

## Who we are

Hotham Mission Asylum Seeker Project (HMASP) works with people seeking asylum who are lawfully awaiting an outcome on their refugee or humanitarian protection claim, but who face homelessness and destitution without community support. Many of our clients have suffered physical or emotional trauma, isolation and mental illness.

In 2011, HMASP expanded the scope of its work to house and provide casework support for unaccompanied young people, families and vulnerable adults who are released from closed detention into community detention.

HMASP provides:

- professional casework support
- housing
- basic living assistance (BLA)
- help with utilities and emergencies
- volunteer one-to-one support (LinkUP)
- men's and women's support groups
- policy advocacy
- research towards a better reception framework for the future

HMASP led two ground-breaking multi-agency research projects in 2009-2010, addressing “Reception Housing for People seeking asylum” and “The Convention on the Rights of the Child as it applies to Humanitarian Appellant Children

## Introduction

The Hotham Mission Asylum Seeker Project (HMASP) **supports the introduction of this Bill**, which amends the Migration Act 1958 to create a panel of medical, psychological, dental and health experts to monitor, assess and report to the parliament on the health of asylum seekers who are taken to regional processing countries.

Although not a focus of this Bill, a related and important issue that will impact on the functioning and effectiveness of the panel proposed by the Bill is the alarmingly high rate of mental ill health, suicide and self harm of people seeking asylum in detention like facilities.

The figures available for suicide and self-harm in Australian detention centres are alarming<sup>1</sup>. For example, in July 2011 it was reported there is an average of 3 threatened or actual attempts across the detention centre network per day. In just one week during July 2011, there were 50 such incidents. Louise Newman, a mental health advisor reports that within detention centres there are serious suicide attempts usually every night.

---

<sup>1</sup> ABC's Lateline program (Detention Centre Self-harming Prompts Inquiry 28/7/2011)

Documents obtained from Serco, which operates the detention network under contract from the Government, show that on June 9 there were 5 incidents of self-harm, two hanging attempts, four threats of self-harm and one of suicide ideation.<sup>2</sup>

Another page advises that hoffmans (which are knives given to staff to cut down detainees who've attempted to hang themselves) are to be worn by officers at all times.

So high is the suicide risk that detainees are not allowed their own razor.

Fr Carty, who works with people seeking asylum in detention, hears reports of self-harm daily, and each week he hears of at least one suicide<sup>3</sup>. The rise in the mental and emotional trauma suffered by detainees is a combination of what Fr Carty calls the "appalling and inhumane" conditions in which they are being forced to live, combined with the uncertainty produced by the increasingly long delays in security checks and processing applications, matched with a complete lack of information<sup>4</sup>.

The Australian Human Rights Commission report Immigration Detention at Curtin – Sept 2011<sup>5</sup> states that most people the Commission spoke with expressed:

- Distress about the impacts of being deprived of their liberty for a long period of time and with no certainty about when they would be released
- Difficulties coping with the isolation caused by being detained in such a remote location
- Their constant stress about being separated from family members
- Their concern about witnessing mental distress and self-harm among others in detention
- Their fears of "going mad" if their detention continued
- Thoughts of self-harm and/or suicide.

In addition to the Commission's findings, there is an abundance of research which shows that the closed detention of vulnerable people seeking asylum has a detrimental impact on their mental health. In 2006 researchers from Bond University concluded that mandatory incarceration in detention centres of people seeking asylum appears to contribute to severe psychological distress. The impact of detention itself compounds the adverse psychological effects of earlier, often traumatic experiences under inhuman regimes.<sup>6</sup>

---

<sup>2</sup> ABC's Lateline program (Detention Centre Self-harming Prompts Inquiry 28/7/2011)

<sup>3</sup> Catholic Communications, Sydney Archdiocese, 30 Mar 2011  
[http://www.sydneycatholic.org/news/latest\\_news/2011/2011330\\_763.shtml](http://www.sydneycatholic.org/news/latest_news/2011/2011330_763.shtml)

<sup>4</sup> Catholic Communications, Sydney Archdiocese, 30 Mar 2011  
[http://www.sydneycatholic.org/news/latest\\_news/2011/2011330\\_763.shtml](http://www.sydneycatholic.org/news/latest_news/2011/2011330_763.shtml)

<sup>5</sup> [http://www.hreoc.gov.au/human\\_rights/immigration/idc2011\\_curtin.html](http://www.hreoc.gov.au/human_rights/immigration/idc2011_curtin.html)

<sup>6</sup> Psychological Status of Former Refugee Detainees from the Woomera Detention Centre now Living in the Australian Community Farahnaz Sobhanian, Gregory J. Boyle<sup>1</sup> and Mark Bahr Bond University And Tindaro Fallo Migrant Health Service, Adelaide , page 2.

## The Proposed Amendment of the Migration Act 1958

### Membership of the Panel

Membership of the panel, as it currently stands, comprises professionals from the health and/or allied health fields. However access to adequate health services is also a human rights issue. This is evidenced by Australia signing and ratifying important human rights treaties which explicitly recognise the right of everyone to the highest possible mental health care.

For example, *the International Covenant on Economic Social and Cultural Rights*, Article 12, states:

*The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*

*The Convention on the Rights of the Child* , Article 24, states

*States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.*

*The Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care* (United Nations General Assembly, 1991) reinforces the rights enshrined in the International Covenants and provide valuable guidance as to how those rights ought to apply to people with mental illness.

- Principle 8(1) makes clear that people with mental illness have the right to the same standard of health care as other ill persons.
- Principle 14 states that mental health facilities should have the same level of resources as any other health facility.
- Additionally, Principle 7 emphasises the right to be treated and cared for as far as possible in the community.

We believe that membership of the panel should be broadened to include a professional with human rights expertise, to reflect these human rights commitments. A human rights representative will also bring a valuable “overall” perspective to the panel’s assessment responsibilities, and will ensure that human rights issues are not lost within a (well intentioned) medical paradigm.

### Recommendation

**That ss(vi) *human rights* be inserted into s198ABA (3)(a), and that the Human Rights and Equal Opportunity Commission be professional body prescribed by the regulations, as per s198ABA (3)(b)(vi).**

## **Performance of the panel's functions**

### **A. Resourcing of the health care service providers and the panel.**

The ability of the panel to adequately perform its role is heavily dependent upon adequate resourcing and support, both of the panel itself and of the health care service providers.

The Australian Human Rights Commission report *Immigration Detention at Curtin – Sept 2011*<sup>7</sup> found that the staffing level of the IHMS mental health service was clearly inadequate to meet the needs of the high number of people in detention. The impact of on the mental health service of the detention centre's remoteness included that it is difficult to recruit adequate staff, limited availability of staff accommodation and difficulties accessing inpatient mental health services.

It is a foregone conclusion that a panel assessing the health outcomes of people seeking asylum who being held in closed facility with health support services at the level they have historically in Australian detention centres, will be making recommendations to the Minister, as per s 198AB(6)(b) regarding adverse health outcomes.

It is far more efficient and reflective of the aims of the Bill to adequately resource the health support services in the first place, acknowledging the significantly higher rates of ill health compared to the general population, and in doing so circumvent that very lengthy and expensive process of the panel investigating and reporting back adverse findings to the Minister.

### **Recommendation**

**That health service provision at offshore processing facilities be adequately funded.**

**That ss(e) determine the appropriate level of resourcing required to adequately perform its duties into s198ABA (5).**

### **B. Independence of the panel.**

A critical aspect of the panel's performance is its independence from Government. The importance of independence of the panel was outlined in Senator Hanson Young's Second Reading Speech in the Parliament on September 11 2012:

*The Panel will largely set its own Terms of Reference, as advised by the expert physicians' organisations, and will be independent of the Minister for Immigration... It has to be above the bureaucracy. The current advisory group*

<sup>7</sup> [http://www.hreoc.gov.au/human\\_rights/immigration/idc2011\\_curtin.html](http://www.hreoc.gov.au/human_rights/immigration/idc2011_curtin.html)

*– Immigration Health Advisory Group or IHAG – reports to the Immigration Department. It is limited. Its members are constrained.*

HMASP is concerned that despite the importance of the panel's independence from Government, there is no mention in the Bill of this independence.

#### **Recommendation**

**That words or a section be inserted into the Bill that states that the panel is independent of the Government.**

#### **C. Input from caseworkers to be sought by panel.**

It appears that in order to determine the health outcomes of people seeking asylum who have been taken to regional processing countries, the panel will consult with the Government contracted health providers.

One of the issues relating to the mental and other health outcomes of people seeking asylum in detention is that they do not seek support for ongoing mental health concerns, which can be due to the nature of the mental health issue, but also due to the lack of appropriate service response.

This data is, however captured by the workers who are contracted to provide casework support. Members of the panel should consult caseworkers, who despite not being health care providers, can provide critical input regarding the lack of access to appropriate health care support.

#### **Recommendation**

**That s198ABA (5) include that in performing the panel's function, members may consult widely, and input from caseworkers should be sought.**

#### **Standards for health service providers**

A primary role of health care provision is that service response is timely, appropriate and effective. To ensure the panel has an objective approach, it is important that the health service provision is evaluated against specific standards.

The Royal Australian College of General Practitioners (RACGP) has developed Standards for health services in Australian immigration detention centres<sup>8</sup>. The RACGP has ensured that the Standards are appropriate to the particular population in

---

<sup>8</sup> The RACGP Standards for health services in Australian immigration detention centres Prepared by Dr Ronelle Hutchinson and Ian Watts for The Royal Australian College of General Practitioners National Expert Committee on Standards for General Practices found at [http://www.racgp.org.au/download/documents/Standards/racgpstandards\\_detention\\_centres.pdf](http://www.racgp.org.au/download/documents/Standards/racgpstandards_detention_centres.pdf)

immigration detention, which is characterised by cultural and linguistic diversity. The standards are cognizant of the health issues relating to detention and the experiences of some people before detention contribute to increased vulnerability to the development of health problems.

Health services within immigration detention centres provide health care in a unique and challenging environment. Some of these challenges include:

- the potential for language or cultural differences to create misunderstandings and misinterpretations during consultations
- the process of detaining individuals which may erode their trust in the health care system and make them hesitant to access care. This hesitancy needs to be recognised in the context of the individual's cultural, religious and socio political background
- an individual's health and illness framework which may arise from a complex interaction of past experiences, and an individual's religious, cultural and socio political background and which needs to be understood if comprehensive health care is to be provided
- cultural awareness which is obviously paramount in these health care settings. 'Culture', however, is a complex issue and it is important to acknowledge that many individuals detained in immigration detention centres may belong to minority groups in their home countries and may have been persecuted for this reason. These individuals may not therefore be representative of the mainstream culture of their country of origin (

The Standards concentrate on the principles of quality and safety rather than prescribing exactly how a health service should provide care. The Standards are written so as to apply to the diverse forms of health services in immigration detention centres. The Standards also recognise that different patients have different health care needs, and that services may provide different types of care. The Standards do not focus on current government programs (such as health or immigration policies or programs) or require services to participate in such programs in order to meet the Standards.

Standards are important to the provision of health services in offshore processing facilities as they provide a structured way for health services to assess themselves in relation to quality and safety, before considering what changes may need to be made. Achieving the Standards is also an indication that a health service is providing high quality, safe and effective care

The application of these Standards in offshore processing facilities will result in improvement in the quality of health care and will contribute to the prevention of failures in health care such as those that have been the subject of multiple inquiries. Additionally the application of these Standards will represent a substantial advance in the capacity of the panel to perform its functions. Longer term, the adoption of these standards will reduce the likelihood that the level of adverse findings reported back to Government by the panel.

### **Recommendation**

**That the Bill includes reference to The Royal Australian College of General Practitioners (RACGP) Standards for health services in Australian immigration detention centres.**

### **Conclusion**

This Amendment to the Migration Act creates a panel to monitor and report on the health of people seeking asylum who are being held in an offshore facility. This is a necessary and important step in ensuring that the health needs of this vulnerable group are met. However the “devil is in the detail”, and until it is clear that the panel is going to be appropriately resourced, and allowed appropriate access to people seeking asylum it will remain unclear whether this Bill will achieve its aims.