



Commonwealth
National
Preventive
Mechanism



FOR CONSUMERS

Post Visit Summary

Villawood Immigration Detention Centre

13 September 2024

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Summary

Our visit

The Commonwealth National Preventive Mechanism (NPM) conducted an announced visit of Villawood Immigration Detention Centre (VIDC) from Monday 27 November to Friday 1 December 2023.

VIDC is an immigration detention facility located in Sydney's western suburbs. The facility is controlled by the Australian Border Force (ABF), while detention services are contracted to Serco Asia Pacific Pty Ltd (Serco), and health services to International Health and Medical Services (IHMS).

The visit was conducted by four OPCAT Monitors from the Commonwealth NPM.

The Commonwealth NPM's previous visit to VIDC was unannounced and was conducted in November 2022. At that time, the team did not enter the accommodation areas of the facility due to a recent COVID-19 outbreak.

What we found

Our 2024 visit to VIDC found that relationships between the three stakeholder groups (ABF, Serco and IHMS) had improved since our previous visit. We found positive working relationships and a cohesive management team. Newly introduced self-development courses were popular with those who had accessed them in detention, and a new behavioural support management program offered a promising new approach to addressing behaviours of concern.

However, we identified several areas for improvement. Communication from Serco and ABF to those in detention was not always comprehensive, which led to misinformation and confusion on significant issues. The group of female detainees faced additional challenges, due in part to the confines of their single compound. We also had concerns about the assessment and placement of detainees with complex health needs.



Recommendations and suggestions

Based on our visit to VIDC, I recommend the following:

- **Recommendation 1** The Department must ensure that individuals in immigration detention who are suspected of having complex psychiatric, neurological, or developmental disorders, organic brain damage, and/or behaviours of concern, are comprehensively assessed to ensure that they can receive the most appropriate placement and care.
- **Recommendation 2** The Department must explore new ways to share information and communicate with people in detention, to ensure that it provides them with clear and current information in a timely manner.
- **Recommendation 3** The Department should continue to explore ways of improving accommodation and placement options for women at VIDC, while ensuring that they are accommodated as close to families and support networks as possible.
- **Recommendation 4** The Department should develop a national framework for the immigration detention network outlining how people in detention may access hair colouring at each facility.
- **Recommendation 5** The Department should remove any remaining COVID-19 restrictions affecting visits, as well as revitalise the visits area at VIDC to make it safer for children.
- **Recommendation 6** The Department should work with Serco to improve the Programs and Activities Schedule, to ensure that all people in detention at VIDC have access to stimulating and engaging activities regardless of their age, ability, or placement.
 - I **suggest** the Department should support the continuation of self-improvement courses for people in immigration detention and consider ways to incentivise attendance.
- **Recommendation 7** The Department and Detention Health Service Provider should offer pregnancy testing to all women of childbearing age during their Health Induction Assessment.

Iain Anderson

Commonwealth Ombudsman



Facility & demographics

VIDC is made up of several accommodation compounds, which vary in capacity, style, and function.

Compound	Profile	# people in detention
Sydney APOD	Short stay / turnarounds	4
Hospital	Short stay for medical attention	1
Hotham	Medically vulnerable	25
Hume	High security	35
Lachlan 1	Vulnerable	45
Lachlan 3	Vulnerable	22
Latrobe	General population	138
Lima	Women	21
Mackenzie	Medium security	39
Mitchell	Medium security	45

Table 1: Accommodation at VIDC: profile, and number of people in detention, 12 October 2023 [Source: Department of Home Affairs]

On 1 December 2023 (the last day of our visit), there were 365 people detained at VIDC, including 342 males and 23 females. The youngest person detained at VIDC was 19, and the eldest was 89 years of age.

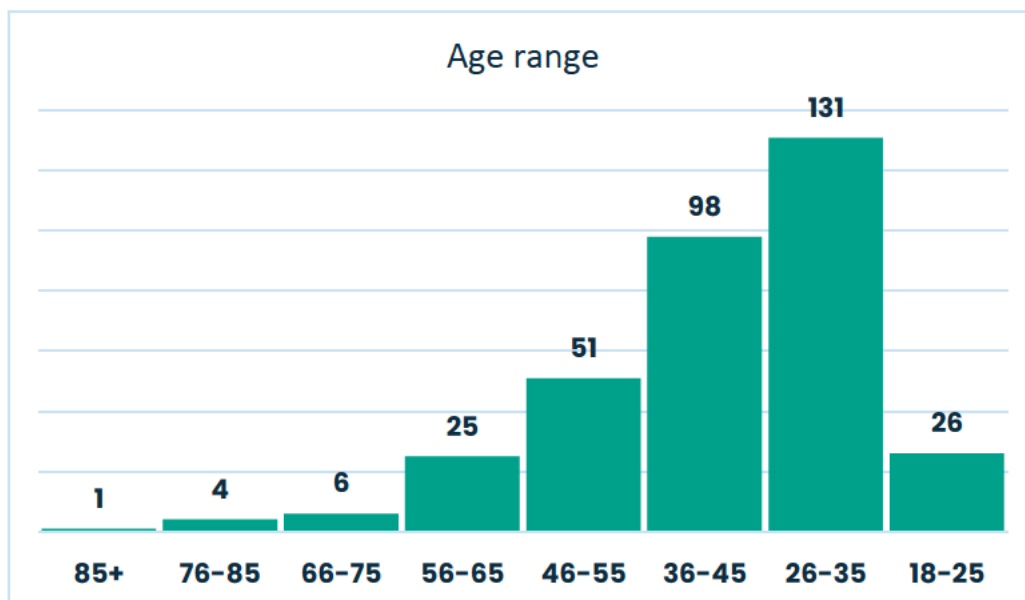


Figure 1: Age range of people detained at VIDC, 1 December 2023 [Source: Department of Home Affairs]

The length of time spent in detention ranged from two days to 6,010 days (approx. 16.45 years). Of the 365 people in detention on 1 December, 212 (58.08%) had been in detention

for less than one year. Ninety-one people had been in detention for one to 5 years (24.9%), and 21 had been in for between 6 and 10 years (5.7%). One individual had been in detention at VIDC for more than 10 years.

People who had their visa cancelled under section 501 of the Migration Act (those based on character grounds) made up 61 per cent of those held at VIDC. People who overstayed in Australia after their visa had expired made up 14 per cent. Unauthorised maritime arrivals (UMAs) were 11 per cent, and visa cancellations (for reasons other than character) made up 9 per cent of the centre's population. Five per cent of the population were people who had arrived by air without prior immigration approval.

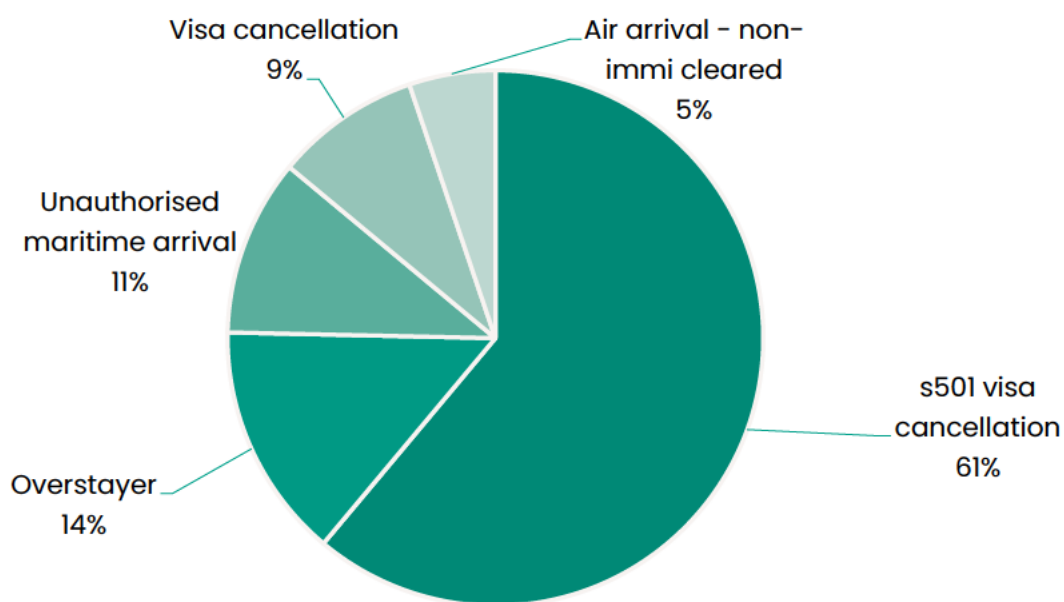


Figure 2: Reason for detention: VIDC population, 1 December 2023 [Source: Department of Home Affairs]

Observations

Governance

Working relationships had improved

At the time of our last visit to VIDC in 2022, relationships between ABF, Serco and IHMS were strained. We were pleased to find that in 2023, this had improved markedly, and all of the staff we engaged with reported a positive change in their working relationships.

Members of our team observed numerous multidisciplinary meetings during the week which involved ABF, Serco and IHMS working collaboratively, such as case management meetings to discuss complex needs of certain detainees. Although some discussions appeared to be perfunctory, others were more free-flowing, and staff demonstrated a good knowledge of the individuals discussed and their circumstances.

We further found that the senior ABF staff (the Acting Superintendent and three Inspectors) at VIDC formed a cohesive team who were prepared to trial new approaches to managing a detention environment.

Added infrastructure for the accommodation of low-risk detainees

In early 2023, VIDC's management received permission from the Department of Home Affairs to make use of a number of small houses it owns, which are located near the centre. The houses had previously been used by the Status Resolution branch to house families, and at least one of the houses had disability accessible features. Using this domestic style, low-security accommodation provides VIDC with the opportunity to manage low-risk detainees in a more proportionate way.

During our visit in late 2023, we heard that one of the houses was being used to accommodate a detainee who was commencing a course of chemotherapy. This was the second individual from VIDC to do so, with the first having already completed their treatment. VIDC's management team were considering other possible uses for the houses, including holding certain low-risk individuals or cohorts. This could include individuals with no criminal background. It could also include airport turnarounds, particularly family groups with children, as an alternative to the use of hotel APODs. We would support moves by the Department to consider placing such groups or individuals in this accommodation, following an appropriate risk-assessment process.



Some buildings and grounds were in poor condition

We observed that the material conditions of the site were varied. While many buildings were well kept and in good repair, the grounds were not uniformly well maintained, and bags of rubbish were visible in common areas.

Accommodation buildings damaged by a fire in early July 2023 had not been repaired. However, we acknowledge the challenges involved in conducting extensive works inside a working detention environment.



Figure 4 & 5: Fire damaged buildings in the Latrobe Compound, VIDC November 2023

Hume is the newest compound onsite, having opened in 2020. However, we observed that air conditioning units in the common areas of some of its buildings were leaking and causing paint and plaster to flake off. We raised our concerns about these issues with facilities management and committed to following up in the future.



Photo 2 & 3: Water damage and mould from leaking air-conditioning units, Hume compound

Safety

VIDC's safety is affected by trade in illicit substances

As we have consistently found in the larger immigration detention centres, the trade of illicit substances and their use were prevalent at VIDC. This has a considerable negative impact on the safety of those detained, the staff who work there, and the good order and stability of the centre itself.

A key factor that affects the Department's ability to prevent and disrupt the trade of contraband, is the limited search and seizure powers available to ABF staff under the *Migration Act 1958*. The Act enables staff to only search someone's person or property if they have a reasonable suspicion that they are carrying a weapon or tool of escape. VIDC's staff cannot search someone if they have a reasonable suspicion that they are carrying drugs, alcohol, or other contraband (for example a smoking implement).

In our latest Annual Report, we recommended that:

The Australian Government should urgently consider legislative reforms to allow ABF to use its existing broader powers to detect and address criminal activity within immigration detention facilities, including but not limited to appropriate search and seize powers.¹

In response, the Department noted that as this recommendation requires legislative change it is a matter for the Australian Government. We therefore reiterate this recommendation, and urge the Australian Government to take action.

At a local level, VIDC appeared to have limited support from state and federal law enforcement agencies. The scale of drug finds at VIDC, for example, were typically too small to be a priority for federal police, and New South Wales police were reluctant to get involved as the centre is a Commonwealth facility.

However, work was underway to build better relationships with both local and federal police, with a view to improving information flow and understanding between the

¹ Recommendation 5, *Access All Areas: Monitoring Places of Detention 2022-23, 6th Report of the Commonwealth National Preventive Mechanism* (May 2024).

agencies. We support this endeavour and any other efforts towards improving relationships with law enforcement.

'Respite' accommodation trial

In early 2023, VIDC began trialling a new approach to manage a person in detention with particularly challenging behaviour. This individual had been diagnosed with a range of mental health conditions and personality disorders, and whose social behaviour was drawing negative attention from other detainees.

The trial was to provide the detainee with the option to stay in high-care accommodation (HCA)² as a low-stimulus environment for short periods of 'respite,' with a strictly open-door policy, and only if the area was empty of other detainees. This meant that the individual could move freely within the compound, maintained access to Programs and Activities, and was accommodated close to health services. The placement was always voluntary, but the individual was provided with incentives to encourage use of the accommodation. The placement was always for a set period (12:00 pm Thursday to 12:00 pm Sunday). This respite approach was developed with input from IHMS, the mental health team, and Serco Welfare, and each placement was assessed every 24 hours, as per HCA placement protocols.

Initially, this approach appeared to have some success. Exposure to a low-stimulus environment and the use of incentives had a positive effect on the individual's behaviour.

However, by the time of our visit, the approach was becoming less effective. While onsite at VIDC, we heard that his behaviour was deteriorating more frequently, and that the individual had begun to react poorly when staff attempted to move the individual into HCA for respite. The incentive-based approach was no longer effective. At times, staff placed the individual in another HCA area to manage their behaviour.

We were informed that a more comprehensive diagnosis of the detainee's condition was being considered. Certain diagnoses or assessments may deem an individual unfit for the detention environment, which can then require that an individual is placed in a more appropriate environment altogether (i.e.: outside of immigration detention, in a group home or similar). High care accommodation within detention is also not necessarily

² Accommodation where people in detention are held when close monitoring and intensive management is considered necessary. They are typically low-sensory settings, with enhanced observation (in-room CCTV) and movement restrictions.



appropriate for an individual for an extended period. However, we were told that the assessment had not been pursued by the Department due to its cost and the length of time required to complete it.

We appreciate the innovative approach that led to VIDC's respite model. But during our visit we became concerned that the voluntary nature of the model was becoming less effective, and its positive effects consequently eroded. Before departing VIDC, we advised centre management that due to the increasingly concerning nature of this care, a full and comprehensive assessment of the individual's needs must be prioritised. We will continue to monitor progress in this area.

Recommendation 1: *The Department must ensure that individuals in immigration detention who are suspected of having complex psychiatric, neurological, or developmental disorders, organic brain damage, and/or behaviours of concern, are comprehensively assessed to ensure that they can receive the most appropriate placement and care.*

Respect

Communication to people in detention was poor

We observed several occasions where detainees had received poor or incomplete communication from ABF and/or Serco.

One example related to the High Court ruling on *NZYQ v. Minister for Immigration, Citizenship and Multicultural Affairs & Anor.*, which was released in early November 2023. In this case, the High Court of Australia unanimously found that 'NZYQ' (a stateless refugee in immigration detention) had 'no real prospect' of being removed from Australia and that as a result his ongoing detention was unlawful.³ The precedent set by this case required that all immigration detainees in comparable circumstances must also be released.

When we commenced our visit to VIDC two and a half weeks later, approximately 30 detainees had already been released from VIDC. However, the people in detention that we spoke with had received little to no clear information about the court's decision and its possible implications. As a result, rumours and misinformation were rife.

³ NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs [2023] HCA 37

We were told that the legal department within Home Affairs was responsible for determining which detainees fell within the scope of the High Court's decision. These determinations were then communicated to the Status Resolution teams within Home Affairs, who then advised ABF and the centres.

ABF staff had received 'talking points' to assist them with queries from people in detention about the NZYQ case. Unfortunately, these notes were not comprehensive, and ABF staff were simply told to refer detainees back to their Case Managers, who again could only offer general advice.

We acknowledge that the High Court's decision not to release its reasoning at the same time as its decision caused confusion around the case and its implications. However, an absence of clear communications from the Department and ABF added to frustration and misinformation amongst the detained population.

Another example of poor communication related to changes in vaccination requirements for visitors to the centre. It became apparent during our visit that one compound at VIDC had not been informed that vaccination restrictions on visitors had been lifted. This was because the updated information had been disseminated to detainees via a process known as the Detainee Consultative Committee (DCC). This is a monthly meeting where selected representatives from each compound come together to receive updates from the ABF, Serco and IHMS, and then deliver this information back to the other detainees. However, one compound had been locked down due to a COVID-19 outbreak, and so had no representatives at the DCC. We were informed that in such cases, follow up information should have been provided, but that this had not occurred.

Recommendation 2 *The Department must explore new ways to share information and communicate with people in detention, to ensure that it provides them with clear and current information in a timely manner.*

Infrastructure to accommodate women was not fit for purpose

VIDC holds more women than any other immigration detention facility in Australia. On the final day of our visit, there were 23 women detained at VIDC. The length of time they had spent in detention ranged from 2 days to 729 days. Most women (18 out of 23, or 78%) had been in detention for less than one year, and the remaining 5 women had been in for less than two years.



As with the broader population of VIDC, section 501 visa cancellations (those based on character grounds) made up most of the female cohort, at 57 per cent, or 13 individuals. Air arrivals without prior immigration approval made up 17 per cent, while women who had over-stayed in Australia, and visa cancellations (on grounds other than character) both made up 13 per cent. There were no female UMAs.

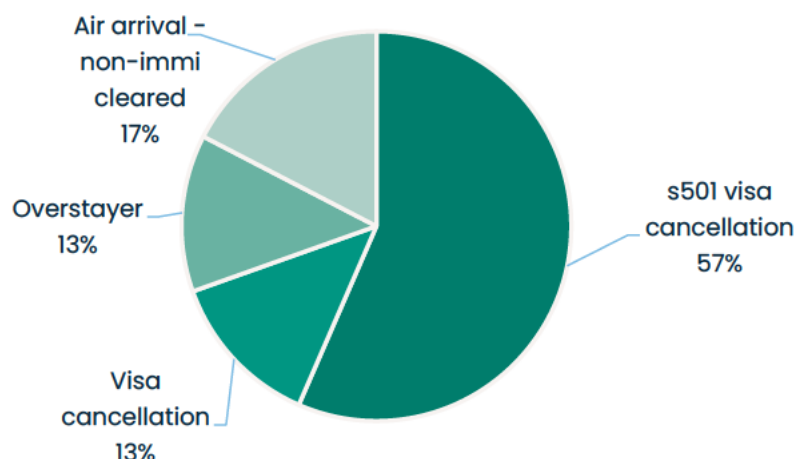


Figure 3: Reasons for detention - VIDC female population, 1 December 2023 [Source: Department of Home Affairs]

Women at VIDC are detained in the Lima compound. Their accommodation consists of a single building with two storeys. Each floor includes communal dayrooms and kitchenettes, shared bathrooms, with double- and triple-bunked rooms.

The infrastructure in Lima compound makes it difficult to separate women from one another if there are security or interpersonal concerns. As a result, we heard numerous accounts of bullying, threats, and assaults occurring in the Lima compound.

When offenders are identified, they can be transferred out of the compound to a HCA compound for a time while investigations are completed. But with no other long-term options to accommodate them, they are inevitably returned to the same accommodation.

Lima compound was not built specifically to hold female detainees, or any vulnerable cohort that requires separation from the remainder of the population. Its outdoor area is fenced in on two sides by compounds occupied by men (Lachlan 1 and Lachlan 3). This leaves the female detainees with little privacy in an area intended to be used for sports, activities, and physical exercise. This arrangement is culturally inappropriate for many of the women who are held there and may serve as a deterrent to outdoor exercise.

We understand that the Department has been considering options for expanding accommodation options for women at VIDC, and we support and encourage such plans. However, we urge a sensitive and human rights-based approach to the definition of family be used, should consideration be given to moving women from other areas of the country to VIDC or vice versa.

In previous visits, we have found that the definition of 'immediate family'⁴ relied on by the Department in its decisions around the placement and/or movement of detainees within the IDN, was limited. Consequently, in our *2022-23 Annual Report*, we recommended that the Department update its relevant policy to include an expanded definition of 'critical family,' beyond the standards currently identified in the *Migration Regulations 1994*.⁵ The Department accepted this recommendation, and advised that it was undertaking a review of relevant procedures, and:

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.⁶

We welcome this advice from the Department, and look forward to the outcomes of this review.

Recommendation 3 *Continue to explore ways of improving accommodation and placement options for women at VIDC, while ensuring that they are accommodated as close to families and support networks as possible.*

Inability to use hair colour

A male barber attends VIDC every week and visits each compound to cut hair.

However, people who are held in immigration detention are not allowed to dye their hair. We heard a number of reasons for this ban, including security (change in personal

⁴ Reg 1.12AA, *Migration Regulations 1994*

⁵ Recommendation 8, *Access All Areas: Monitoring Places of Detention 2022-23, 6th Report of the Commonwealth National Preventive Mechanism* (May 2024).

⁶ *Access All Areas: Monitoring Places of Detention 2022-23, 6th Report of the Commonwealth National Preventive Mechanism* (May 2024).

appearance), health (hazardous chemical ingredients), and a lack of appropriate plumbing in the common areas.

We heard from female detainees at VIDC of the importance of maintaining their self-image and appearance and that the inability to do so was affecting their self-confidence, to the extent that some female detainees are reluctant to have visits or take videocalls with their loved ones – which is likely to further negatively affect their wellbeing.

In other detention environments across Australia, including prisons, women are allowed to dye their own hair.

- **Recommendation 4** *The Department should develop a national framework for the immigration detention network outlining how people in detention may access hair colouring at each facility.*

Wellbeing & social care

An innovative approach to behaviour support management

Serco has rolled out a new national behavioural support management program as part of its welfare and support services to immigration detainees. The aim of the program is to better identify the causes of behaviours of concern demonstrated by certain individuals, to determine the best way to address and modify them over time.

Psychologists with specialised training, or 'behaviour support practitioners,' had been recruited and were implementing the new approach.

The behaviour support practitioners championed a person-centred approach, which considers the individuals' triggers and reactions, and included input from the individual concerned.

At VIDC, we found that Serco's behavioural support program, while still in its early days, was well-received by both IHMS and ABF. We also saw that the program had been rolled out well and offered good on-going support for relevant staff. We welcome the addition of this innovative approach to managing the detention networks' most challenging individuals, and will continue to monitor its progress in our future visits.



Outdated COVID restrictions affect visits and the visits area

Social visit sessions used to run from 12:00 pm to 7:30 pm but were restricted during COVID to an hour in length which must be predetermined and booked in advance. We understand that this restriction remains in place after the need for social distancing has fallen away, because it has made planning and running the social visits area more manageable for staff. We were told there is some flexibility for visitors to arrange a longer visit if they are travelling a long distance. While we appreciate that this arrangement is more convenient for staff, this should not come at the expense of people in detention being able to access visits, given the significance of visits for the wellbeing of people in detention.

Tables and seating for social visits at VIDC changed considerably in response to COVID-19 restrictions but have not yet returned to pre-COVID settings. The social visits area was still arranged in line with COVID-19 physical distancing requirements, which meant that few visits (3) could occur simultaneously. An outdoor children's play area had been removed altogether as it was found to be unsafe, leaving a large open area taped off. These measures made the visiting areas at VIDC feel barren and unwelcoming, and left no safe spaces where children could play.

Recommendation 5 *Remove any remaining COVID-19 restrictions affecting visits, as well as revitalise the visits area at VIDC to make it safer for children.*

Purposeful activity

Mixed feedback on programs and activities

People held in immigration detention do not have the right to study or work, and are not permitted to obtain formal qualifications. However, Programs and Activities schedules run in all immigration detention facilities, and participation can earn people in detention 'points' which can be spent at the canteen, on items like food and tobacco.

We received mixed feedback from the people in detention at VIDC about the Programs and Activities schedule available to them. Some were content with what was on offer, but others felt the options were not age appropriate, challenging, or structured enough for their interests. We also heard feedback that there were few passive activity options for those who were older or physically less able to take part in sports.

Scheduled programs and activities are generally on offer in the Community Centre, which is open to the largest compound (Latrobe) throughout the day. Other compounds that



housed vulnerable detainees (Lachlan 1, Lachlan 2, and Lima) had access to the community centre for a period of one hour every second day. However, no structured programs or activities appeared to be on offer for them at those times.



	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
07:30 - 08:30	All Day Breakfast						
08:30-09:30							
09:30 - 10:30	Social Recreation	Social Recreation/ Sport	Social Recreation/ Sport	Food 4 Thought/ Low Impact Fitness	Social Recreation/ Sport		
10:30 - 11:30	Low Impact Fitness	Movie/ Social Recreation	Low Impact Fitness	Low Impact Fitness	Low Impact Fitness	Low Impact Fitness	Low Impact Fitness
11:30 - 12:30							
12:30 - 13:30	Lunch Service @ 12:00						
13:30 - 14:30							
14:30 - 15:30	Social Recreation/ Low Impact Fitness	Core: Self Care/ Low Impact Fitness	Social Recreation/ Low Impact Fitness	Social Recreation	Music	Social Recreation/ Low Impact Fitness/ Team Sport	Social Recreation/ Low Impact Fitness/ Team Sport
15:30 - 16:30	Gym/ Low Impact Fitness/ Team Sport	Social Recreation	Gym/ Low Impact Fitness/ Team Sport	Gym/ Low Impact Fitness/ Team Sport	Gym/ Low Impact Fitness/ Team Sport		
16:30 - 17:30							
17:30 - 19:30	Dinner Service @ 17:30						

Table 2: Villawood IDC Sept - Nov 2023 Hume B Programme Schedule [Source: Department of Home Affairs]

The above table shows the scheduled programs and activities for Hume B compound over a 3-month period. Those detained in Hume compound are unable to attend the Community Centre for security reasons, so structured activities are offered to them in their own compound. While it is positive that the schedule offers many opportunities for fitness and sports activities, there is little on offer to those who are less able to participate or who wish to use their time in other ways.

These are missed opportunities that could easily be addressed. We look forward to seeing improvement in these areas at our next visit, given the importance of meaningful activities for the wellbeing of people in detention.

Recommendation 6 *The Department should work with Serco to improve the Programs and Activities Schedule, to ensure that all people in detention at VIDC have access to stimulating and engaging activities regardless of their age, ability, or placement.*

New self-development courses were a positive

We were pleased that self-development courses were being offered in addition to the Programs and Activities schedule. These included an anger management course offered by Serco, and an IHMS program to address substance misuse. These courses provide the opportunity to address offending behaviour (relevant to the majority s501 cohort) and were a way to make or maintain positive changes.

However, there were considerable wait lists for both courses, which with limited numbers and practitioners, could only be offered to one group at a time. The courses also ran at the same time as the regular Programs and Activities (which qualify attendees for points they can spend), so those who did attend found they were missing out on the accrual of points.

Suggestion *The Department should support the continuation of self-improvement courses for people in immigration detention and consider ways to incentivise attendance*

Physical & mental health

Health services were broadly well received

Overall, the feedback we received about health services at VIDC was positive. People in detention told us that it was easy to get an appointment or referral if needed.

Furthermore, there were enough GPs of both genders that male and female detainees could request and see their preferred doctor.

The demand for both health and mental health services in the centre is understandably high. However, we were broadly satisfied that services available were reflective of those in the community.⁷ There was some frustration with after-hours services however, as once the centre clinic closes at the end of each day and on weekends, health assistance can

⁷ 'Prisoners should enjoy the same standards of health care that are available in the community...' Rule 24.1, *United Nations Standard Minimum Rules for the Treatment of Prisoners*, 2015.

only be sought from an after-hours helpline or ambulance attendance. This was a particular problem if the person had significant mental health issues.

There was also some frustration among those in detention that Mental Health Nurses could not do more to help them in the first instance. However, the role of the Mental Health Nurses is to triage patients, not prescribe medications or treatments. Targeted messaging or education to this effect could resolve this issue.

Pregnancy testing for new arrivals

The IHMS health induction assessment, which must be completed within 72 hours of each new individual entering immigration detention, does not routinely offer pregnancy testing to new arrivals. The risks of this became clear during our visit. A woman who had recently entered detention began bleeding and was rushed to hospital, where it was found that she was experiencing a potentially life-threatening ectopic pregnancy.

Early pregnancy detection is critical to the provision of appropriate care for women in places of detention. It allows for early identification, provision of prenatal care, counselling, and critically helps identify women who may be at risk of pregnancy-related complications.⁸

The case noted above was handled well by VIDC and its staff, however the routine offer of a pregnancy test could have identified the pregnancy sooner. This would have forewarned both the individual and health staff and allowed for an appropriate care plan for her pregnancy to be put in place.

Recommendation 7 *The Department and Detention Health Service Provider should offer pregnancy testing to all women of childbearing age during their Health Induction Assessment.*

⁸ S. Hatters Friedman, A. Kaempf and S. Kauffman, [The Realities of Pregnancy and Mothering While Incarcerated | Journal of the American Academy of Psychiatry and the Law \(jaapl.org\)](#) Online May 2020.

Methodology

The primary function of an NPM is visiting places of detention.

The Commonwealth NPM visits places of detention to:

- Monitor the treatment of people in detention and the conditions of their detention.
- 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 five 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:⁹

Safety	People in detention are held in safety and that consideration is given to the use of force and disciplinary procedures as a last resort.
Respect	People in detention are treated with respect for their human dignity and the circumstances of their detention.
Purposeful activity	The detention facility encourages activities and provides facilities to preserve and promote the mental and physical well-being of people in detention.
Well-being and social care	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.
Physical and mental health	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

⁹ These indicators have been adapted from expectations used by international and domestic inspectorates.

This report is based on:

- Document review: prior to the visit, numerous documents were received from ABF as part of a formal document request. These included copies of administrative records and decisions, operational procedures, and population data.
- CCTV footage review.
- Interviews and discussions with staff.
- Interviews and discussions with people in detention.
- The observations of the visiting OPCAT Monitors.

During the visit, OPCAT Monitors met with the following staff at VIDC:

- the ABF A/Superintendent
- the Serco General Manager
- the IHMS Manager
- senior members of ABF staff
- senior members of Serco staff.

As the team moved about the facility, they spoke with whichever staff they encountered, including numerous Serco Detention Service Officers (DSOs) and members of the Emergency response Team (ERT).

The team also spoke with many people in detention, during site walkthroughs, and visits to each of VIDC's compounds.



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 protections for people deprived of their liberty.

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 resolving complaints concerning torture or ill-treatment. A separate team within the Office of the Commonwealth Ombudsman, outside the NPM, receives and considers complaints from people in detention.

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 run by:

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



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Australian Government
Department of Home Affairs

SECRETARY

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EC24-003900

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

Iain
Dear Mr Anderson

Thank you for providing the Department of Home Affairs (the Department) with the National Preventive Mechanism's (NPM) Post Visit Summary for the Villawood Immigration Detention Centre. Your insights and recommendations for improvement are greatly valued.

I am pleased to advise that the Department accepts all seven recommendations and has addressed or is taking action to address them. The Department's full response is included at Attachment A.

Should your staff wish to discuss any aspects of the response, they can contact [REDACTED] Assistant Secretary, Audit and Assurance on [REDACTED]. Alternatively, you are welcome to contact me directly if that would be helpful.

Yours sincerely

[REDACTED]
Stephanie Foster PSM

15 August 2024

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Recommendation 1 – Accepted

The Department must ensure that individuals in immigration detention who are suspected of having complex psychiatric, neurological, or developmental disorders, organic brain damage, and/or behaviours of concern, are comprehensively assessed to ensure that they can receive the most appropriate placement and care.

The Department **accepts** Recommendation 1.

In response to this recommendation the Department has focused more attention to the operationalisation of detention health policy by the Detention Health Service Provider (DHSP). This includes an increased emphasis on our health policy assurance activities to ensure service providers are appropriately implementing our detention health policies. The program of detention health policy assurance will be amended to capture this element under the existing governance framework, as well as any future contract arrangements.

When an individual is initially detained, Status Resolution officers conduct a mandatory interview process that captures information regarding the individual's overall circumstances, including any health and welfare needs or concerns. Subsequently, detainees are engaged with as per the Department's Status Resolution Service Level guide and Status Resolution officers conduct various case reviews while the individual is in detention.

If any vulnerabilities are identified they are referred to the Department's Detention Operations and the DHSP to ensure needs are supported appropriately in detention, and Ministerial Intervention or visa processing areas are notified for awareness and consideration.

The *Detention Health: Mental Health Procedural Instruction (PI) (DM-6320)* and the *Detention Health: Health Screening and Management PI (DM-6138)* together set out the principles for the screening, assessment and treatment of mental health concerns and cognitive impairment for detainees in immigration detention. Mental health screening and assessment in immigration detention includes preliminary mental health screening performed on entry to an Immigration Detention Facility (IDF), and subsequent comprehensive mental health assessments performed within 10-30 days of arrival and repeated at scheduled re-screenings that occur throughout the detention of the individual.

Where cognitive impairment or mental health illness are identified or suspected, the DHSP must refer the detainee for further assessment by a mental health professional, such as a psychologist or psychiatrist.

In the case of cognitive impairment, a referral must be made to a General Practitioner for assessment and possible referral to a specialist. The DHSP must also provide appropriate advice on the supports required for a detainee to ensure the safety, wellbeing and management of the detainee and anyone involved with managing the detainee's management and care. If it is determined that a detainee may not have the mental capacity to properly look after their interests, consideration will be given to seeking the appointment of a guardian for that person. This may involve making an application to the relevant guardianship board in the relevant state/territory.

Further, while in an IDF, detainees may experience a range of emotions that can contribute to them engaging in antisocial or challenging behaviour. In the delivery of mental health treatment and services to detainees, as well as in general interactions with those affected, Facilities and Detainee Services Provider (FDSP) staff in consultation with the DHSP must seek to de-escalate, where appropriate, any challenging behaviour that could impede treatment and safety, or cause damage or harm to the detainee and/or others.

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Detainees' mental health needs and concerns, access to available services (including mental health and treatment services) and behaviours are all considerations which inform continuity of care, management and appropriate placement of detainees throughout the network.

Recommendation 2 – Accepted

The Department must explore new ways to share information and communicate with people in detention, to ensure that it provides them with clear and current information in a timely manner.

The Department **accepts** Recommendation 2 and is working to address it through a program of continuous improvement of communication and messaging to detainees.

The Department accepts the gap in information pertaining to COVID-19 visitor vaccination requirements being disseminated to detainees on a specific occasion during an outbreak. The Department also confirms that the information was readily available to detainees and members of the community via other avenues, including the Department's website. We continue to improve, working collectively with key detention stakeholders and with detainees (through the Detainee Consultative Committee) to ensure updated communication and messages are relayed in a timely manner and positive or negative responses/feedback are monitored and/or actioned accordingly.

Similarly, in relation to the observations about communication following the NZYQ High Court decision, to support departmental staff, talking points were developed and distributed on the 9 November 2024. These talking points were an evolving document which provided guidance to staff in talking to detainees. The talking points included the Department's response to the High Court decision, timeframes and encouraged detainees to speak to their migration agents or legal representations in respect of their individual circumstances.

Internally, advice was provided to officers on how to escalate cases for assessment where the officer believed an individual was in-scope of NZYQ.

The Department is now working to consider better ways to communicate with detainees for other ongoing matters, for example utilising notice boards within detention centres.

Recommendation 3 – Accepted

The Department should continue to explore ways of improving accommodation and placement options for women at VIDC, while ensuring that they are accommodated as close to families and support networks as possible.

The Department **accepts** Recommendation 3.

The Department refers the Ombudsman to its response dated 3 April 2024 to Recommendation 2 of the *NPM's Report – Access All Areas: Monitoring Places of Detention 2022-23* (the NPM Annual Report) and confirms that works relating to the female compounds have been completed. The Department will ensure placement options are considered on the basis of health and security risks posed by the detainee on the good order of the facility as detainee inflows are flagged for accommodation at VIDC.

Recommendation 4 – Accepted

The Department should develop a national framework for the immigration detention network outlining how people in detention may access hair colouring at each facility.

The Department **accepts** Recommendation 4 and is addressing it through the exploration of alternatives to the provision of hair colouring to detainees that will balance security, psychosocial risks (associated with not

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having access to hair colouring) and broader operational risks to safety and security across the Immigration Detention Network (IDN).

Since the NPM's visit, the Department is working collaboratively with the FDSP to consider alternative options such as hair chalk, hair crayons and the possibility of a mobile hairdresser to visit VIDC. Implications of such arrangements need to be further explored across the IDN and are subject to contractual, financial and infrastructure considerations.

Previously, this matter was considered in July 2023 with a Decision Record being issued by the delegate regarding a proposal to consider the provision of basic hair colouring for detainees at the VIDC noting the decision was to be interpreted as a national decision and therefore, applied consistently across the IDN.

The Department recognises there are a number of possible benefits to detainees from the provision of hair colouring, there remains various staff Work Health and Safety, operational, infrastructure, contractual and financial considerations to implementation which will be challenging to overcome. In addition to this, unlike Correctional facilities where there is appropriate legislation to mitigate operational risks, immigration detention is administrative in nature and does not have the legislative means to search or seize items that could pose a threat to oneself or others (detainees and staff) should risk factors associated with a detainee or facility suddenly escalate.

Recommendation 5 – Accepted

The Department should remove any remaining COVID-19 restrictions affecting visits, as well as revitalise the visits area at VIDC to make it safer for children.

The Department **accepts and has already addressed** Recommendation 5.

Since the NPM's last visit to VIDC, the Department confirms that the visits area has been upgraded and revitalised with new, redesigned seating. The playground equipment referenced in the Visit Report was removed as it presented a potential Work Health and Safety concern as parts of the equipment were in need of repair and deemed unsafe. The area has been made safe and there are also other outdoor spaces available for visiting families. New approved playground equipment is expected to arrive in August 2024. Additionally, during visits, children have access to colouring books and markers, as well as some reading materials that are suitable for young readers.

COVID-19 restrictions relating to reduced visiting times, as referenced in the recommendation, are no longer in effect. In line with contractual and detention operational policy requirements, there must be a minimum of six (6) visiting hours each day unless mutually agreed by the FDSP and the Department's Contract Administrator. At present, detainees at the VIDC are able to have one hour visits between 12.30pm and 7.30pm Monday to Friday and between 10.30am and 7.30pm on Saturday and Sunday. Visitors and/or detainees are able to request longer visits and these are considered on a case-by-case basis.

The Department is unaware of any detainee complaints at the VIDC over the past year regarding an inability to access visits.

Recommendation 6 – Accepted

The Department should work with Serco to improve the Programs and Activities Schedule, to ensure that all people in detention at VIDC have access to stimulating and engaging activities regardless of their age, ability, or placement.

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Suggestion – Accepted

The Department should support the continuation of self-improvement courses for people in immigration detention and consider ways to incentivise attendance.

The Department **accepts and is addressing** Recommendation 6 and the suggestion through continuous consideration and improvement.

The Department acknowledges the feedback from the NPM and will continue to engage with service providers to ensure there is flexibility in delivering both schedules to improve uptake and attendance. At present, the Drug and Alcohol programs are developed based on appointment with the DHSP, with timings varying for each person. The Department will actively engage with the FDSP in relation to the Program and Activities schedule, taking into strong consideration detainee and detention stakeholder feedback to deliver structured and unstructured activities.

These are designed to:

- stimulate and promote the mental and physical well-being of detainees by providing them with an incentive (i.e. earning Individual Allowance Program (IAP) points) to participate in the structured Programs and Activities delivered by the FDSP,
- encourage detainees to actively and constructively participate in meaningful Programs and Activities,
- improve the quality of life for detainees by providing them with access to incidental items, and
- enable detainees to exercise a level of self-agency over their daily lives while in immigration detention.

The Department's detention operational policy instruction *Detention Services Manual – Procedural Instruction – Programs and activities – Individual Allowance Program (DM-608)* describes the procedures for managing the IAP in immigration detention facilities. All detainees are eligible to accumulate a set number of points under the IAP. These procedures are applied consistently across the IDN.

Where a detainee has been unable to accrue their maximum weekly allowable IAP points, additional points may be awarded to detainees in certain circumstances where:

- a detainee has actively shown leadership or positive behaviours,
- P&A is not available, postponed or rescheduled through no fault of the detainee, or
- the detainee is unable to attend P&A for legitimate reasons, such as but not limited to:
 - an interview with the Department,
 - a social visit,
 - a medical appointment,
 - admission to hospital, or
 - the detainee is sick and unable to attend scheduled P&A.

To date, no detainee at VIDC has requested additional IAP points for attending Drug and Alcohol programs in lieu of attending a structured Program and Activities activity.

Recommendation 7 – Accepted

The Department and Detention Health Service Provider should offer pregnancy testing to all women of childbearing age during their Health Induction Assessment.

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The Department **accepts** Recommendation 7.

This recommendation has drawn the Department's attention to potential deficiencies in the operationalisation of detention health policies by the DHSP. This will be an area of focus in our health policy assurance activities to ensure services providers are appropriately implementing our detention health policies. The program of detention health policy assurance will be amended to ensure the contracted DHSP is fully implementing the these policy requirements.

The current *Detention Health: Health Screening and Management PI* (DM-6138) sets out the principles of the general health assessment, which is conducted as part of the health induction assessment. As part of the general health assessment, where it is clinically indicated and relevant to do so, the DHSP may request that a detainee submit to a pregnancy test, subject to the consent of the detainee. In addition, the *Detention Health: Women's and Family Health PI* (DM-5725) notes that detainees of childbearing age undergoing a Fitness to Travel Assessment must be asked about the possibility of pregnancy.

All detainees of childbearing age are monitored for pregnancy by the DHSP as part of their health care while in immigration detention and detainees can request to undergo a pregnancy test at any time.

Noting the above, the policy wording will also be clarified to elevate the position of pregnancy screening amongst the list of screening requirements.

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