



Commonwealth  
National  
Preventive  
Mechanism

 FOR CONSUMERS

# Post Visit Summary

North West Point Immigration  
Detention Centre (NWPIDC)

Phosphate Hill Immigration Reception  
and Processing facilities

08 August 2024

# Table of Contents

Summary.....	3
Purpose of visit.....	3
What the visit revealed .....	3
Recommendations.....	4
Facility .....	5
Observations .....	6
Safety .....	6
Respect.....	7
Access to personal and sensitive information.....	7
Purposeful activity .....	8
Programs and activities.....	8
Wellbeing and Social Care .....	8
Isolation from Family and social supports .....	8
Physical and Mental Health.....	10
Establishment of a new drug and alcohol team.....	10
Methodology.....	11
The Commonwealth National Preventive Mechanism Mandate.....	12
Agency Response .....	22



# Summary

## Purpose of visit

The Commonwealth National Preventive Mechanism (NPM) undertook a semi-announced visit to Northwest Point Immigration Detention Centre (NWPIDC) on Christmas Island on 7 August 2023 and the Phosphate Hill Immigration Detention Facility on 8 August 2023.

On 7 August we advised the ABF Superintendent of the facility of our intention to visit that day, and entered the facility approximately 30 minutes later. The visit was conducted by three OPCAT monitors as part of a wider series of visits to Commonwealth places of detention in Australia's Indian Ocean Territories.

The Commonwealth NPM last visited NWPIDC and the Phosphate Hill facilities in April 2022.

## What the visit revealed

During this visit, we found that NWPIDC was operational and fully staffed despite only 36 people being detained there.

This gave the people in detention increased access to programs and activities, and to communal recreational facilities outside of their compounds.

The most common issues raised by people held in detention were separation from family and social supports, and difficulties in managing these impacts given the remote location of the detention centre.

Detention facilities at Phosphate Hill had undergone considerable repair since our 2022 visit. Issues with ageing accommodation had been addressed, and it was being maintained in an operational state, ready for immediate activation if required. There were no people held in detention there during our visit.



# Recommendations

Based on the NPM's visit to NWPIDC, I **recommend** the following:



## Recommendation 1

The Australian Government should urgently consider legislative reforms to allow ABF to detect and address contraband within immigration detention facilities, including but not limited to, appropriate search and seize powers.

## Recommendation 2

The Department should update relevant policy to include an expanded definition of 'critical family', beyond the minimum standard identified in the Migration Regulations 1994, to ensure cultural recognition of extended family and to minimise the impact of separating people in detention from their family and social supports where possible.

## Recommendation 3

The Department should review the process used to assess requests by people in detention to seek transfer to a detention facility closer to their families to ensure that it is not too onerous, and requests are resolved in a timely manner.

## Recommendation 4

The Department should ensure that current definitions of family and the assistance provided to people in detention to maintain contact with family and social supports meet Australia's international obligations.

**Iain Anderson**

Commonwealth Ombudsman



# Facility

NWPIDC is a purpose built, high-security immigration detention facility located on Christmas Island in Australia's Indian Ocean Territories.

It contains 8 residential compounds, although only two were occupied at the time of the visit. The facility also has a high care accommodation compound containing 20 rooms, which was unoccupied at the time of the visit.

On 7 August 2023, there were 36 people held in detention at NWPIDC. They represented 20 nationalities, while two people were listed as stateless.

The Phosphate Hill Immigration Detention Facility consists of a reception and processing area, and adjacent accommodation. Both of these areas were unoccupied but listed as operational, and service provider staff were on site during the visit. The last time Phosphate Hill was used, it was as an APOD for the Murugappan family, but it has historically been used as a processing and reception centre for new boat arrivals if they enter detention.

We acknowledge that after the NPM visit it was announced that the Immigration detention facilities on Christmas Island were placed into Hot Contingency status and the people held in detention there were transferred to detention facilities on the mainland.



# Observations

## Safety

### Prevalence of home brewed alcohol

All stakeholders noted that a prevalence of home brew was a significant threat to the safety and security of the centre. Some people in detention have been using food items including fruit and condiments and commonly available containers to brew alcohol in their accommodation areas. The staff expressed frustration with their limited ability to search for home brew and other contraband items, such as illicit drugs. Stakeholders reported that negative behaviours such as abusive and aggressive behaviour, assaults and other anti-social behaviours were linked with the consumption of home brewed alcohol by people in detention. We also received feedback from one detained individual who said he sometimes felt unsafe because of the behaviour of intoxicated people.

The *Migration Act 1958* limits the ability of authorities to search the property and accommodation of people in detentions, unless they are looking for a:

*weapon or other thing capable of being used to inflict bodily injury or to help the person to escape from immigration detention.*<sup>1</sup>

Searches for any other form of contraband are not permitted.



#### Recommendation 1

The Australian Government should urgently consider legislative reforms to allow ABF to detect and address contraband within immigration detention facilities, including but not limited to, appropriate search and seize powers.

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<sup>1</sup> s252 of the *Migration Act 1958*

# Respect

## Access to personal and sensitive information

Under the Australian Privacy Principles,<sup>2</sup> people have the right to access any information relating to personal and sensitive information that government departments hold relating to them. While speaking to people in detention, we were advised that their requests for copies of documents prepared by a contracted service provider such as Individual Management Plans (IMP) were being denied. This is despite people in detention being asked to sign copies of these documents.

One person we spoke to advised that he had difficulty reading English but was asked to sign documents without properly understanding their content. He reported that he asked for copies so he could have them translated, but that these requests were denied.

We raised this issue with Home Affairs and were initially advised that this topic was under consideration at a national level. We continued to monitor this topic, and were later advised that a direction had been issued to the contracted service provider that when requested by persons in detention, they are required to provide Individual Management Action Plans to them; appropriate redactions (such as information pertaining to another individual not the subject of the report) may be made in line with the Australian Privacy Principles and the *Privacy Act 1988*.

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<sup>2</sup> [Australian Privacy Principles | Oaic](#) (APP12)



# Purposeful activity

## Programs and activities

We noted considerable improvements to the availability of programs and activities, and the amount of time that people in detention were allowed out of their compounds to use communal recreational and education facilities since our 2022 visit.

The national programs and activities schedule had been extended to 7 days per week instead of 5, which has contributed to positive change.

Access to areas outside of the compounds had increased to between 6 and 8 hours per day, compared to approximately two hours per day at the time of our 2022 visit. This was partially a result of the significant reduction in the number of people in detention, while a full staffing complement was maintained.

# Wellbeing and Social Care

## Isolation from Family and social supports

The primary issue of concern that people in detention raised with us was their separation from family and social supports. They reported that the isolation of Christmas Island and cost of travelling there effectively prevented personal visits from family and friends. They also reported that the time difference between the facility and the eastern states of Australia, and instability of the facility's telecommunications network, hampered their ability to maintain contact with family members.

We acknowledge the actions taken by the department to try to address the communications difficulties, including the installation of Wi-Fi. However, we heard that slow connection speeds and unstable connections (often due to the weather) meant that maintaining contact with family was a challenge.

There is a process for people detained at NWPIDC to seek transfer back the mainland to be closer to their families, however detained individuals told us that it was onerous and lengthy.

One person gave the example of seeking a transfer back to where his Australian wife and child reside. His child had been experiencing emotional and behavioural problems relating to separation, and he detailed these issues in his request for transfer. In response, the department requested official documentation to support his claims,





including letters from schools, medical practitioners, and mental health professionals. However, the issues that made it difficult for him to stay in contact with his family made it equally difficult to obtain this information. He was eventually able to obtain the required information and had submitted it approximately a month prior to speaking to us, but he had not had an answer. His requests for an update had also gone unanswered.

Another individual advised us that he had requested a transfer to a facility on the east coast so that he could be closer to his elderly mother who had been ill. His request had not been approved because the Department's policy definition of family considered for transfer requests is limited to spouses and children, and does not include parents, siblings, or grandparents.<sup>3</sup>

This limited definition of 'family' excludes relationships (such as parents, grandparents, cousins, and other extended family) that some cultures place great significance on.

The Australian Human Rights Commission's *Human Rights Standards for Immigration Detention*<sup>4</sup> sets out benchmarks for the humane treatment of people held in immigration detention. Section 10.1 of the document sets standards regarding access to visits and other direct contact with people outside of detention which includes ensuring people in detention are:

*able to receive regular visits from, and communicate by telephone, mail, email and social media with members of their family, friends, religious leaders, the community, and community-based or non-governmental service providers.*

We note also that the Association for Prevention of Torture<sup>5</sup> maintains that the term 'family' should be interpreted broadly. In the Commonwealth NPM's view, the definition of family used by Home Affairs should also take into account the various cultural and religious obligations that exist in multi-cultural Australia.

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<sup>3</sup> Reg 1.12AA of the *Migration Regulations 1994*

<sup>4</sup> [Human Rights standards for immigration detention | Australian Human Rights Commission](#)

<sup>5</sup> [Family visits | Association for the Prevention of Torture \(apt.ch\)](#)



### **Recommendation 2**

The Department should update relevant policy to include an expanded definition of 'critical family', beyond the minimum standard identified in the Migration Regulations 1994, to ensure cultural recognition of extended family and to minimise the impact of separating people in detention from their family and social supports where possible.

### **Recommendation 3**

The Department should review the process used to assess requests by people in detention to seek transfer to a detention facility closer to their families to ensure that it is not too onerous, and requests are resolved in a timely manner.

### **Recommendation 4**

The Department should ensure that current definitions of family and the assistance provided to people in detention to maintain contact with family and social supports meet Australia's international obligations.

## **Physical and Mental Health**

### **Establishment of a new drug and alcohol team**

Since our 2022 visit, a new Drug and Alcohol team had been established to service the needs of the people in detention at NWPIDC. The team which includes a specialist counsellor and drug and alcohol nurses, became operational shortly before our visit, and had just begun to engage with people in detention. A letter of introduction and an invitation to meet with a team member had been sent to all people in detention. We look forward to monitoring the impact of the new service during future visits.



# Methodology

The Commonwealth NPM visits places of detention to:

- monitor the treatment of people in detention and the conditions of their detention and
- identify any systemic issues where there is a risk of torture or ill-treatment
- make recommendations, suggestions, or comments promoting systemic improvement.

The Commonwealth NPM conducts three types of visits: announced, unannounced, and semi-announced. The type, location, and timing of each visit is determined by the Commonwealth NPM alone.

Each place of detention is assessed in terms of its performance based on the management and conditions for people in detention. We assess these against the 5 indicators of a healthy detention facility, adapted from those used by other international and domestic visiting bodies.

The five indicators of a healthy centre are<sup>6</sup>:

Indicator	Description
<b>Safety</b>	People in detention are held in safety and that consideration is given to the use of force and disciplinary procedures as a last resort
<b>Respect</b>	People in detention are treated with respect for their human dignity and the circumstances of their detention
<b>Purposeful activity</b>	The detention facility encourages activities and provides facilities to preserve and promote the mental and physical well-being of people in detention
<b>Well-being and social care</b>	People in detention are able to maintain contact with family and friends, support groups, and legal representatives, and have a right to make a request or complaint
<b>Physical and mental health</b>	People in detention have access to appropriate medical care equivalent to that available within the community. Stakeholders work collaboratively to improve general and individual health conditions for people in detention

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<sup>6</sup> These indicators have been adapted from expectations used by international and domestic inspectorates.

# The Commonwealth National Preventive Mechanism Mandate

The *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) is an international human rights treaty designed to strengthen the protections for people deprived of their liberty and potentially vulnerable to mistreatment and abuse.

OPCAT does not create new rights for people who are detained, rather it seeks to reduce the likelihood of mistreatment. OPCAT combines monitoring at an international level (by the Subcommittee for the Prevention of Torture) and by National Preventive Mechanisms (NPMs) at a domestic level.

NPMs are independent visiting bodies, established in accordance with OPCAT, to examine the treatment of persons deprived of their liberty, with a view to strengthening their protection against torture and other cruel, inhuman, or degrading treatment or punishment.

An NPM is not an investigative body. The mandate of an NPM differs from other bodies working against torture in its preventive approach: it seeks to identify patterns and detect systemic risks of torture, rather than investigating or adjudicating complaints concerning torture or ill-treatment.

In July 2018, the Australian Government announced the Commonwealth Ombudsman as the visiting body for Commonwealth places of detention (the Commonwealth NPM). At present, the Commonwealth NPM visits places of detention operated by:

- the Department of Home Affairs
- the Australian Federal Police
- the Australian Defence Force





**OFFICIAL: Sensitive**

EC24-000735

Mr Iain Anderson  
Commonwealth Ombudsman  
Office of the Commonwealth Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Dear Mr Anderson,

Thank you for providing the Department of Home Affairs (the Department) with a copy of the Post Visit Summary from the Commonwealth Ombudsman's National Preventive Mechanism team visit to the Christmas Island Northwest Point Immigration Detention Centre and the Phosphate Hill Immigration Detention Facility in August 2023.

The Department values the National Preventive Mechanism's oversight of immigration detention as part of its function under the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. A combined response to the Post Visit Summary report from the Department and the Australian Border Force (ABF) is at **Attachment A**.

Should you wish to discuss any aspects of the Department's response, please contact [REDACTED]

Yours sincerely,

**Stephanie Foster PSM**

13 March 2024

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EC24-000735 - Attachment A

The Department welcomes the opportunity to respond to the Commonwealth Ombudsman's National Preventive Mechanism *Post Visit Summary on North West Point Immigration Detention Centre and Phosphate Hill Immigration Reception and Processing facilities*.

**Recommendation 1**

*The Australian Government should urgently consider legislative reforms to allow ABF to detect and address contraband within immigration detention facilities, including but not limited to, appropriate search and seize powers.*

The Department **notes** this recommendation. The Department takes seriously the safety and security of staff and detainees at immigration detention centres and continually assesses program and policy settings and adjusts processes and risk management measures as required in order to enhance the safety and security of detention centres. The consideration of legislative reforms however is a matter for the Australian Government.

**Recommendation 2**

*The Department should update relevant policy to include an expanded definition of 'critical family', beyond the minimum standard identified in the Migration Regulations 1994, to ensure cultural recognition of extended family and to minimise the impact of separating people in detention from their family and social supports where possible.*

The Department **accepts and is already addressing** this recommendation. The North West Point Immigration Detention Centre (NWP IDC) was reopened in August 2020 to alleviate capacity pressures at mainland immigration detention facilities caused by the COVID-19 pandemic, including the continued inflow of unlawful non-citizens released from prisons and the constrained ability to remove unlawful non-citizens from Australia. The majority of the cohort at NWP IDC was made up of detainees whose visa had been cancelled on character grounds. During the time of operations, all detainees had access to telecommunications and mail services including use of computers and internet to ensure detainees could maintain contact with their family and social networks. On 1 October 2023, the NWP IDC was moved into hot contingency status with no detainees accommodated at NWP since this time. The NWP IDC can be reactivated at short notice, if needed, to support operational requirements.

The Department currently does not employ the use of the term 'critical family', but instead uses the definition of 'member of the immediate family' consistent with regulation 1.12AA of the *Migration Regulations 1994* in operational policies related to detainee placement decisions in the Immigration Detention Network (IDN). Relying on this definition ensures consistency across immigration functions, including visa processing. However, the Department is currently undertaking a review of its *Detention Services Manual – Procedural Instruction – Detainee placement – Assessment and placement of detainees in Immigration Detention Facilities* (DM-5126), where it is considering existing operational policy and practice in ensuring cultural recognition of the extended family, and to minimise separation of detainees from their family and social support where possible along with balancing possible security and safety risks and threats to the operations of a facility and/or the broader IDN.

**Recommendation 3**

*The Department should review the process used to assess requests by people in detention to seek transfer to a detention facility closer to their families to ensure that it is not too onerous, and requests are resolved in a timely manner.*

The Department **accepts and is already addressing** this recommendation as part of its ongoing process of improvement. The Department will explore avenues of further communication with detention staff on the timely resolution of detainee transfer requests.

**Recommendation 4**

*The Department should ensure that current definitions of family and the assistance provided to people in detention to maintain contact with family and social supports meet Australia's international obligations.*

The Department **agrees** with this recommendation and notes that in the Department's view, current definitions of family and the assistance provided to people in detention to maintain contact with family and social supports meet Australia's international obligations.

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