



Australian
BORDER FORCE

Review of allegations made against International Health and Medical Services in the Guardian Australia, July 2015

Detention Health Services Branch

August 2015

Classification: Sensitive

The Review Team

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

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Introduction

Purpose

The purpose of this review, conducted by Detention Health Services (DHS) Branch, Detention Services Division, is to assess the veracity of the allegations of improper conduct, made against International Health and Medical Services (IHMS) by the Guardian Australia in articles commencing 21 July 2015.

This review has been undertaken at the direction of Detention Assurance Branch (DAB) which is coordinating an overall review of the allegations. DAB has also engaged KPMG International (KPMG) to complete a concurrent external review of the allegations against IHMS. KPMG will provide its findings to DAB, which will consider both reviews and make an overarching assessment and recommendations.

The Guardian Australia articles

The allegations against IHMS have been drawn from a series of articles published by the Guardian Australia which cite various leaked documents dating from October 2011 to January 2014. The articles are listed at [Table 1](#) and provided in full at **Attachment 1**.

Table 1 – List of Allegations, as published in the Guardian Australia, considered in this review

No.	Date	Name of Article
1.	21 July 2015	Fraud 'inevitable' over asylum seeker health targets, leaked documents show
2.	21 July 2015	Asylum seeker healthcare firm's reports included wrong data – internal briefing
3.	21 July 2015	IHMS, the healthcare giant at the heart of Australia's asylum system – explainer
4	21 July 2015	'Significant risks' to health of asylum seekers in firm's failure to meet targets
5	21 July 2015	Immigration healthcare firm 'likely to fail' on child protection – briefing note
6	21 July 2015	Tony Abbott says Peter Dutton will look at revelations over detainee healthcare
7	22 July 2015	'Grab from the excuse bag' – how health firm IHMS tackled asylum seeker targets
8	22 July 2015	IHMS deployed staff in detention centres without police checks
9	22 July 2015	IHMS's bid to change treatment target – 'present as though we are cooperative'
10	22 July 2015	IHMS healthcare in detention investigation: the essentials explained - video
11	22 July 2015	Healthcare in detention: how the government and IHMS responded
12	22 July 2015	Peter Dutton warns of consequences if immigration contractors don't perform
13	23 July 2015	IHMS revelations bolster the legal and political case against the detention of asylum seekers
14	23 July 2015	Immigration records so poorly kept that IHMS could not locate asylum seekers
15	23 July 2015	Immigration department sought private medical records for 'political reasons'

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Allegations

For the purposes of this review, the allegations have been presented under the following eight themes, as articulated by DAB:

1. IHMS acceptance that 'fraud is inevitable' in undertaking its reporting to the Department and an apparent IHMS desire to intentionally mislead the Department in relation to IHMS' performance.
2. IHMS deliberately misreported various events and data to the Department to avoid or minimise contract non-performance penalties.
3. Staff working at detention facilities including Regional Processing Centres without having the required working with children and/or police checks.
4. IHMS failing to deliver health services to an adequate degree, which could impact the health outcomes of detainees including children, failure in vaccination provision.
5. IHMS having a culture of seeking excuses for non-performance.
6. Fundamental conflicts between contractual and clinical objectives.
7. Inappropriate access to medical records sought by department staff and inappropriate provision of medical information to other governments.
8. The IHMS has been unable to 'locate' detainees due to poor data provision by the Department.

Methodology

On 22 July 2015, DHS Branch established a team (the Review Team) to complete the Review. The Review Team comprised representatives from across DHS Branch who have contract management, operational, policy and scrutiny and reporting roles.

The Review Team firstly developed a Risk Assessment (**Attachment 2**), in relation to the allegations, to identify risks around detainee service delivery, contract performance and stakeholder relations. The Risk Assessment also informed the production of a Work Plan for DHS Branch, which includes actions to address recommendations from this review. The Work Plan is provided at **Attachment 3**.


Mapping of the allegations

Prior to DAB defining the above eight allegations, the Review Team initially analysed the allegations against 12 themes. Similarly, IHMS, in correspondence to the Department, addressed the allegations by identifying eight themes which are different to those articulated by DAB. To ensure each allegation and article was fully addressed by the Review, the Review Team mapped the allegations, articles and IHMS evidence against DAB's eight allegations (**Attachment 4**).

Evidence from IHMS

Since the release of the leaked documents, by Guardian Australia, IHMS has written to the Department on several occasions to provide evidence refuting the allegations. The Review Team has also requested further information from IHMS:

- 22 July 2015, IHMS provided a letter (**Attachment 5**) addressing four articles (articles 1, 2, 4 and 5 in listed in Table 1) and refuting the allegations.
- 30 July 2015, IHMS provided a second letter further refuting the allegations (**Attachment 6**). Attached to this correspondence was a collection of documents provided as evidence (evidence batch 1).

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- 11 August 2015, DHS Branch requested further evidence from IHMS (**Attachment 7**).
 - 14 August 2015, IHMS responded (**Attachment 8**). Attached to this correspondence was further documentation provided as evidence (evidence batch 2).
 - 15 August 2015, the Department requested further information (**Attachment 9**) from IHMS.
 - 16 and 17 August 2015, IHMS provided further responses (**Attachment 10**).

Background

Timeframe of allegations and operating environment

The leaked documents range from October 2011 to January 2014, a period which saw a dramatic surge in Illegal Maritime Arrivals (IMAs).

Table 2 – Statistics IMA arrivals across Australian Immigration Detention

Year	Vessels	IMAs	Crew	Total Persons
2009	55	2557	126	2683
2010	138	6600	357	6957
2011	70	4622	171	4793
2012	2676	17053	385	17438
2013	302	20711	653	21364
2014	1	168	0	168

Source: ISRG Reporting statistics, 12 August 2015

This was a period of rapid change and challenges for the Australian immigration detention network and its service providers, including IHMS. The high volume of IMAs required a rapid expansion and rollout of health services. This was also a period during which the Department was introducing formal IHMS contract performance management programmes. Many of the leaked documents deal with internal IHMS discussion about how to minimise the risk of financial abatement as the performance regimes were negotiated, developed and implemented.

Overview of immigration detention health services

IHMS is contracted to provide onsite primary health care at immigration detention facilities (IDFs), including General Practitioner (GP) and nurse clinics, as well as mental health clinics, staffed by counsellors, mental health nurses and psychologists. IHMS also organises allied and specialist health referrals as clinically indicated, with appointments occurring onsite at detention facilities or at a community based practitioner. Detainees are referred to hospitals for emergency and acute care.

IHMS also provides vaccinations to detainees and provides preventative health education sessions on various topics.

IHMS is required to conduct a Health Induction Assessment (HIA) for all new detainees which includes screening for communicable diseases and identifying any health issues requiring attention and ongoing care. Regular mental health screening is also offered to detainees and IHMS is required to conduct regular growth and development checks for young children, consistent with Australian public health standards.

IHMS provides the same level of services to transferees at the Regional Processing Centres (RPCs) on Manus and Nauru.

The contracts with IHMS require it to report various types of health incidents to the Department under varying timeframes (dependent on the type/severity of the incident).

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Background to the onshore and offshore (RPC) health service contracts

In January 2009, the *Health Service Contract* (HSC) was executed between the Department and IHMS.

The HSC was designed to provide primary health care services to a small population of short-term compliance detainees in metropolitan IDFs.

The service delivery and staffing models of the HSC, and its original Performance Management Framework, were not designed for the unprecedented numbers of IMAs arriving between late 2008 and 2013. IMAs were detained across a greatly expanded immigration detention network which included large-scale and remote IDFs, such as Curtin Immigration Detention Centre (IDC), Scherger IDC, Inverbrackie Alternate Place of Detention (APOD), Darwin APODs and Leonora APOD.

Before 2012, monitoring of IHMS service delivery under the HSC, and the separate *Health Care Services Agreement* which covered services delivered on Christmas Island, was limited to responding to specific issues identified by Departmental Health Liaison and Detention Operations staff working at individual IDFs.

In 2012, the HSC Monitoring Programme was developed and implemented across the immigration detention network. Under the HSC Monitoring Programme, Departmental service delivery staff, based at IDFs, directly reviewed IHMS records and observed IHMS staff to ensure that IHMS met its obligations under the HSC. This monitoring provided oversight of IHMS operations while the DHS Branch developed and negotiated major variations to the HSC. These variations ensured the updated HSC would be more suitable for the changes in the immigration detention network.

Following the variations to the HSC, the HSC Performance Management Framework was redesigned and implemented in two stages:

- March 2013 until February 2014 – Christmas Island.
- March 2014 until December 2014 – Mainland Australia and Christmas Island.

The HSC Monitoring Programme and the later HSC Performance Management Framework identified and addressed identified specific and systemic service delivery issues.

Following a competitive procurement exercise during 2014, a new contract was signed with IHMS on 10 December 2014 for onshore detention health services, the *Immigration Detention Health Services Contract* (IDHSC), which expires on 10 December 2019.

During the contract transition-in and 'base period' (December 2014 to June 2015), Detention Health Services Branch undertook monthly performance audits, although financial penalties for IHMS underperformance were not applicable until after completion of the base period (per the terms of the contract). From 1 July 2015, a formal Audit Programme commenced which includes monthly performance reporting provided by IHMS and onsite Departmental staff review of IHMS service delivery. This is supplemented by Departmental medical officer reviews of selected files to check the quality of clinical care. Detention Health Services Branch also proactively escalates emerging issues to IHMS with a request that they address and report on these before they become a bigger problem.

Offshore Health Service Contract

In September 2012, the Department signed a heads of agreement with IHMS to provide health services to people transferred to Manus Island, Papua New Guinea (Manus), and the Republic of Nauru (Nauru). In January 2013, the *Heads of Agreement* was formalised into the *Regional Processing Countries Health Services Contract* (the RPCHSC) between the Department and IHMS. The RPCHSC Performance Framework commenced in November 2012, to report on the performance of key health services on both Manus and Nauru.

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Discussion of allegations, evidence and key findings

Analysis of the Evidence

The Review Team has analysed the evidence, provided by IHMS, in relation to the relevant allegations (Evidence #1 and #2 is available upon request). A listing of the evidence and brief analysis is provided at **Attachment 11**.

The Review Team's analysis and discussion of the allegations, in relation to the relevant evidence, is detailed below. The analysis is detailed under sub-headings where multiple themes or pieces of relevant evidence were identified.

1. IHMS acceptance that 'fraud is inevitable' in undertaking its reporting to the Department and an apparent IHMS desire to intentionally mislead the Department in relation to IHMS's performance

Key findings

- The evidence provided has not revealed any clear cases of fraudulent activity.

s. 47G(1)(a)

- The view that 'Fraud is inevitable' was held by a formerly employed business analyst and is not indicative of IHMS' current culture.

Discussion

s. 47C(1), s. 47G(1)(a)

Code of Conduct and Ethics policies and training

The Review Team requested that IHMS provide assurance that IHMS had code of conduct and fraud related policies in place, and provided training for all staff. IHMS advised that it did not have a specific fraud policy in place until 2015 (after commencement of the new contract), and referred the Department to its Code of Conduct and Ethics policy, which commenced in 2012.

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2. IHMS deliberately misreported various events, and data, to the Department, to avoid or minimise contract non-performance penalties

Key findings

s. 47G(1)(a)

s. 47C(1)

Discussion

Incorrect incident reporting

One of the allegations raised by Guardian Australia was that IHMS misreported incident reporting timeframes to the Department. The relevant document is an internal IHMS presentation '*Contractual Performance Management – Status*' dated 5 August 2013.

To measure compliance with timely incident reporting, IHMS needs to know when its staff first became aware of an incident (known as 'T1') and when the incident is reported to the Department (known as 'T2'). Timeliness of the incident report is then calculated by IHMS through measuring the difference between T1 and T2, and seeing whether the difference between these two times falls within the reporting timeframe for the particular

incident type. The above referenced presentation included an analysis of 1332 incident reports, which showed that for 640 incident reports T1 was exactly the same as T2, meaning the reporting IHMS staff member at the detention facility had not manually adjusted the T1 time to reflect when they first became aware of the incident. A further 51 incident reports had a T2 time earlier than the T1 time, which could only have occurred through the reporting IHMS staff member manually adjusting T1 to be after T2. These data discrepancies indicate the Department would have received flawed performance reporting from IHMS regarding IHMS' timeliness in undertaking incident reporting.

In response to this allegation IHMS included in its correspondence of 30 July 2015 an analysis of incident reporting for February to December 2014. This analysis indicated that only 1.3% of its incident reports had improbable reporting timeframes (where T1 was the same as T2).

The Review Team considered that this information was not particularly relevant to the allegation as the data was for 2014 rather than 2013 (when the presentation occurred). The Review Team therefore requested IHMS to provide an analysis of incident reporting for the period January to December 2013. ^{s. 47G(1)(a)}

s. 47G(1)(a)

Resubmission of reports

s. 47G(1)(a)

s. 47G(1)(a)

IHMS has, however, provided evidence that reports have been resubmitted with updated and corrected data throughout 2013-14.

s. 47G(1)(a)

s. 47G(1)(a)

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s. 47G(1)(a)

3. Staff working at detention facilities including Regional Processing Centres without having the required working with children and/or police checks

Key findings

s. 47G(1)(a)

s. 47C(1)

Discussion

Police Checks - Manus

The Guardian Australia released two versions of the 'Monthly Performance Report – Manus Island January 2013' - one of these reports was marked 'internal version'. The internal version of this report identified four IHMS staff that were deployed to Manus RPC during January 2013 without police checks. The other version of this report (without the marker 'internal report') identified one individual who had not had a police check.

s. 47G(1)(a)

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Working with Children Checks

Contract requirements

The *Immigration Detention Health Services Contract* currently requires IHMS clinicians who will have contact with children, and who require a Working with Children check under state/territory legislation, to have such a check before commencing work with children. The *Regional Processing Countries Health Services Contract* requires all clinicians who will work with children to have a working with children check (or its equivalent for foreign nationals).

s. 47C(1)

s. 47G(1)(a)

4. IHMS failing to deliver health services to an adequate degree, which could impact the health outcomes of detainees including children, failure in vaccination provision

Key findings

s. 47G(1)(a)

- The current *Immigration Detention Health Services Contract* includes new performance measures regarding quality integrated primary health care (determined through clinician audit of records), timely provision of primary health care, timeliness of health induction assessments, timeliness of mental health screening and timely conduct of the vaccination programme amongst others. The Review Team is yet to analyse these measures and their methodology to ensure that they will address any concerns raised in the allegations (this task has been included in the Work Plan arising from this review).

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Discussion

s. 47C(1), s. 47G(1)(a)

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Specialist Referral

IHMS provided an explanation of its methodology for undertaking specialist referrals onshore and offshore. IHMS uses Western Australia's Clinical Priority Access Criteria (CPAC) guidelines in determining referral and service timeframes for detainees and transferees. The CPAC guidelines were developed by the Western Australian Government to assist GPs at Western Australian public hospitals in prioritising patient services and specialist referrals. Further information can be found at: <http://www.gp.health.wa.gov.au/CPAC/cpac/>

The Review Team is satisfied that the guidelines are used by IHMS clinicians to guide specialist referrals. The appropriateness of specialist referrals would need to be determined by clinician review of selected medical records, which already comprises part of the contract monitoring process.

5. IHMS having a culture of seeking excuses for non-performance

Key findings

s. 47C(1), s. 47G(1)(a)

Discussion

The key leaked document behind this allegation is the PowerPoint slide which included a statement "*grab from 'The Excuse Bag'*". Based on the evidence and explanation provided by IHMS to date, it appears that this comment represented the view of one former business analyst.

s. 47G(1)(a)

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6. Fundamental conflicts between contractual and clinical objectives

Key findings

- Conflicts between health care objectives and contractual performance requirements are likely to occur in many health care settings.
- IHMS has provided reasonable evidence to justify the leaked comment.
- IHMS appears to have a sound understanding of how to manage such conflicts, should they arise.

Discussion

IHMS has provided clarification that in such cases where a clinician identifies a potential conflict between performance reporting goals and patient needs, they are encouraged to escalate this to an IHMS Medical Director for guidance, so that genuine medical concerns can take priority over performance reporting requirements.

Furthermore, DHS Branch, through contract development and management processes, mitigates such risks in cooperation with IHMS.

7. Inappropriate access to medical records sought by department staff and inappropriate provision of medical information to other governments

Key findings

- The Review Team is satisfied that IHMS has appropriately handled requests for access to medical records, and has handled personal information appropriately.

Discussion

The one example raised by IHMS to the Review Team of inappropriate access to a health care record being sought relates to a state office monitoring team wanting to view the IHMS electronic medical record system for the purpose of performance monitoring.

This was a misunderstanding on the part of the relevant state office monitoring team and was resolved by DHS Branch who agreed with IHMS' position on this matter

Transferee/detainee health information is only provided to foreign governments if needed to ensure continuity of care or show that the person meets the foreign government's health requirements for entry (eg. for Manus and Nauru, or a country to which a person is being removed).

After reviewing the evidence provided by IHMS and the Review Team's own knowledge of the handling of detainee/ transferee health information, the Review Team is not aware of inappropriate handling of information as alleged in the Guardian Australia articles.

s. 47C(1)

8. IHMS has been unable to 'locate' detainees due to poor data provision by the Department

Key findings

- **Errors in detainee data, as uploaded to IHMS from Departmental systems, have not impacted clinical care, or the health outcomes of detainees and transferees.**

Discussion

In responding to this allegation, IHMS has commented on the impacts of deficient data uploaded daily from the Department into IHMS' electronic medical records system (formerly Chiron, now Apollo). As the data is uploaded to IHMS from the Department's Portal system, it is dependent on timely and accurate data entry by Departmental users of the Portal across the immigration detention network. If such data entry is not timely or accurate it can lead to a detainee's location being incorrect in the IHMS system. IHMS advises in its letter of 14 August 2015 that such data discrepancies present the following clinical risks:

- Clinical records may not be contemporaneous.
- Clinical handover between IHMS sites may be delayed.
- Proactive management of Detainees may be delayed.
- Manual creation of temporary records creates the potential risk of file duplication.
- Clinical resource allocation to tasks associated with manual tracking of detainees.


DHS Branch has previously been aware of this issue and works with IHMS to resolve such discrepancies on a case-by-case basis where IHMS considers they could impact on detainee health – this involves having the Portal record corrected (so that correct data is uploaded in the next transmission) and IHMS also manually adjusting its record of a client when required.

s. 47C(1)

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Conclusion

s. 47C(1), s. 47G(1)(a)



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Attachments

1. Articles published in the Guardian Australia (Refer to that folder provided by IHMS)
2. Risk Assessment
3. Work Plan
4. Allegation Mapping
5. IHMS Correspondence to DIBP – 22 July 2015
6. IHMS Correspondence to DIBP – 30 July 2015
7. DIBP Correspondence to IHMS – 11 August 2015
8. IHMS Correspondence to DIBP – 14 August 2015
9. DIBP Correspondence to IHMS – 15 August 2015
10. IHMS Correspondence to DIBP – 16 & 17 August 2015
11. Evidence Analysis

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cutting through complexity

Management Initiated Review – IHMS Contract

Deed Reference Number: 127074-33

Work Order Number: CBS15-99

Classification: Sensitive

31 August 2015

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s. 47F(1)

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2. Executive Summary

2.1 Background

- 2.1.1 The Department of Immigration and Border Protection (Department) has outsourced the provision of health services to International Health and Medical Services (IHMS) since 2009 with a new contract being executed in December 2014.
- 2.1.2 Between 21 and 23 July 2015, the Guardian published a series of articles relating to the IHMS services, reportedly based on leaked documents. The Guardian articles included numerous issues, concerns and allegations.

2.2 Scope of Work, Objective and Approach

- 2.2.1 The Department has requested a Management Initiated Review of eight allegations arising from the Guardian articles. The objective of the review is to assess the allegations to determine if they have any substance requiring further investigation. The scope is limited to a case assessment of each allegation, not a detailed investigation, and is based on immediately available information sufficient to be able to make an assessment.
- 2.2.2 The Department has also requested we consider whether the findings of a 2014 Internal Audit Report reviewing the contract management practices for the contract which had expired (Manus Island and Nauru) are still relevant and reasonable given the findings from the assessment of the allegations.
- 2.2.3 Our approach to the work has been to analyse immediately available information and undertake interviews with departmental personnel who were involved with the IHMS contract between 2011 and 2014. The information available included the Guardian articles and leaked documents uploaded by the Guardian, departmental documents and responses from IHMS.

2.3 Observations and Recommendations - Allegations

Allegation One

Allegation One:

IHMS acceptance that 'fraud is inevitable' in undertaking its reporting to the Department and an apparent IHMS desire to intentionally mislead the Department in relation to IHMS's performance.

- 2.3.1 The information obtained to date would not appear to evidence a wide view throughout IHMS that fraud is inevitable, nor a wide scale intention to mislead the Department.

s. 47G(1)(a)

s. 47C(1)

Allegation Two

Allegation Two:

IHMS deliberately misreporting various events and data to avoid or minimise contract non-performance penalties.

s. 47G(1)(a)

s. 47C(1)

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Allegation Three:

Staff working at detention facilities including Regional Processing Centres without having the required working with children / police checks.

Allegation Three

s. 47C(1)

Allegation Four:

IHMS failing to deliver health services to an adequate degree, which could impact the health outcomes of detainees, including children; failure in vaccination provision.

Allegation Four

s. 47C(1)

Allegation Five:

IHMS having a culture of seeking excuses for non-performance.

Allegation Five

s. 47C(1)

Allegation Six:

Fundamental conflicts between contractual and clinical objectives.

Allegation Six

2.3.9 It would appear that there were levels of conflict, particularly in the escalation of the health services contract to provide for the increase in Illegal Maritime Arrivals (IMA's) and the extension of the contract to Christmas Island and other centres. Having said that, if the Department is comfortable that those conflicts have now been resolved under the new contract, we see little benefit in the Department investigating further, any alleged past conflicts.

Allegation Seven:

Inappropriate access to medical records sought by departmental staff and inappropriate provision of medical information to governments.

Allegation Seven

2.3.10 The information obtained does not support that there has been unnecessary disclosure of information, nor that disclosures made would likely be in breach of the Privacy Act. No further investigation is warranted, however, the Department should periodically review its processes to ensure continued compliance with the Privacy Act.

Allegation Eight:

That IHMS has been unable to 'locate' detainees due to poor data provision by the Department.

Allegation Eight

2.3.11 The Department acknowledges that on rare occasions, detainee movements occur in advance of information uploads to IHMS. The issue has been addressed. No further investigation warranted.

2.4 2014 Internal Audit Report

2.4.1 The findings and recommendations of the 2014 Internal Audit Report regarding contract management practices are still considered relevant and reasonable in light of the findings from our assessment of the eight allegations.

3. Introduction

3.1 Background

The Department has outsourced the provision of health services to IHMS since 2009.

The unprecedented number of arrivals between 2008 and 2013 meant the service delivery and staffing models of the 2009 IHMS contract was unsuitable.

Prior to 2012, monitoring of the IHMS contract was limited to reactive responses.

The Guardian Articles in July 2015 makes claims of systemic fraud and contract non compliance.

KPMG has been engaged to assess if there is any substance to the allegations, requiring further investigation.

3.1.1 The Department of Immigration and Border Protection (Department) has outsourced the provision of health services to International Health and Medical Services (IHMS) since 2009. In December 2014, a new contract was executed between the Department and IHMS for the provision of health services to Persons in Detention (PiD) until December 2019.

3.1.2 The Department has advised the following background information on the IHMS contract:

- The contract signed with IHMS in January 2009, was designed to provide services to a small population of short-term detainees in metropolitan Immigration Detention Facilities (IDFs).
- Between late 2008 and 2013 there were an unprecedented number of Illegal Maritime Arrivals (IMAs).
- The service delivery and staffing models of the contract, and its original Performance Management Framework, were unsuitable for the growth in the number of IMAs between late 2008 and 2013, who were detained across a greatly expanded Immigration Detention Network (IDN) which included large-scale and remote IDFs.
- Prior to 2012, monitoring of IHMS service delivery was limited to reactive responses to specific issues identified by departmental Health Liaison and Detention Operations staff at individual IDFs. Accordingly, the potential for unidentified systemic fraud at this time was high.
- In 2012, in the absence of an appropriate and viable Performance Management Framework, and in recognition of the risks this posed, a monitoring program was developed and implemented across the IDN.

3.1.3 Between 21 and 23 July 2015, the Guardian published a series of articles relating to the IHMS services, reportedly based on leaked documents. The Guardian articles included numerous issues, concerns and allegations and included links to various documents which could be downloaded. A summary of the 15 Guardian articles published and the documents upon which they are reportedly based, is set out at Appendix A.

3.1.4 The Department queried IHMS in relation to the issues raised in the Guardian articles. We understand IHMS provided a total of four responses, being an initial email response, two detailed responses, one dated 30 July 2015 (referred to in this report as the First IHMS Response) in which IHMS identified eight allegations from the Guardian articles which they sought to address. Following a departmental request for further information, IHMS issued a response dated 14 August 2015 (referred to in this report as the Second IHMS Response) and finally, a further email responding to some follow up queries by the Department.

3.1.5 Prior to this Management Initiated Review, an internal audit *Development and Management of Contracts to Deliver Services at the Offshore Processing Centres of Manus Island and Nauru* was completed. This internal audit included consideration of the contract management practices that were in place for contracts whose term expired in March and April 2014, in relation to Garrison and Welfare Services by G4S, and Health Services by IHMS (2014 Internal Audit Report).

3.1.6 The Department has requested a Management Initiated Review of eight allegations arising from the Guardian articles and also an assessment of the findings of the 2014 Internal Audit Report in light of the findings from the assessment of the allegations.

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3.2 Scope of Work and Objective

3.2.1 The objective of this Management Initiated Review is to:

- Assess eight allegations arising from the Guardian articles to determine whether there is, or is not, substance to the allegations based on the information provided.
- Provide a high level 'oversight' of the 2014 Internal Audit Report to ensure findings within are still considered reasonable in the context of other findings emerging from the assessment of the allegations.

3.2.2 The scope is limited to the eight allegations which were provided by the Department. The allegations are set out in the table below and are not identical to the allegations which IHMS has responded to in the First IHMS Response and Second IHMS Response (IHMS Response Allegations). We have 'mapped' each of the allegations to the IHMS Response Allegations in the table below.

Allegations provided by the Department for assessment	
Number	Details
1	IHMS acceptance that 'fraud is inevitable' in undertaking its reporting to the Department and an apparent IHMS desire to intentionally mislead the Department in relation to IHMS's performance. (IHMS Response Allegation 1 & 6)
2	IHMS deliberately misreporting various events and data to the Department to avoid or minimise contract non-performance penalties. (IHMS Response Allegation 3)
3	Staff working at detention facilities including Regional Processing Centres without having the required working with children and/or police checks. (IHMS Response Allegation 2 & 5)
4	IHMS failing to deliver health services to an adequate degree, which could impact the health outcomes of detainees including children, failure in vaccination provision. (IHMS Response Allegation 1,4,7)
5	IHMS having a culture of seeking excuses for non-performance. (IHMS Response Allegation 6)
6	Fundamental conflicts between contractual and clinical objectives. (IHMS Response Allegation 7)
7	Inappropriate access to medical records sought by departmental staff and inappropriate provision of medical information to other governments. (IHMS Response Allegation 8)
8	That IHMS has been unable to 'locate' detainees due to poor data provision by the Department.

3.2.3 The scope is also limited to a case assessment of each allegation, not a detailed investigation, and is based on immediately available information sufficient to be able to make an assessment. We have not comprehensively examined all available material.

3.2.4 The scope for the review of contract management practices is limited to the period October 2011 to January 2014.

3.3 Approach

3.3.1 We have adopted the following approach in assessing each of the eight allegations:

- Identified the potential underlying information on which the allegations are based by reviewing the 15 Guardian articles published between 21 and 23 July 2015 and documents referred to and uploaded by the Guardian.

- Identified and reviewed other information held by the Department which was relevant to the assessment of the allegations.
- Conducted interviews with departmental personnel who worked in the areas of the Department which were involved with the IHMS contract. The list of personnel we interviewed are set out in the table below:

KPMG meetings held with departmental personnel		
Name	Role during the period	Responsibility during the period
s. 22(1)(a)(ii)	Assistant Director in Planning, Reporting and Public Scrutiny Section (December 2012 to July 2013)	Developed the performance management framework for the HSC (2009-2014)
	Assistant Director in Detention Health Services Contract Management Section	Developed the monitoring programme for the HSC (2009-2014)
	Contract Manager in Detention Health Services Contract Management Section	Developed the monitoring programme for the HSC (2009-2014)
	Assistant Director in Planning Reporting and Public Scrutiny Section (from 2012 until July 2013)	Response to media and scrutiny bodies
	Secretariat of the Detention Health Advisory Group (DeHAG) and the Independent Health Advisory Group (IHAG) from October 2011 to December 2013	Coordinated meetings and site visits for the DeHAG and IHAG members, reports
	Former Director of Detention Health Services Contract Management Section – 2011 to June 2015	Contract Authority for the HSC (2009-2014)
	Acting Director in Planning, Reporting and Public Scrutiny – February to May 2013	Contract Authority for the RCHSC
	Director of Detention Health Operations Section	Operations under the HSC (2009-2014), clinical governance issues

- Reviewed the First and Second IHMS Response and the attached appendices, along with other information provided by IHMS.
 - Determined if there appears to be any potential substance to each allegation and made a recommendation as to what, if any, further action the Department may wish to consider.
 - Reviewed the report received on 22 August 2015, which assessed the allegations made in The Guardian prepared by the Detention Health Services Branch.
- 3.3.2 Should the Department consider undertaking further investigation, we can provide support to determine the approach and information requirements for any investigation.

3.4 Glossary of Terms

3.4.1 A glossary of terms is set out in the table below:

Glossary of Terms	
Term	Description
Allegation One to Eight	Allegations which the Department of Immigration and Border Protection has asked KPMG to assess (refer Section 3.2 for description)
Department	Department of Immigration and Border Protection
DIAC	Department of Immigration and Citizenship
DHS Branch	Detention Health Services Branch
First IHMS Response	IHMS response (and Tab annexures) addressed to Mr Neil Skill and dated 30 July 2015 addressing allegations in Guardian articles
Guardian Article (1 to 15)	Guardian articles published between 21 and 23 July 2015 (refer Appendix A)
HCR	Health Care Records
HSC	Health Services Contract between IHMS and the Department dated January 2009
HSCA	Health Care Services Agreement for Christmas Island
HSP	Health Service Provider
IHMS	International Health and Medical Services
IHMS Response Allegation 1	IHMS failed to meet medical targets.
IHMS Response Allegation 2	IHMS intentionally misrepresented that it had completed Working with Children (WWC) assessments for PIDC
IHMS Response Allegation 3	IHMS knowingly misreported its performance in incident reporting.
IHMS Response Allegation 4	IHMS failed in its duty of care to Asylum Seekers in that it did not properly address claims of inappropriate behaviour by staff
IHMS Response Allegation 5	IHMS wilfully misled the Department in regard to criminal records checks for staff deploying to Manus Island.
IHMS Response Allegation 6	Staff encouraged to mislead Department by excluding some measures inappropriately from performance calculations
IHMS Response Allegation 7	IHMS misled the Department about vaccination measures.
IHMS Response Allegation 8	IHMS provided protected health information in contravention of the Privacy Act
IDFs	Immigration Detention Facilities
IMAs	Illegal Maritime Arrivals
IDC	Immigration Detention Centre
IDN	Immigration Detention Network
2014 Internal Audit Report	Internal Audit Report - Development and Management of Contracts to Deliver Services at Offshore Processing Centres on Manus Island and Nauru
IRH	Immigration Residential Housing
ITA	Immigration Transit Accommodation
OIAC	Office of Australian Information Commissioner
OPC	Offshore Processing Centre
PID	Persons in detention
Second IHMS Response	IHMS response (and Tab annexures) addressed to Ms Amanda Little and dated 14 August 2015 addressing DIBP questions from 11 August 2015.
WWC checks	Working with children checks

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4. Allegation One

Allegation One:

IHMS acceptance that 'fraud is inevitable' in undertaking its reporting to the Department and an apparent IHMS desire to intentionally mislead the Department in relation to IHMS's performance.

4.1 Potential 'Source' of the Allegation

4.1.1 Allegation One relates to issues and concerns raised in the Guardian Articles 1 and 7 which included:

- IHMS believed that 'fraud is inevitable' within its own ranks in its responses to the commercial indicators that allow the Department to measure its medical and clinical performance.
- IHMS including incorrect data in its incident reports related to the recording of 'Time 1' and 'Time 2'.

4.1.2 The documents which are identified as supporting the articles appear to be:

- IHMS Briefing – Contract Performance Management - 26 September 2013
- IHMS – Contractual Performance Management Status – 5 August 2013

4.1.3 The statement that "*Fraud is Inevitable*" appears in the presentation pack apparently produced by IHMS in September 2013.¹

4.1.4 The issue in relation to incorrect data in incident reports appears in the Contractual Performance Management – Status pack (slide 34 and 35) apparently produced by IHMS in August 2013.

4.2 Details of Information to Support or Refute the Allegation

Information from IHMS and departmental documents

4.2.1 The Department provided us with a background document on the Health Services Contract performance management from 2009 – 2014.² The key issues set out in that document are:

- The Health Services Contract (HSC), signed with IHMS in January 2009, was designed to provide services to a small population of short-term detainees in metropolitan Immigration Detention Facilities (IDFs).
- The service delivery and staffing models of the HSC, and its original Performance Management Framework, were unsuitable for the unprecedented numbers of Illegal Maritime Arrivals (IMAs) arriving between late 2008 and 2013, who were detained across a greatly expanded Immigration Detention Network (IDN) which included large-scale and remote IDFs.
- Prior to 2012, monitoring of IHMS service delivery under the HSC, and the separate Health Care Services Agreement (HCSA) which covered services on Christmas Island, was limited to reactive responses to specific issues identified by departmental Health Liaison and Detention Operations staff at individual IDFs. Accordingly, the potential for unidentified systemic fraud at this time was high.
- In 2012, in the absence of an appropriate and viable Performance Management Framework, and in recognition of the risks this posed, the HSC Monitoring Programme was developed and implemented across the IDN.
- Under the HSC Monitoring Programme, departmental service delivery staff based at IDFs directly reviewed IHMS records and observed IHMS staff to assess whether was IHMS meeting its obligations under the HSC. This programme provided holistic oversight

¹ IHMS Briefing – Contract Performance Management - 26 September 2013, slide 4

² Detention Health Services Branch Performance Management of the Health Services Contract 2009-2014

of IHMS operations while efforts were made to undertake the necessary major variations required to make the HSC fit for purpose.

- As major deeds of variation were negotiated and executed, the HSC Performance Management Framework was redesigned and implemented in two stages:
 - March 2013 – Christmas Island;
 - March 2014 – Mainland Australia.
- While the HSC Monitoring Programme and later the HSC Performance Management Framework each identified and addressed both specific and systemic service delivery issues s. 47G(1)(a) it did not detect systemic fraud on behalf of IHMS in the manner suggested by the recent media reporting.
- From 2009 to 2013, the Department missed several key opportunities to address the deficiencies of the HSC due to the scale of IMA activity and the resultant rapid increase in the size of the IDN and the impact this had on divisional resourcing and priorities.

Information from departmental interviews

4.2.2 During our interviews, departmental personnel provided information and comments in relation to Allegation One. Unless stated, we have not investigated each of these matters raised. A summary of the information and comments made is:

- During 2011/12 there was not a lot of focus on contract management. It was more about trying to keep up with the demand caused by IMAs.
- During 2013, with the proposed revision of the HSC for the 2014 version, there was more focus on the performance measures, which had been in the earlier contract, but just not well focussed on.
- The monitoring regime started in February 2013, for Christmas Island, with the first report being produced in March 2013. The process started out as baseline testing – does IHMS have the capability to perform the requirements of the contract, but not testing against the actual performance measurements.
- The process moved more to performance measurement in mid 2013, but not to the extent that the Department would have liked.
- Some sites were more challenging from a contract monitoring perspective, for example, Christmas Island with its rapid increase in operational tempo through the increased IMA's. High staff rotation also increased the difficulty.
- There was a divergence of enthusiasm for the program across the sites, so its effectiveness varied depending on who was involved in undertaking it. Some sites were good at monitoring, some sites were not. It depended on the people there and the EOI in charge.
- There were a range of reports provided, including monthly and quarterly reports on general contract requirements not subject to abatements, as well as specific performance reports against contract requirements.

s. 47G(1)(a)

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- A practice was put in place for a departmental Director to sign off on specialist care, but that would slip occasionally. It was not known what arrangements IHMS had in place with Toowong, Pine Hills etc. but patients would come from all over Australia and be treated there.

IHMS Responses

4.2.3 The key points from the First and Second IHMS response in relation to this allegation are:

- IHMS does not tolerate fraudulent or dishonest behaviour and encourages staff to disclose potential fraudulent behaviour or other risks.
- IHMS has always strived to meet the Department's objectives and when these have been missed, they have been notified to the Department and corrective action taken.
- The reference to fraud in the internal September 2013 briefing document was highlighting the risk if appropriate measures were not taken. IHMS has taken appropriate action to mitigate the risk.
- IHMS could not identify any meeting where this presentation was used.
- The lead analyst at the time (who has since left) often produced ad-hoc presentations of his own volition designed to illustrate risks. Not all resulted in formal presentations and it was the view of one analyst, crafted to attract attention.
- The analyst was well-motivated, but often used emotive and inappropriate language.
- IHMS took action to address perceived risks in achieving compliance.
- IHMS provided a copy of its Code of Ethics, dated September 2012, along with training attendance records for Code of Conduct training during 2012-13, in support of its compliance activity.
- IHMS did not have a fraud risk policy in place prior to 2015. It relied on the Code of Conduct and Ethics to provide guidance on its attitude towards fraud.

4.3 Observations and Recommendations

4.3.1 The statement that "*Fraud is Inevitable*" appears in a presentation pack apparently produced by IHMS in September 2013.³ The context in which that statement appears, on the face of the document, is that it follows points about the contract abatements scheme including notes on the performance threshold being effectively 100%, performance being essentially measured against deadlines, and the conflict between clinical objectives and contractual objectives. There are no speaker's notes accompanying that document, nor any indication in the document as to who was the author, presenter or the audience

4.3.2 When looked at as a whole, the presentation appears to be aimed at educating the audience on the contractual performance requirements, the abatements scheme, challenges for attaining compliance and the strategy for maximising compliance. The strategy section of the document,⁴ sets out a range of proactive strategies to ensure compliance with the contract. Those strategies do not, on the face of them, indicate an approach aimed at intentionally misleading the Department. To the contrary, one comment is that IHMS will "*take our medicine if we need to (ie accept performance failures when we cause them)*".⁵

4.3.3 The issue in relation incorrect data in incident reports appears in the Contractual Performance Management – Status pack apparently produced by IHMS in August 2013. The slide with the heading "*Currently, there are two major data entry errors that distort*

³ IHMS Briefing – Contract Performance management 26 September 2013, slide 4

⁴ Ibid slide 9

⁵ Ibid slide 24

performance measurements" shows 640 Incident Reports with Time 1 = Time 2 and that IHMS's ability to meet the threshold is largely dependent on these errors.

- 4.3.4 When the original IHMS contract was established in 2009, there was no formal contract monitoring program in place to test whether IHMS was delivering the services that it was charging for. In mid 2012, the Department began working on a monitoring program and in 2013, began the contract abatement process for non-performance.

s. 47G(1)(a)

Recommendation:

The information obtained to date would not appear to evidence a wide view throughout IHMS that fraud is inevitable, nor a wide scale intention to mislead the Department. s. 47G(1)(a)

s. 47G(1)(a)

s. 47C(1)

- 4.3.9 Although the information obtained to date would not appear to evidence a wide view throughout IHMS that fraud is inevitable in relation to its reporting to the Department, nor does it evidence wide scale intention to mislead the Department, s. 47G(1)(a)

s. 47G(1)(a)

s. 47C(1)

- 4.3.11 Our observations and recommendations under this allegation also apply to Allegation Two which we see as intrinsically linked to this allegation.

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5. Allegation Two

Allegation Two:

IHMS deliberately misreporting various events and data to avoid or minimise contract non-performance penalties

5.1 Potential 'Source' of the Allegation

5.1.1 Allegation Two appears to relate to issues and concerns raised in the Guardian Article 2 which included:

- IHMS included incorrect data in reports that could have led to the company avoiding financial penalties.
- Incorrect information being included in incident reports.

5.1.2 The documents which are identified as potentially supporting the article are:

- IHMS Contractual Performance Status Presentation – 25 August 2013
- IHMS Internal Presentation – January 2013

5.1.3 The August 2013 presentation which was apparently produced by IHMS includes a slide with the heading "*Currently, there are two major data entry errors that distort performance measurements*" shows 640 Incident Reports with Time 1 = Time 2 and that IHMS's ability to meet the threshold is largely dependent on these errors.

5.1.4 The January 2013 presentation is noted in the Guardian article to have been prepared by an analyst and that analyst calls the creditability of the reports' timing as "doubtful". This included 274 entries for Christmas Island.

5.2 Details of Information to Support or Refute the Allegation

Information from IHMS and departmental documents

5.2.1 Although IHMS was obligated to meet its contractual requirements from the outset of it contracting with the Department, formal monitoring of its contractual performance did not begin until mid-2012 and the formal abatements process for non-performance did not start to operate until early 2013.⁶

5.2.2 IHMS was obligated to lodge formal monthly performance reports in relation to abatable performance criteria. We have not examined, in any detail, all the potentially available information, but are able to provide the following high level comparisons of performance reporting which would potentially provide a basis for, and support, the allegation:

s. 47G(1)(a)

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s. 47G(1)(a)

Information from departmental interviews

5.2.23 During our interviews, departmental personnel provided information and comments in relation to Allegation Two. Unless stated, we have not investigated each of these matters raised. A summary of the information and comments made is:

s. 47G(1)(a)

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IHMS Responses

5.2.29 The key points from the First IHMS Response in relation to this allegation are:

- IHMS prepares reports assuming they will be audited and relevant disclaimers and assumptions are declared.
- When errors are detected by IHMS or the Department, reports were corrected and reissued (eg the February 2014 Christmas Island Report and the analysis of incidents Feb – Dec 2014).
- IHMS disclosed all calculation methodologies to the Department.

- Incident reports times were manually entered by staff prior to February 2014. IHMS notified the Department of constraints within its Chiron clinical information system.
- Even with the new system, there were likely to be instances of incorrect reporting as a result of manual errors, but these represent a very small proportion of the total incidents. It included a table showing an error rate of 1.3%.
- IHMS analysts have not intentionally misrepresented IHMS reporting nor were they directed to misrepresent reporting.

5.2.30 The key points from the Second IHMS response in relation to Allegation Two are:

s. 47G(1)(a)

- IHMS provided details of its quality assurance process in operation during May 2012 – January 2014.
- IHMS notes that it drew to the Department's attention assumptions and other material that affected its performance and the measurement of its performance, noting the covering letter provided to the May 2012 Christmas Island report.

5.3 Observations and Recommendations

5.3.1 These observations and recommendations for Allegation Two should be read in conjunction with those under Allegations One and Three.

s. 47G(1)(a)

s. 47C(1)

Recommendation:

s. 47G(1)(a)

s. 47C(1)

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6. Allegation Three

Allegation Three:

Staff working at detention facilities including Regional Processing centres without having the required working with children / police checks

6.1 Potential 'Source' of the Allegation

6.1.1 Allegation Three appears to relate to issues and concerns raised in the Guardian Article 1, 5 and 8 which included:

- IHMS deployed medical staff to Manus Island detention centre prior to undergoing Police Checks.
- IHMS misled the Department by mis-reporting their status in subsequent monthly reports in January 2013.
- IHMS could not guarantee that its staff were cleared to work with children and admitted it would likely fail any compliance checks on the issue.

6.1.2 The documents which are identified as potentially supporting the articles are:

- January 2014 Briefing Note which refers to working with children checks
- Monthly Performance Report Manus Island - January 2013 (Internal Version)
- Monthly Performance Report Manus Island - January 2013
- Document headed "January Performance report additional comments"

6.2 Details of Information to Support or Refute the Allegation

s. 47G(1)(a)

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Information from departmental interviews

6.2.5 During our interviews, departmental personnel provided information and comments in relation to Allegation Three. Unless stated, we have not investigated each of these matters raised. A summary of the information and comments made is:

- The Manus Island contract was put together in a short time frame and it was under resourced. There were occasionally lapses in meeting requirements but IHMS declared them and were not trying to hide them.
- Working with Children checks in WA was a long running issue and Christmas Island operates under WA law. As anyone on Christmas Island could come into contact with a child, the Department insisted on everyone undergoing the relevant checks.
- The issue is that unless a person held a position designated under WA law as requiring a clearance, they would not be provided one, nor would the WA authority provide written confirmation that the person did not require one. They would simply tell the person they didn't need one, so IHMS had no way of evidencing that the person had gone through the appropriate process.
- This was an ongoing issue that was never resolved.

IHMS Responses

6.2.6 The key points from the First IHMS Response in relation to Allegation Three are:

- IHMS did not make any representations regarding WWC checks at Perth IDC as there were no children accommodated there at the time.
- IHMS requires all staff working at facilities where children reside to have valid checks in line with state requirements.
- There were issues with obtaining WWC checks in WA.
- IHMS confirmed that staff who worked at Perth IRH, where there were children, had the appropriate checks, even though they were not required to report on that compliance.

s. 47G(1)(a)

Recommendation:

s. 47C(1)

s. 47C(1)

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7. Allegation Four

Allegation Four:

IHMS failing to deliver health services to an adequate degree, which could impact the health outcomes of detainees, including children, failure in vaccination provision

7.1 Potential 'Source' of the Allegation

7.1.1 Allegation Four appears to relate to issues and concerns raised in the Guardian Article 5 and 9 which included:

- IHMS concerns about the standards of vaccination measurements for asylum seekers.
- IHMS failed to act on complaints of asylum seekers including complaints of bullying.

The document identified as potentially supporting the articles is the IHMS presentation Vaccination Statistics - apparently produced by IHMS as an internal briefing document relating to vaccinations in December 2013.⁵⁸

7.1.2 A further document referred to in Article 5 is an alleged January 2014 document which was not made available. The document is alleged to show that complaints were only dealt with 59% of the time in an adequate timeframe.

7.2 Details of Information to Support or Refute the Allegation

s. 47G(1)(a)

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Information from departmental interviews

7.2.8 During our interviews, departmental personnel provided information and comments in relation to Allegation Four. Unless stated, we have not investigated each of these matters raised. A summary of the information and comments made is:

- The services provided by IHMS were broadly commensurate with Australian Health Care. The view is that the IHMS services are better now than they were previously.
- There was a letter from a collective group of doctors on Christmas Island who raised that care wasn't adequate. That letter had to be considered in the context of approximately 4500 IMA's arriving per month.

s. 47G(1)(a)

- In 2011, IHMS struggled to get everyone vaccinated due to the IMA numbers. They weren't trying to cheat the Department, they just couldn't keep up. So vaccination statistics had to be considered in light of the operational context. There were substantial increases in IMA's and the 48hr processing time included vaccinations.
- To qualify for vaccinations, people had to have not been previously vaccinated and they had to consent to vaccination. Although vaccinations were a bit haphazard, with a focus on the process particularly at Christmas Island, everyone who was eligible to be vaccinated was vaccinated.
- The statistics also need to consider the priorities and risk. For example, there was more focus on Christmas Island, but less on Villawood, as those in Villawood detention were mainly from onshore compliance operations, i.e. persons already living in Australia who may have already been vaccinated and are at lower risk.

s. 47G(1)(a)

IHMS Responses

s. 47G(1)(a)

- IHMS was subsequently audited to RACGP standards for Immigration Detention Centre Health Services and currently remains accredited to that standard.
- In relation to vaccinations, IHMS noted that the HSC had a range of performance measures that were potentially not contributing to good clinical practice, as they were focussed on process and not outcomes. IHMS did not want further performance measures which were about process, without improving clinical care.

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7.3 Observations and Recommendations

s. 47C(1)

Recommendation:

s. 47C(1)

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8. Allegation Five

Allegation Five:

IHMS having a culture of seeking excuses for non-performance.

8.1 Potential 'Source' of the Allegation

8.1.1 Allegation Five appears to relate to issues and concerns raised in the Guardian Article 7 which included:

- IHMS can grab from the 'excuse bag' when Government targets are not met.

8.1.2 The document identified as potentially supporting the article appears to be an internal briefing paper which IHMS apparently produced in July 2012.⁷⁴

8.2 Details of Information to Support or Refute the Allegation

s. 47G(1)(a)

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s. 47G(1)(a)

Information from departmental interviews

8.2.8 During our interviews, departmental personnel provided information and comments in relation to Allegation Five. Unless stated, we have not investigated each of these matters raised. A summary of the information and comments made is:

s. 47G(1)(a)

IHMS Responses

s. 47G(1)(a)

- In relation to Excusable Performance Failures, IHMS advised that by mutual agreement, it did not commence performance reporting until February 2014 and therefore, the Excusable Performance Failure regime did not come into effect until then. As such, it there were no procedures or training in place during 2011 and 2012 in that regard.
- In preparation for the Excusable Performance Failure regime, IHMS and the Department agreed on an independent person to assess whether a discretionary day could be used and only claimed for those approved by the Department.

s. 47G(1)(a)

- In relation to the comment "grab from the Excuse Bag", IHMS noted that the IHMS approach was ethical, diligent and appropriate. The comment was an unfortunate term used by a single

⁸³ IHMS response recorded in an undated document

analyst in an internal and unvetted presentation to inform participants of the abatement system.

8.3 Observations and Recommendations

- 8.3.1 Other than the one presentation, the IHMS internal presentations on the performance monitoring program, the abatements system and the Excusable Performance Failures regime, do not appear to evidence a focus on "grabbing excuses".

Recommendation:

s. 47C(1)

s. 47G(1)(a)

s. 47C(1)

9. Allegation Six

Allegation Six:

Fundamental conflicts between contractual and clinical objectives.

9.1 Potential 'Source' of the Allegation

9.1.1 Allegation Six appears to relate to issues and concerns raised in the Guardian Article 1 and 7 which included:

- Extraordinary tension at IHMS between meeting clinical care standards and fulfilling its commercial objectives under its contracts.
- IHMS Health Service Managers being concerned they could not comply with all metrics.

9.1.2 The documents identified as potentially supporting the articles are:

- IHMS Briefing – Contract Performance Management 26 September 2013
- Health Service Managers Conference notes – August 2013

9.2 Details of Information to Support or Refute the Allegation

Information from IHMS and departmental documents

9.2.1 IHMS apparently produced an internal briefing document which noted that there was a conflict between clinical objectives and contractual objectives. That statement was part of a broader observation that performance measurement was mostly defined in terms of deadlines and combined with high performance thresholds,⁸⁴ that gave rise to that conflict.

Information from departmental interviews

9.2.2 During our interviews, departmental personnel provided information and comments in relation to Allegation Six. Unless stated, we have not investigated each of these matters raised. A summary of the information and comments made is:

- The contractual issues did not compromise the medical care provided. The Department would not contest the IHMS medical advice, though at times they would have robust discussions about it.

s. 47G(1)(a)

- The Department had an oversight body operating to provide oversight and advice on detainee health care. The Detention Health Advisory Group (DHAG) comprised of eminent clinicians and other people whose focus was to put in place better clinical practices. That group later became known as the Immigration Health Advisory Group (IHAG). The group conducted site visits of immigration processing and detention facilities each year to view operations.

s. 47G(1)(a)

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- Another example of the conflict also arose due to the delineation between primary health care and other health care. IHMS were contracted to provide primary health care, which meant there were procedures they would not do, even though they were technically qualified to do so. On Christmas Island, for example, a nurse was not permitted to put in an 'IV' line into a detainee, as it was not primary care. The ambulance would have to come from the hospital, pick up the patient, transport them to the hospital, where the 'IV' would be inserted.
- The Department was aware there was some level of conflict, so tried to develop better performance metrics. It didn't want performance metrics which were detrimental to clinical objectives. They worked with IHMS to try and develop performance metrics which catered for clinical objectives.
- The real conflict arose in 2012, when the HSC was varied to service Christmas Island. The original contract required a certain level of service and there was uncertainty about what an IHMS task was and what a hospital task was more appropriately. The issues were resolved and under the new contract, remote areas have a different level of service requirement.

IHMS Responses

9.2.3 The key points from the Second IHMS Response in relation to Allegation Six are:

- The potential for conflict occurs when a clinician is faced with a need to prioritise a clinical action with finite resourcing. For example, the clinician may have to put aside scheduled mental health screening for a group of detainees, to deal with a patient who has acute needs and requires urgent attention.
- IHMS advised it does not have any documented examples where there has been a conflict between clinical and contractual objectives.

Recommendation:

s. 47C(1)

9.3 Observations and Recommendations

s. 47C(1)

10. Allegation Seven

Allegation Seven:

Inappropriate access to medical records sought by departmental staff and inappropriate provision of medical information to governments.

10.1 Potential 'Source' of Allegation

10.1.1 Allegation Seven relates to issues and concerns raised in the Guardian Article 15 which included:

- IHMS providing medical records to the Department for "political purposes".
- The Department requesting access to the Chiron system which holds the medical records.
- IHMS being required to provide data to the Department for compliance checking which may be a breach of the Privacy Act.
- Medical information being provided to Foreign Governments (Nauru and Papua New Guinea).

10.1.2 The documents identified as potentially supporting the article are:

- A document linked to the article, "272247537 – Confidentiality – briefing". The Guardian refers to the document as a 'clinician's briefing notes' for a clinical director's meeting on confidentiality in September 2013. The document has no title and is undated contains a heading "*Areas of concern in relation to confidential information on clients for IHMS*". The document sets out four primary areas of concern as follows:
 - Provision of information to the Department beyond the immediate medical / welfare needs of the client. For example, updated medical information on clients who are in hospital.
 - Provision of information to DIAC in notification "incident" reports. For example, torture and trauma notifications, code blue, infectious disease notification etc.
 - Provision of client information for compliance checking.
 - Provision of confidential information to foreign government departments in relation to "regional processing centres".
- An email of September 2013 which is referred to in the article as being sent two weeks after the clinician's briefing notes. The article refers to inappropriate access being requested by departmental staff to the Chiron system.

10.2 Details of Information to Support or Refute the Allegation

Information from departmental interviews

10.2.1 During our interviews, departmental personnel provided information and comments in relation to Allegation Seven. Unless stated, we have not investigated each of these matters raised. A summary of the information and comments made is:

- The Department needed access to health care records in order to meet its responsibilities for managing the contract, managing performance and to manage operations.

s. 47G(1)(a)

- The Department advised that it provides detainees with consent forms re the disclosure of private information, even though it's not technically necessary as the Department can

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disclose such information for law enforcement of health care purposes without consent. Some information was disclosed to foreign governments, as when it is proposed to move a detainee into a detention facility off-shore, or moving them into an off-shore medical facility, it is necessary to provide a certain level of disclosure to the host country government or the hospital concerned.

- Information was needed as monitoring was developed. Access to medical information would only be given to Departmental staff undertaking monitoring with the oversight of IHMS. There was some pressure to provide unfettered access to Departmental staff but in the context of monitoring, the Department didn't want it. An arrangement was put in place for Commonwealth Medical Staff to access the health records if that information was required. Information was provided to foreign governments only to confirm that certain health requirements were met by those detainees being placed there.

IHMS Responses

10.2.2 IHMS⁸⁵ noted that it was in compliance with the Privacy provisions and refers to the Privacy Act 1988 subsection 6A(2) which states that an act or practice does not breach a National Privacy Principle if the act is done by an organisation that is a contracted service provider for a Commonwealth contract.

10.2.3 Following receipt of the First IHMS Response, the Department requested details of the occurrences where in the opinion of IHMS, the Department has inappropriately accessed or requested medical records. The second response provided by IHMS included as an example, the email dated 23 August 2013 referred to above. It is not clear from IHMS's response if there were other occasions where inappropriate access was requested by departmental staff.

10.2.4 An IHMS letter to the Office of Australian Information Commissioner (OAIC) dated 10 August 2015 included in the Second IHMS Response notes:

"Given that DIBP is an enforcement agency for the purpose of the Migration Act 1958 (Cth) and associated legislation, IHMS believes that to the extent of the Migration Act, and consistent with subsection 6A (2) of the Privacy Act, a consent form is not required for IHMS to share personal information with DIBP."

s. 47G(1)(a)

10.2.8 IHMS has advised that it has provided health information to the PNG authorities which was demanded prior to the initial transfer to Nauru. It is not clear from the IHMS response what is included in 'health information'.

⁸⁵ First IHMS Response

10.3 Observations and Recommendations

Recommendation:

The information obtained does not support that there has been unnecessary disclosure of information, nor that disclosures made would likely be in breach of the Privacy Act. s. 47C(1)

s. 47C(1)

- 10.3.1 It is not clear who is the author of the clinician's briefing notes and whether the views are those of IHMS. We have not been able to identify any other information as to the purpose of the note, whether the concerns were raised with the Department and whether any actions were put in place to address the concerns.
- 10.3.2 The email of September 2013 has not been located by IHMS or the Department. IHMS provided a copy of an email chain dated 23 August 2013 from s. 22(1)(a)(ii) of the Department to s. 22(1)(a)(ii) of IHMS. In the email, s. 22(1)(a)(ii) confirms the Department's position on the matter has not changed and that access of the Chiron system by departmental staff is not appropriate and that records required by the Department should be provided by IHMS in the appropriate format.
- 10.3.3 It was agreed by IHMS and the Department that for compliance monitoring, it is necessary and not inappropriate for the Department to have access to medical records, but that it was inappropriate for departmental staff to have full access to the Chiron system.
- 10.3.4 The Department has confirmed that it is not inappropriate for medical information to be provided to foreign governments where transfers are being made offshore, as it is necessary to provide a certain level of disclosure to the host country.
- 10.3.5 The information obtained does not support that there has been unnecessary disclosure of personal information, nor that disclosures made would likely be in breach of the Privacy Act. s. 47C(1)
- s. 47C(1)

11. Allegation Eight

Allegation Eight:

That IHMS has been unable to 'locate' detainees due to poor data provision by the Department.

11.1 Potential 'Source' of Allegation

11.1.1 Allegation Eight relates to issues and concerns raised in the Guardian Article 14 which included:

- IHMS being unable to locate asylum seekers in its care because of poor records from the Department.
- Presentations which included concerns about IHMS's handling of personal information and the Department's ability to locate asylum seekers held in its care.
- Poor data management which is attributable to the Immigration Department and means that IHMS is unable to accurately measure performance under its contract.
- The document identified as potentially supporting the article is an internal briefing document apparently prepared by IHMS in May 2013.⁸⁶ That document notes that sources of inaccuracy for performance measurement include that:
 - Performance is not always accurately attributed to the correct site due to poor 'location' data (which is provided by DIAC).
 - Performance failures are overstated because the status of clients' records (active vs inactive) is not always correct (the status of clients' records is determined by DIAC).⁸⁷
 - Performance measurements reflect a range of errors.⁸⁸

11.2 Details of Information to Support or Refute the Allegation

Information from departmental interviews

11.2.1 During our interviews, departmental personnel provided information and comments in relation to Allegation Eight. Unless stated, we have not investigated each of these matters raised. A summary of the information and comments made is:

- The Department advised that IHMS receives data feed of detainee information twice daily, so on some occasions a detainee would be moved and arrive in a location prior to the data feed update.

s. 47G(1)(a)

- The issue of "active" and "inactive" status only arises in the situation where a detainee is released and there is a delay in the updating of that status in the feed.
- The issue of potential errors in status or location has declined with the reduction in operational tempo.
- The data feed heavily relies on departmental and SERCO staff accurately recording information in a timely manner. It takes about five minutes to update a detainee's record, so at the time of high operational tempo, some records were slow to be updated and some people were occasionally missed, so IHMS would have a point as detainees could arrive at a new detention facility with no record of them having moved in the system.

⁸⁶ IHMS – Performance by Site (Except Regional Processing centres) May 2013

⁸⁷ Ibid slide 4

⁸⁸ Ibid slide 13

- The system also restricted the view to the location the viewer was in, so IHMS could not look to see if the person was recorded at another location elsewhere. To overcome this, senior IHMS people were given wider access. This was never a big issue and only arose on major transfers. It is less of an issue now.

IHMS Responses

11.2.2 The key points from the Second IHMS Response in relation to Allegation Eight are:

- IHMS advised that the overall consistency of the nominal roles provided by the Department has been an on-going management issue between IHMS and the Department since its inception. The issues with the data present numerous clinical risks including the lack of contemporaneous records, the delay in clinical handover and detainee's management and the creation of temporary records with the risk of duplication.
- IHMS provided a list of 18 incidents during 2012-14. Copies of these documents related to these incidents were not provided with the response and there were no details of any actual examples where a detainee's health care was adversely impacted by incorrect data being received from the Department.

11.3 Observations and Recommendations

11.3.1 The Department acknowledges that on occasions, detainee movements can be in advance of updating the information provided to IHMS, so there is a risk of a detainee arriving at a detention facility prior to the system being updated. This was particularly prevalent during the period of increased tempo caused by IMA's.

11.3.2 IHMS has provided some examples where it claims that issues were caused by the failure to provide accurate detainee information, however, it appears that in the context of the number of detainee movements during the period in question, those issues represent a very small proportion. Further, we have not been advised of any instance when the lack of information caused a significant issue.

11.3.3 Steps have been taken by the Department and IHMS to better manage the issue and it appears it is no longer any real concern.

s. 47C(1)

Recommendation:

The Department acknowledges that on rare occasions, detainee movements occur in advance of information uploads to IHMS. The issue has been addressed.s. 47C(1)

s. 47C(1)

13. Warranties and Disclaimer

- 13.1.1 We have prepared this report for the purpose set out in Section 2 of this report and pursuant to the Deed Reference Number 127074-33 and Work Order CBS15-99 and it is not to be used for any other purpose without our prior written consent. Accordingly, KPMG accepts no responsibility in any way whatsoever for the use of this report for any purpose other than that for which it has been prepared.
- 13.1.2 The services provided in connection with this engagement comprise an advisory engagement, which is not subject to assurance or other standards issued by the Australian Auditing and Assurance Standards Board and, consequently no opinions or conclusions intended to convey assurance have been expressed.
- 13.1.3 This report must not be shown, copied, provided, disseminated, given to or relied on by any other person or entity without our express written consent which may be withheld in our absolute discretion
- 13.1.4 We have considered and relied upon information, which we believe to be reliable, complete and not misleading. Nothing in this report should be taken to imply that we have verified any information supplied to us, or have in any way carried out an audit of any information supplied to us other than as expressly stated in this report. The statements and findings included in this report are given in good faith, and in the belief that such statements and findings are not false or misleading.
- 13.1.5 These findings are based solely on the information provided to us during the course of our review to date. We reserve the right to amend any findings, if necessary, should any further information become available

Appendix A

Guardian Articles			Appendix A
Article No. as referred to by IHMS	Article Date Published	Title of Article	Documents Linked to Article
1	21-Jul-15	Fraud 'inevitable' over asylum seeker health targets, leaked documents show	No Links to documents
2	21-Jul-15	Asylum seeker healthcare firm's reports included wrong data - internal briefing	Incident Report Presentation Aug 2013
3	21-Jul-15	IHMS, the healthcare giant at the heart of Australia's asylum system - explainer	No Links to documents
4	21-Jul-15	Significant risks 'to health of asylum seekers in firm's failure to meet targets	Audit CI 2012 (Protiviti) Final Response Audit IHMS
5	21-Jul-15	Immigration healthcare firm 'likely to fail' on child protection - briefing note	Working with children checks and other abatement items
6	21-Jul-15	Tony Abbott says Peter Dutton will look at revelations over detainees healthcare	No Links to documents
7	22-Jul-15	Grab from the excuse bag' - how health firm IHMS tackled asylum seeker targets	Contractual Performance Management Sep 13 Abatements Progress Review Jul 12 Contractual Performance Management Jul 12 Hsm Conference Performance Management Contractual Performance Management Oct 11 Performance Management Aug 13 Individual Management Services Provided to People in Immigration Detention Australian Government Department of Immigration and Border Protection - Decision Record
8	22-Jul-15	IHMS deployed staff in detention centres without police checks	Contractual Performance Management May 12 Manus Monthly report Jan 2013 internal January performance additional comments Manus Monthly report Jan 2013
9	22-Jul-15	IHMS's bid to change treatment target - 'present as though we are cooperative'	New performance metrics table Vaccination Statistics (11 Dec 2013)
10		IHMS healthcare in detention investigation : the essential explained - video	
11	22-Jul-15	Healthcare in detention: how the government and IHMS responded	No Links to documents
12	22-Jul-15	Peter Dutton warns of consequences if immigration contractors don't perform	No Links to documents
13	23-Jul-15	IHMS revelations bolster the legal and political case	No Links to documents
14	23-Jul-15	Immigration records so poorly kept that IHMS could not locate asylum seekers	IHMS performance by site (May 2013) Audit CI 2012 (Protiviti) Audit of health care records (DIBP)
15	23-Jul-15	Immigration department sought private medical records for political reasons'	Confidentiality briefing Good Medical Practise: A Code of Conduct for Doctors in Australia



Australian Government

Department of Immigration
and Border Protection

Detention Assurance Review – IHMS Allegations

4 September 2015

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Freedom of Information Act 1982

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Detention Assurance Review – IHMS Allegations

Introduction

1. In July 2015, the Guardian Australia ran a series of 14 articles which alleged improper conduct around the provision of health services in immigration detention by International Health and Medical Services (IHMS) in the period October 2011 to January 2014. The articles drew heavily on leaked documents purported to come from IHMS.
2. While focusing on the activity of IHMS, the articles also raise concerns around the adequacy of the Department's contract management practices. Of most concern were allegations around potential fraud, deliberate contract manipulation, and failure to provide adequate medical services.

Approach

3. In response to the articles appearing on 21 July 2015, the Department referred the allegations for review by the Detention Assurance Branch. A review model was consequently implemented comprising of a set of separate but related activities:
 - an internally conducted management self-assurance review undertaken by Detention Health Services Branch – seeking to assess the veracity of the allegations of improper conduct (the internal review, *Attachment A.1 - Review of allegations made against International Health and Medical Services in the Guardian Australia, July 2015*)
 - an externally conducted management initiated review conducted by KPMG – looking to assess the allegations to determine if there is substance requiring further investigation (the external review, *Attachment A.2 – Management Initiated Review – IHMS Contract*), and
 - an overarching evaluation of the above by the Detention Assurance Branch, including a reconciliation of differing views and collating any arising recommendations (this paper).
4. Supplementary to these activities, two external entities have a significant interest in the outcomes of the evaluation of the allegations, namely:
 - The Australian National Audit Office – currently conducting an audit of the Department's contract management of the IHMS contract, and
 - The Australian Federal Police – which received a referral from Senator Hanson-Young seeking an investigation into the allegations.

Context

5. There are two issues arising from both the external and internal reviews process which are important to contextualise the activity between IHMS and by the Department over the time period to which the allegations refer, October 2011 to January 2014 (the period).

IMA arrival increase

6. The leaked documents relate to the period, which coincided with the surge in Illegal Maritime Arrivals (essentially a four-fold increase in volume on a year by year comparison). This surge in volume required rapid change, and significant expansion and rollout of health services across multiple new facilities.
7. The Department acknowledges that the existing contract was not designed for this volume, and that the service delivery and staffing models for IHMS were subsequently modified to meet demand faster than good governance would normally allow.
8. The Department had very limited (location based) monitoring of IHMS service delivery prior to the design of the Health Care Services Monitoring Programme in 2012, and the Health Care Services Performance Management Framework (rolled out over 2013 and 2014).

The commercial nature of the relationship

9. There is no doubt that IHMS is a commercial entity with a priority objective of achieving strong profit and growth. This is not a criticism, but reflective of the reality of contracted service provision.
10. Through the review processes, both internal and external reviews agree that IHMS took an approach of seeking to maximise profits, including through actively reducing opportunities for the Department to seek contract abatements.
11. Having made those comments, it is also important to note that IHMS was a business critical and supportive partner in working with the Department to ramp up activity in response to the surge in arrivals.

Summary of Findings

12. The articles contain a large number of allegations, including repeating along key themes. For the purpose of the review activity, the allegations were collated into the below set of 8. Alongside each allegation is the combined outcome of the reviews outlined above.
13. For each allegation, Detention Assurance has provided a combination of observations (non-actionable) and recommendations.
14. The bulk of the recommendations are being implemented through the Detention Health Service Branch Work Plan and are forward looking.

Allegation 1: Fraud is inevitable

s. 47G(1)(a)

15. Neither the internal nor external reviews found evidence of fraudulent activity.
16. The quote that “fraud is inevitable” arises in the context of a singular presentation pack designed to educate the audience on contractual performance requirements and the challenges of meeting high levels of compliance. It could be read as a clumsily worded way of expressing that with compliance thresholds set at 100%, it is inevitable that this threshold will not always be met.

s. 47G(1)(a)

18. **Observation:** All contracted service providers should be held to account as part of ongoing contract management to ensure effective fraud controls are in place.
19. **Recommendation:** No further action on this allegation.

Allegation 2: Deliberate misreporting

s. 47C(1), s. 47G(1)(a)

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24. **Recommendation:** It is recommended that the Detention Health Service Branch include rigorous compliance monitoring as part of the broader performance management of the Immigration Detention Health Services Contract.

Allegation 3: Absence of character checks


s. 47G(1)(a)

29. **Observation:** Working with Children and police checks are different across all jurisdictions (as they are State and Territory based). The Children, Community & Settlement Services Division has been alert to this concern for some time, and may be able to assist the Detention Health Services Branch in aligning contract policy with wider departmental child protection frameworks.
30. **Recommendation:** It is recommended that the Detention Health Services Branch strengthen reporting requirements around the compliance of IHMS staff with working with children and/or police checks – including requesting evidence from IHMS.

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Allegation 4: Failure to deliver health services


s. 47G(1)(a)



36. **Observation:** The level of 'comfort' around the provision of healthcare, or what constitutes 'appropriate' are ambiguous terms. From both a reputational risk perspective, and to satisfy its duty of care, the Department should be assured that the provision of care, including adequate vaccinations rates are in line with Australian community expectations.
37. **Recommendation:** It is recommended that the Detention Health Service Branch include rigorous compliance monitoring as part of the broader performance management of the Immigration Detention Health Services Contract.

Allegation 5: Excuse culture

s. 47G(1)(a)



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40. An interesting observation in the article containing the allegation quotes from an IHMS document “inevitably, the conversation will revolve around what has been pulled from the excuse bag, not on performance itself”.
41. **Observation:** The implication in the above and particularly in the discussion within the external review is that previously the Department has not been well equipped to manage the contract in the face of commercially aggressive practices. Whether this is still the case or not, disparity in contract management skills is relatively common across Commonwealth contract management.
42. **Recommendation:** It is recommended that the Detention Health Service Branch liaise further with IHMS to develop expectations around the provision of evidence to support ‘excuses’.

Allegation 6: Contract and clinical outcome conflict

s. 47G(1)(a)

43. The internal review finds any potential conflict to be adequately managed through current arrangements.
44. The external review indicates there were occasional conflicts but goes on to note that the Department is now comfortable that such conflicts have been resolved under the new contract.
45. **Observation:** There is a fundamental conflict between contractual and clinical objectives where profit and cost dictate clinical operations. For example, restriction of IHMS operating hours to ‘normal business hours’ is a commercial decision (driven by the Department) that does not necessarily accord with the environment in detention centres where activity is (particularly amongst the single adult males) largely nocturnal.
46. **Recommendation:** No further action on this allegation.

Allegation 7: Inappropriate access to medical records

s. 47G(1)(a)

47. The internal review cites an example of inappropriate access by a State Office monitoring team, rapidly resolved.

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48. The external review comments on the access by the Department of medical records for monitoring purposes, and that such was agreed as appropriate by IHMS.
49. Both reviews discuss and agree that current sharing of information is both appropriate and managed in accordance with privacy considerations and need.

s. 47G(1)(a)

51. **Recommendation:** No further action on this allegation.

Allegation 8: Unable to locate detainees

s. 47G(1)(a)

52. Neither the internal or external reviews found this allegation to be true.
53. There have been instances where there is a delay between detainee movements and uploading of data into IHMS and departmental systems – particularly during the period of increased tempo.
54. However neither review is able to provide an example of where such delays have caused a significant issue.
55. **Recommendation:** No further action on this allegation.

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