



Appendix H: Immigration Detention Standards

PRINCIPLES UNDERLYING CARE AND SECURITY

When considering the Immigration Detention Standards that follow, the principles listed below should underpin the provision of the detention function and the standard of care to be provided and the service provider's actions must be guided by them.

- Immigration detention is required by the Migration Act and is administrative detention, not a prison or correctional sentence.
- The service provider is to efficiently manage the operations related to the detention function as a contracted agent of the Department of Immigration and Multicultural Affairs (DIMA).
- In its operation of detention facilities the service provider will be under a duty of care in relation to the detainees.
- Ultimate responsibility for the detainees remains with DIMA at all times.
- All actions relating to the detention and care of detainees are to be consistent with relevant Commonwealth and State/Territory law.
- All Departmental policies, instructions and other directions to the extent that they impact on the operation of the detention function are complied with.
- Australia's international obligations inform the approach to delivery of the detention function.
- The dignity of the detainee is upheld in culturally, linguistically, gender and age appropriate ways.
- All persons required to be detained under the Migration Act are detained and prevented from escaping.

- Due diligence is exercised in the care and maintenance of public assets.
- Any issue which arises in relation to the migration status of a detainee and any request for access to legal advice is referred to DIMA.

STANDARDS

The following outcome standards relate to the quality of care and quality of life expected in immigration detention facilities.

These standards must be met in all circumstances except where it is demonstrated that the security and good order of the detention facility would otherwise be compromised.

Further standards may be added, or existing standards modified by DIMA.

1. LAWFULNESS OF DETENTION

- 1.1 The Contractor must satisfy itself that the detention of any person is authorised by the Migration Act.
- 1.2 The Contractor must satisfy itself that every place of detention is an authorised place of detention under the Migration Act.

2. DIGNITY

- 2.1 Each detainee is treated with respect and dignity.
- 2.2 Services, facilities, activities and programs are based on the concept of individual management and designed to meet the individual needs of detainees and have regard to cultural differences.
- 2.3 If a detainee cannot understand written information and where it is required that a detainee be informed of a matter in writing, the information is also conveyed orally in a language the detainee can understand.
- 2.4 Where a detainee has a non-English speaking background, written information is provided in a language the detainee can understand. An interpreter is always provided for a detainee who does not understand English, when discussing with them matters relating to their management.
- 2.5 Each detainee is able to undertake personal activities, including bathing, toileting and dressing in private.

3. PRIVACY

- 3.1 Information about detainees is treated in confidence. Information beyond that reasonably required for the detention of the individual and for effective planning and supervision and the management of the detention facility is not collected or retained.
- 3.2 Personal information held in connection with the delivery of the service is used only for the purposes of fulfilling obligations to deliver the service.

- 3.3 All reasonable measures are taken to ensure that personal information is protected against loss, and against unauthorised access, use, modification, disclosure or other misuse and that only authorised personnel have access to the data.
- 3.4 Staff do not disclose information gained by, or conveyed to them, through their position in the detention facility, or contained in a record, return or report prepared by a staff member to any persons except:
- the responsible Minister
 - a supervisor or manager
 - a DIMA Facility Manager
 - the detainee who is the subject of the record, return or report
 - those authorised by the Minister or Secretary
 - the Ombudsman or officers of that office
 - those with a statutory right
 - the detainee's appointed representative or advocate.
- 3.5 Where disclosure of personal information may be required by law, the Contractor immediately notifies DIMA Manager responsible for detention matters.
- 3.6 Information from a detainee's file is made available to the detainee on request, except where the disclosure of the information is considered to endanger life or physical safety, or is prejudicial to the security or good order of the facility. Any instance where a request for such information is denied is referred to the DIMA Facility Manager within one day.

4. SOCIAL INTERACTION

- 4.1 Each detainee is able to receive visitors except where the security and good order of the detention facility would be compromised.
- 4.2 Detainees have access to spiritual, religious and cultural activities of significance to them.
- 4.3 Detainees are provided with appropriate recreational activities.
- 4.4 All detainees have access to education, recreation and leisure programs and facilities which provide them the opportunity to utilise their time in detention in a constructive and beneficial manner.
- 4.5 Detainees are encouraged to participate in such programs.
- 4.6 Detention programs are regularly evaluated.
- 4.7 Detainees have unlimited access to open air except where the security

and good order of the detention facility would be compromised or where the detainee is in isolation detention in which case supervised exercise periods are scheduled.

5. SAFETY

5.1 Commonwealth Government occupational health and safety standards set out in the Occupational Health and Safety (Commonwealth Employment) Act and its supporting framework of regulations and codes of practice apply to all detention facilities.

5.2 Detainees, staff and visitors are safe and feel secure in the facility.

5.3 All reasonable steps are taken to ensure that:

- Detainees, staff and visitors are protected from infection.
- Detainees, staff and visitors are protected from hazards of fire and natural disasters.

5.4 The security of buildings, contents and people within the facility is safeguarded.

5.5 Staff are trained to recognise and deal with the symptoms of depression and psychiatric disorders and to minimise the potential for detainees to do self harm.

6. SELECTION AND TRAINING OF PERSONNEL

6.1 Competency requirements

6.1.1 The following form part of the minimum set of competencies required of all staff:

- an ability to supervise detainees, and to interview and counsel where required
- an ability to set and maintain limits
- good oral and written communication skills
- an ability to effectively communicate and work with detainees of a diversity of backgrounds, including an ability to assess detainee needs.

6.1.2 The following elements form part of the required knowledge base of all staff:

- the legislative base for immigration detention
- detention policies, procedures and rules
- obligations and responsibilities to protect the privacy of personal information and the consequences of failure to comply.

6.2 Personal attributes

6.2.1 All staff are, and remain, of good character and good conduct and pass a national police check before appointment.

6.2.2 All staff are efficient and have the requisite physical and psychological fitness to carry out the tasks assigned to them.

6.2.3 All staff have:

- an appreciation of the anxiety and stress detainees may experience
- an ability to be objective in relation to a wide variety of detainees
- an ability to be firm, fair and understanding
- an understanding and appreciation of the diversity and cultural backgrounds of detainees.

6.2.4 Medical personnel have the capacity to recognise, assess and deal with detainees who have suffered torture or trauma.

7. MANAGEMENT AND SECURITY OF DETENTION FACILITY

7.1 Operational Orders

7.1.1 A clear set of operational orders in accordance with relevant DIMA policies and guidelines, and Commonwealth and State/Territory legislation govern the operation of each detention facility and the management of detainees. These operational orders include detailed emergency plans.

7.2 Security

7.2.1 Detainees are prevented from escaping from detention either while within the confines of a detention facility or while outside the facility for a specified purpose.

7.2.2 Detainees do not have access to, or are able to manufacture, any implement that could be used as a weapon.

7.2.3 Staff monitor tensions within detention facilities and take action to manage behaviour to forestall the development of disturbances or personal disputes between detainees. If these occur, they are dealt with swiftly and fairly to restore security to all in the facility.

7.2.4 All staff do their utmost to maintain the security of the detention facility, the security of detainees, the security of those employed at the facility and any visitors to the facility.

7.3 Detainee Records

7.3.1 A permanent register is maintained of each person detained in each facility detailing:

- the photographic and biometric identity of the detainee
- the reasons and authority for detention
- the date and time of admission

- medical and welfare records
- dietary requirements and religious beliefs
- security assessment
- fingerprinting.

7.3.2 DIMA has access to and ultimate ownership of all detainee records.

7.4 Reception

7.4.1 New detainees are briefed on the operation of the detention facility in their own language.

7.5 Retention of Detainee's Property

7.5.1 All money, valuables, clothing and other effects belonging to a detainee which they are not allowed to retain with them in detention is itemised and placed in safe custody. Steps are taken to keep such items in good condition. An inventory of the property retained is signed by the detainee.

7.5.2 Each detainee has personal space in which to store personal effects.

7.5.3 Personal effects of a detainee are not used by other people without the consent of the detainee.

7.5.4 On release from detention all such articles and money are returned to the detainee who must sign a receipt for them, subject to relevant provisions of sections 209, 210, 211, 212, 223 and 224 of the Migration Act and any changes to the provisions notified by DIMA.

7.5.5 Any money or effects authorised to come into a facility for a detainee are treated in the same way.

7.5.6 If a detainee brings in any drugs or medicine, a medical or nursing officer decides what use will be made of them.

7.6 Transport of Detainees

7.6.1 Safe and dignified transport of detainees to and from detention, including the removal from a detention facility to an overseas location.

7.6.2 When detainees are being transported outside a detention facility they are exposed to public view as little as possible and protected from curiosity and publicity in any form.

7.6.3 Detainees are not transported in vehicles with inadequate ventilation or light, or which would in any way subject them to unnecessary physical hardship.

7.7 Accommodation

- 7.7.1 Accommodation provided for detainees meets Commonwealth Occupational Health and Safety requirements set out in the Occupational Health and Safety (Commonwealth Employment) Act and its supporting framework of regulations and codes of practice.
- 7.7.2 Toilet and sanitary facilities are provided for detainees to use as required, and these are kept in a clean condition.
- 7.7.3 Adequate bathing and shower installations are provided to enable every detainee to maintain general hygiene by bathing or showering daily at a temperature suitable for the climate.
- 7.7.4 All parts of the facility are maintained and kept clean at all times.

7.8 Discipline and Control

- 7.8.1 Discipline is maintained in the interests of management, good order and security of the facility.
- 7.8.2 Collective punishment is not used.
- 7.8.3 Prolonged solitary confinement, corporal punishment, punishment by placement in a dark cell, reduction of diet, sensory deprivation and all cruel, inhumane or degrading punishments are not used.
- 7.8.4 When detainees are in solitary confinement for security reasons, a qualified medical officer visits daily and ensures that continued separation is not having a deleterious effect on physical or mental health.
- 7.8.5 In instances where detainees commit a criminal act while in detention and a decision is taken to charge the detainee with a State or Federal offence, there is a judicial hearing with the right to legal representation for the detainee charged with the offence.
- 7.8.6 No detainee is assigned to perform activities as a form of discipline. This is not intended to preclude detainees from voluntarily performing selected activities at the facility for the purpose of earning points to purchase additional items from outside the facility.

7.9 Use of Force

- 7.9.1 Staff may use reasonable force only as a last resort to compel a detainee to obey a lawful order. Where such force is used the staff member reports the fact to the DIMA Manager at the detention facility orally within one hour and provides a written incident report within 4 hours unless the staff member's shift finishes before that time in which case a written report is provided before the staff member completes the shift.

- 7.9.2 Staff have the skills and knowledge to enable them to restrain aggressive detainees. This training emphasises techniques which allow detainees to be restrained with minimum force.
- 7.9.3 Staff only use weaponry approved by DIMA. No staff are issued weaponry unless specifically trained in its use.
- 7.9.4 Where weaponry is issued or used it is orally reported to the DIMA Manager responsible for the detention facility within one hour and a written incident report is provided within 4 hours unless the staff member's shift finishes before that time in which case a written report is provided before the staff member completes the shift.

7.10 Instruments of Restraint

- 7.10.1 Where detainees are unco-operative or disruptive, physical and other forms of restraint are used as a last resort only and to the minimum extent necessary. Chemical restraints are used only under medical or nursing supervision.
- 7.10.2 Instruments of restraint such as handcuffs, chains, irons, straight-jackets and chemicals (such as sedatives) are never applied as punishment.
- 7.10.3 Instruments of restraint are not used except when approved by the Contractor's Facility Manager when other methods have failed , in order to prevent detainees from injuring themselves, or others, or from damaging property.
- 7.10.4 Instruments for the prevention of escape are used during a transfer or other temporary absence from the detention facility, only where the Contractor's Facility Manager assesses that there is a serious risk of escape.

7.11 Complaints mechanism

- 7.11.1 Detainees have the opportunity to comment or complain about the conditions of detention to DIMA or the service provider on any matter. Provision is made for a detainee to lodge a written complaint in a secure box within the confines of the area of detention. A copy of all complaints lodged is lodged with DIMA.
- 7.11.2 Material advising of the right to complain to the Ombudsman is available.

8. MANAGEMENT OF DETAINEES

8.1 Quarantine and Public Health Requirements

- 8.1.1 The requirements of the Commonwealth Quarantine Act (1908) are met with respect to new detainee arrivals.
- 8.1.2 In order to meet the requirements of the respective State Public Health Acts, medical examinations are carried out and appropriate facilities provided.

8.1.3 Where a detainee is found to have an infectious disease, the detainee is treated so as to minimise the possibility of contamination of the detention environment before the detainee is allowed to enter the normal routine of the detention facility.

8.1.4 Detainees isolated for health reasons are afforded all rights and privileges which are accorded to other detainees so long as such rights and privileges do not jeopardise the health of others. Any instances of isolation for health reasons in excess of seven days are notified to the DIMA Facility Manager with supporting medical certification.

8.2 Clothing and Bedding

8.2.1 Where detainees do not have their own clothing, detainees are provided with adequate clothing suitable for the climate.

8.2.2 Detainees are required to maintain their personal clothing in a state which is clean and fit for use.

8.2.3 Every detainee is provided with a separate bed and sufficient bedding. This bedding is clean when issued, kept in good order and changed often enough to ensure its cleanliness.

8.3 Health Care Needs

8.3.1 The care needs of each new detainee are identified by qualified medical personnel as soon as possible after being taken into detention. The medical officer has regard not only to the detainee's physical and mental health but also the safety and welfare of other detainees, visitors and staff.

8.3.2 Detainees who require specialist treatment are referred or transferred to specialist institutions or to community hospitals.

8.3.3 The care needs of each detainee are regularly monitored.

8.3.4 All detainees are provided with necessary medical or other health care when required.

8.3.5 Detainees are provided with reasonable dental treatment necessary for the preservation of dental health.

8.4 Food

8.4.1 Every detainee is provided with food of sufficient nutritional value, adequate for health and wellbeing, and which is culturally appropriate.

8.4.2 Three meals a day are provided.

8.4.3 Fresh drinking water is available to every detainee at all times.

8.4.4 Special dietary food is provided where it is established that such food is necessary for medical reasons, on account of a detainee's religious beliefs, because the detainee is a vegetarian, or where the detainee has other special needs.

8.5 Personal Hygiene

- 8.5.1 Detainees are responsible for keeping themselves clean, and are provided with toiletries and ablution facilities that are necessary for health and cleanliness.

9. INDIVIDUAL CARE NEEDS

- 9.1 The individual care needs of detainees with special needs are identified and programs provided to enhance their quality of life and care.

9.2 Unaccompanied Minors

- 9.2.1 Unaccompanied minors are detained under conditions which protect them from harmful influences and which take account of the needs of their particular age and gender.

9.3 Infants and Young Children

- 9.3.1 The special needs of babies and young children are met.

9.4 Children

- 9.4.1 Social and educational programs appropriate to the child's age and abilities are available to all children in detention.
- 9.4.2 Detainees are responsible for the safety and care of their child(ren) living in detention.
- 9.4.3 Where necessary, help and guidance in parenting skills is provided by appropriately qualified personnel.

9.5 Expectant Mothers and Infants in Detention

- 9.5.1 Expectant mothers have access to necessary ante-natal and post natal services.
- 9.5.2 Arrangements are made, wherever practicable, for children to be born in a hospital outside the detention facility. If a child is born in a detention facility this is not recorded on their birth certificate.
- 9.5.3 Where a nursing infant is with its mother in detention, provision is made for the child to be cared for by the detainee.

9.6 Psychiatrically disturbed

- 9.6.1 Detainees in need of psychiatric treatment have access to such services.
- 9.6.2 Arrangements are made to move detainees who are found to be severely mentally ill or insane to appropriate establishments for the mentally ill as soon as possible.

10. RELIGION

- 10.1 Detainees have the right to practise a religion of their choice, and if consistent with detention facility security and good management, join with other persons in

practising that religion and possess such articles as are necessary for the practice of that religion.

- 10.2 A qualified religious representative approved under guidelines is allowed to hold regular services and to pay pastoral visits to detainees of the appropriate religion at proper times, so long as it does not interfere with the security and management of the detention facility.

11. COMMUNITY CONTACTS

- 11.1 Contact between detainees and their families, friends and the community is permitted and encouraged except when in separation detention. The contact is facilitated through detainee access to telephones, through regular visits and letters.
- 11.2 Detainees are allowed reasonable facilities to communicate with the diplomatic and consular representatives of the country to which they belong or with their legal representatives.
- 11.3 Detainees are allowed the opportunity to keep informed of current events.

12. NOTIFICATION OF DEATH, ILLNESS, TRANSFER

- 12.1 Upon death, serious illness or serious injury of a detainee, or a detainee's removal to an institution for the treatment of mental illness, the Contractor's Facility Manager arranges as soon as possible, for the information to be conveyed to the person previously designated as next of kin or contact person, where the next of kin or contact person resides in Australia
- 12.2 A detainee is informed as soon as possible following the notification of the death or serious illness of any near relative or member of the detainee's extended family as defined by cultural values of the detainee.

13. MONITORING AND REPORTING

- 13.1 DIMA has full access to all relevant data to ensure that monitoring against these standards can take place.
- 13.2 The Contractor ensures that adequate reporting against the standards is provided on a regular and agreed basis.
- 13.3 Any incident or occurrence which threatens or disrupts security and good order, or the health, safety or welfare of detainees is reported fully, in writing, to the DIMA Facility Manager immediately and in writing within 24 hours.
- 13.4 The Contractor ensures that it responds within agreed time frames to requests for information so as to enable DIMA to meet Departmental and Government briefing requirements.

14. DEFINITIONS

“assault” means an unlawful physical or sexual attack upon another person or a threat to do violence to another person

“education programs” means pre-school and school curriculum based programs, focussing on English as a second language and taking into account variable lengths of stay in detention of students, in fine as far as possible with local education authority standards, provided by qualified teachers, either within the detention facility, or within local schools if appropriate and within requirements for continued detention

“incident” (reportable through Incident Reporting Procedures detailed in Operational Orders) means a variation from the ordinary day to day routine of a facility which threatens, or has the potential to threaten, the good order of the facility, or, which threatens the success of escort / transfer / removal activities, or may impact on immigration processing, including but not limited by: escape from lawful detention or attempted escape attempted self harm hunger strike in excess of 12 hours solitary confinement of detainee transfer of detainee / s to another facility, state institution indications of rising tension within a facility, eg prior / post major removal activity, prior / post visa decision advice approaches to staff by, or presence at the facility of, media representatives industrial action by staff

“minor incident/disturbance” (major incidents / disturbance would usually be covered by Emergency Procedures in Operational Orders) means an incident or event which affects, but to a lesser degree than a major incident, the good order and security of the facility or which threatens the success of escort / transfer / removal activities, including but not limited by:

- attempted self harm
- transfer of detainee / s to another facility, state institution
- indications of rising tension within a facility, eg prior / post major removal activity, prior / post visa decision advice
- approaches to staff by, or presence at the facility of, media representatives.

“major incident/disturbance” (major incidents / disturbance would usually be covered by Emergency Procedures in Operational Orders) means an incident or event which seriously affects the good order and security of the facility or which threatens the success of escort / transfer / removal activities, including but not limited by:

- medical emergency eg serious accident, serious self inflicted injury, infection contamination of facility
- serious assault eg sexual assault, assault causing serious bodily harm
- riot

- hostage situation
- hunger strike (of over 24 hours)
- sit-in, barricade (if not dealt with within 4 hours)
- rooftop demonstration
- food poisoning/epidemic
- bomb threat
- failure of mains system / power failure; electronic security system
- hazardous materials contamination
- fire, storm and tempest
- damage caused to facility.

“recreation/leisure activities/programs” means access to opportunities to effectively utilise time in detention in a constructive and beneficial manner, including indoor and outdoor exercise and sport, sporting equipment, games, outings, books, newspapers, television, videos, craft activities, English language tuition, vocational activities.

“separation detention” means detention which restricts a person or a group of persons to a particular area of a detention facility on initial arrival at, or prior to removal from, a facility.

“serious assault” means an assault involving violence upon another person, for example occasioning serious bodily harm, sexual assault.

“substantiated complaints/non compliance” means objective assessment against requirements including legislation, procedures, or, qualitative assessment by Contract Administrator based on available evidence / data.

“unaccompanied minors” means children under 18 years of age not accompanied by a relative eg parent, adult sibling, aunt / uncle. Programs for unaccompanied minors include placement, where possible, within the facility with an adult / s who is / are willing to take a parenting role in relation to the child, dedicated social activities, provision for contact with family members overseas.

