped with seven wall mounted public access phones. Phones were located next to the compound server area.

Recommendation 21

Based on the successful pilot program at the CIIDC, the Department of Home Affairs should:

- a) Proceed with the planned expansion of the Skype program at the CIIDC**
- b) Introduce similar Skype programs at other immigration detention facilities.**

As at recommendation 18, with the decision of the Federal Court Case in the case of *SZSZM v Minister for Immigration & Ors*, the Department has returned mobile phones and SIM cards to detainees for their personal use within immigration detention facilities. Detainees were not restricted from accessing telecommunication application software such as Skype, which facilitates video and voice chat over the internet.

Recommendation 22

The Department of Home Affairs should install additional computers within accommodation compounds at the CIIDC.

Each compound had four computers installed with internet access and a multifunction printer, with the exception of White 1 Compound, which was equipped with three computers but no printer.

Recommendation 23

Facility staff should implement strategies to promote and foster greater confidence in the internal and external complaints processes available to people in immigration detention.

The FDSP is obliged to inform detainees of their right to complain, without hindrance or fear of reprisal. Complaint, request and feedback forms are readily available within the communal

areas and internet rooms. The ABF is satisfied that the existing strategies are appropriately raising awareness of the external complaints processes available to people in immigration detention.

Recommendation 24

The Australian Government should introduce legislation to ensure that closed immigration detention is only used as a last resort in circumstances where:

- a) a person has been individually assessed as posing an unacceptable risk to the Australian community, and that risk cannot be managed in a less restrictive way**
- b) the necessity for continued detention has been individually assessed by a court or tribunal, with further assessments to occur periodically up to a maximum time limit.**

Mandatory immigration detention is a necessary part of managing the status of unlawful non-citizens – people who do not have permission to arrive or stay in Australia. Immigration detention is an essential component of strong border control.

The decision to restrict a person's liberty is significant and it is not made lightly. Held detention is a last resort for the management of unlawful non-citizens. The decision not to grant a bridging visa (a non-substantive visa, which enables a non-citizen to remain lawfully in Australia), and hence to detain a person, is based on an assessment of risk. The following groups of people will generally not be granted a bridging visa:

- all illegal arrivals – until the health, identity and security risks which they present to the Australian community, are resolved
- unlawful non-citizens who present unacceptable risks to the community, including persons with adverse security assessments
- unlawful non-citizens who have repeatedly refused to comply with their visa conditions.

Children who arrive illegally are initially accommodated in alternative places of detention, such as Immigration Transit Accommodation. The priority remains that children, and where possible their families, are moved into community detention immediately following the completion of all necessary checks.

The Australian Government's position is that indefinite or otherwise arbitrary immigration detention is not acceptable. The length and the conditions of immigration detention are subject to regular review by senior departmental officers and the Commonwealth Ombudsman. These reviews consider the lawfulness and appropriateness of the person's detention, their detention arrangements and placement, health and welfare, and other matters relevant to their ongoing detention and case resolution.

Within the *Migration Act 1958* (the Act), detention is not limited by a set timeframe but is dependent upon a number of factors, including identity determination, developments in country of origin and the complexity of processing due to individual circumstances relating to health, character or security matters.

- These assessments are completed as quickly as possible to facilitate the shortest possible timeframe for detaining people in immigration detention facilities.
- Individuals with an adverse security assessment remain in immigration detention until they can be removed from Australia, either to their country of origin or a third country, where it is safe to do so.

If applicable, a detainee can also seek merits and judicial review of the visa refusal or cancellation decision.

Recommendation 25

While the CIIDC remains operational, the Department of Home Affairs should ensure that people are only held at the CIIDC for the shortest possible period of time.

As advised in Recommendation two, North West Point IDC on Christmas Island was put into contingency on 1 October 2018. In considering the placement of an individual, the broader Immigration Detention Network is also considered. There is finite capacity across the national network and there was often an operational need for detainees to remain at CIIDC to ensure detention facility stability.

Recommendation 26

The Department of Home Affairs should urgently review the cases of people who cannot be returned to their countries of origin and face indefinite detention due to adverse security or character assessments, in order to:

- a) identify possible risks in granting the person a visa or placing them in community detention
- b) determine how any identified risks could be mitigated; for example by a requirement to reside at a specified location, curfews, travel restrictions, reporting requirements or sureties.

A risk-based Community Protection Assessment Tool (CPAT) assessment is completed for all detainees. The Department developed the CPAT as a decision support tool assisting status resolution officers (SRO) to assess the most appropriate placement for a client while status resolution processes are being undertaken. CPAT assessments are conducted every three months during a person's detention. The CPAT assessment considers and documents risks, vulnerabilities and barriers to status resolution, as well as potential management strategies and activities to address those barriers. Alternative placements in this framework include:

- Community placement such as on a Bridging Visa E, including with reporting conditions.
- Residence Determination (community detention).
- Immigration Transit Accommodation, for low to medium risk clients for short periods pending removal.
- Held immigration detention for those who present a risk to the community and/or high risk clients, for short periods pending removal.
- Specialised held detention, tailored arrangements for complex or extreme risk clients.

Detention Review Committees conduct formal monthly reviews of all detainees. The purpose of the Committee is to ensure that:

- Where a person is managed in a held detention environment, that the detention remains lawful and reasonable.
- The location of the person whether held detention, specialised detention or in community detention, remains appropriate to the person's situation and conducive to status resolution.
- Regardless of which location a person is being managed in, their status resolution is progressing and the appropriate departmental services are being put in place to progress to an outcome.
- While status resolution is being progressed, appropriate services are being provided in an effective and cost efficient manner.

Recommendation 27

The Minister and Department of Home Affairs should routinely consider all people in immigration detention for release into alternative community-based arrangements.

People in immigration detention have their cases regularly reviewed by departmental SROs, who consider placement and immigration status resolution options, consistent with legislation and government policy.

Depending on the circumstances of the case, the SRO may have an option to grant a bridging visa, provided the detainee meets the legislated requirements for grant. Alternatively, the SRO may have an option to refer the case to the Minister for the grant of a bridging visa under section 195A of the Act, or to make a residence determination under section 197AB of the Act. Both of these provide alternatives to held immigration detention and allow that person to reside in the community, while they resolve their immigration status.

Recommendation 28

When considering people for release into alternative community-based arrangements, the Minister and Department of Home Affairs should treat cases in which the grounds for a person's visa cancellation or refusal have ceased to exist (such as where a criminal charge has been withdrawn or dismissed) as a priority.

Refer to the response to recommendation 27.

Where an individual's circumstances have changed, such as where a criminal charge has been withdrawn or dismissed, this will be identified in the regular reviews conducted by departmental SROs, who will consider the most appropriate options as per the processes described above.

Recommendation 29

The Department of Home Affairs should review the case management system for people in immigration detention to determine:

- a) the extent to which the case management system addresses the needs of people in detention
- b) whether the case management system is operating as effectively as possible to facilitate status resolution, including through ensuring that people in detention have access to sufficient advice about their status and options for resolution.

In 2016, the Department completed an internal capability review regarding immigration detention arrangements. The review highlighted the need to ensure that there is an empowered officer to make decisions to resolve an individual's immigration status. Existing roles that have similar functions, such as case management and status resolution officers, are likely to be integrated into the 'empowered officer' role with the aim of minimising hand-off points and ensuring a more streamlined experience for the individual. The recommendations of the internal review are progressively being implemented, including the vocational requirements to capture the 'empowered officer' concept into the status resolution officer role. More recently the Department has implemented a number of changes in the response to the Thom Review, including:

- updated training modules and delivery
- integrated job role profiles and development of professional development pathways
- a new mandatory control framework for detention decisions
- quality assurance processes for cancellation and detention processes.

The Status Resolution program aims to:

- progress cases towards a timely immigration outcome by promoting the person's active engagement in the status resolution process and management of their own health and welfare
- effectively manage risks to ensure that barriers to status resolution are identified and addressed, and levels of service provision are appropriate for the management of vulnerability or case complexity
- support the person to make active decisions by communicating key messages and providing relevant information about their status resolution pathway
- manage, collect and share information to build an accurate, timely and reviewable record of case circumstances for the purpose of accountable and efficient program delivery.

Recommendation 30

Recognising the limited role of Status Resolution Officers, the Department of Home Affairs should introduce capacity for Status Resolution Officers to provide people in detention with appropriate information and referrals to independent migration and legal advice.

As soon as reasonably practicable after a person is detained under section 189 of the Act, they are provided with a Very Important Notice (VIN), which sets out information that is required to be given to a detainee under section 194 of the Act. The VIN advises that a detainee is eligible to apply for a visa within certain timeframes and their options for leaving Australia, and that a detainee may seek legal or migration advice.

Under section 256 of the Act, detainees must be given reasonable facilities for obtaining legal advice and/or representation in relation to his or her immigration detention, should they wish to access such services. Detainees may access the information necessary for them to choose their legal representative. This may be done through a community telephone directory or via public domain information via the Internet. The Department does not make recommendations or endorse any particular provider of legal services.