



**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)

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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'

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).

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.

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. 47C(1), s. 47E(d), 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

Presentation including 'fraud is inevitable' statement

Although requested, IHMS advised it was unable to find any evidence of when the relevant presentation was given, nor could it identify which staff members attended the presentation, if any. IHMS provided an explanation that the statement represented the view of a previously employed business analyst and was not a view or direction promoted throughout IHMS. The Review Team considers that this is a likely explanation and is satisfied that IHMS did not routinely encourage or promote fraud within the organisation.

s. 47C(1), s. 47E(d), 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.

IHMS provided evidence that staff underwent and continue to undertake code of conduct training, including face to face and eLearning training courses. Although IHMS provided sign-in sheets for training as evidence that courses are attended by staff, it did not provide details on the content of this training, nor did it provide an explanation for processes that deal with staff members who only partially attend the course.

In response to the Review Team's request for staff code of conduct training completion rates, IHMS provided Code of Conduct and Ethics training data for Head Office (Sydney) staff only during 2012-13. IHMS advised the Department that of the 31 staff, 18 completed an IHMS course and 19 completed an International SOS course (International SOS is IHMS' parent company). The data provided is ambiguous as it does not confirm how many of the 31 Head Office staff had completed at least one of the two courses. s. 47E(d), s. 47G(1)(a)

Based on the evidence provided the Review Team is satisfied that code of conduct training occurred and continues to occur, but that further assurance is required regarding the coverage of staff training and the content. This activity has been included in the Work Plan.

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

Key findings

- The quality of IHMS' reporting, at the time of the allegations, was sometimes poor and often relied on the Department querying or discovering errors through its own quality assurance processes.

s. 47E(d), s. 47G(1)(a)

there is

not sufficient evidence to indicate that IHMS provided direction to its staff to deliberately misreport data and other information to the Department.

s. 47E(d), s. 47G(1)(a)

- Further work is required to ensure that IHMS improves its analysis and communication of data to the Department.

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. On 14 August 2015 IHMS provided the analysis, which showed that during 2013 T1 equalled T2 for 55% of all incident reports, a significant increase from the 1.3% example IHMS initially provided for 2014. Further to this, of the 45% of incident reports where T1 did not equal T2, IHMS failed to analyse or report further errors such as T2 being earlier than T1 (which was another incident reporting issue that IHMS had identified in the August 2013 presentation).

Resubmission of reports

IHMS failed to provide evidence that data errors were reported to the Department through its own initiative. IHMS has, however, provided evidence that reports have been resubmitted with updated and corrected data throughout 2013-14.

Due to the lack of evidence provided by IHMS, and time constraints, the Review Team is unable to further comment on the proportion of instances where the Department has identified data errors in IHMS reporting versus such errors being identified by IHMS.

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

- Further assurance is required regarding the compliance of IHMS with mandatory working with children and police checks.
- Detention Health Services Branch needs to develop or clarify a policy in relation to Working with Children Checks for IHMS staff (requirements currently specified in the contracts may need revision). The approach taken needs to be consistent with broader Departmental child protection frameworks and policies.

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.

The Review Team has reviewed IHMS' responses in relation to this matter and has highlighted numerous issues that are of particular importance to this allegation, but also can be linked to allegation number one and two. These issues include:

Under the Heads of Agreement (14 September 2012 – 28 January 2013)

- IHMS reported in its final version of the January 2013 performance report (leaked by the Guardian Australia) that during January 2013 there was only one clinician whose police check had not been completed. This final report is incorrect as the Review Team has identified and confirmed with IHMS that there were four PNG clinicians working at Manus RPC during January 2013 who had outstanding police clearances.
- In its correspondence of 30 July 2015, IHMS suggested (in an indirect way) that foreign clinicians were not required to have police checks under the *Heads of Agreement*. While it is correct that foreign clinicians were not required to have Australian Federal Police checks (unless they normally resided in Australia), they were still required to have relevant police checks from other countries - the *Heads of Agreement* states at Schedule 1, Clause 6.3 that IHMS must make appropriate and reasonable investigations into the suitability of a prospective employee, and that 'these investigations must comprise...a review of each individual's criminal, medical, professional and employment history'.) Furthermore, in the 'Monthly Performance Report – Manus Island January 2013' final version, IHMS stated that the reported staff member who was "non-compliant" was "a PNG national employee who had not been provided the adequate criminal history check documentation from the local police

authorities". s. 47C(1), s. 47E(d), s. 47G(1)(a)

- IHMS has argued that they had no financial incentive to mislead the Department in relation to the January 2013 report, as they were not subject to financial penalty at the time for such non-performance. s. 47C(1), s. 47E(d), s. 47G(1)(a)

Under the Regional Processing Countries Health Service Contract (29 January 2013 – 31 October 2015)

- IHMS stated to the Review Team that one of the four clinicians without a police clearance had his employment terminated on 12 February 2013. Of the three others, IHMS claimed that it "*obtained the police clearances retrospectively, approximately 6 weeks after their deployment*". This information is incorrect as, upon review of the provided police clearances, two employees were not provided police clearances until 2 April 2013, approximately 11 weeks after their deployment, and one employee's police clearance remained outstanding until October 2013.
- The Review Team also reviewed Departmental documentation, including the Monthly Performance Reports for Manus for the months of March through to May 2013. This documentation has found three additional issues that require further review as identified in the Work Plan:
 - The March 2013 Report indicated only one item being non-compliant. This is incorrect as three police checks were outstanding. The April 2013 Report indicated 100% compliance. This is incorrect as at least one deployed clinician had an outstanding police check.
 - The Manus Monthly Performance Reports (January to June 2013) include a statement regarding the measurement of Performance Measure 2.2 – Maintenance of Clinician' Staff Records: "Total items is the number of items in the clinicians' staff records subject to credentialing that were required to be up to date as at the end of the reporting period. For clinicians who practice in Australia, this includes police checks and, where necessary, AHPRA registrations. For foreign clinicians, it includes an endorsement of qualifications and experience." s. 47C(1), s. 47E(d), s. 47G(1)(a)
 - In assessing this issue, the Review Team referred to the contract and identified the requirement for all IHMS clinicians to have a police check annually from their commencement. s. 47C(1), s. 47E(d), s. 47G(1)(a)

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)

Evidence provided by IHMS

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

IHMS failed to provide the Review Team with a copy of one IHMS clinician's Working with Children check, who was identified as working at the Perth Immigration Detention Centre and Perth Immigration Residential Housing and who required such a check (IHMS advised that it lost contact with the person but the Review Team considers a copy should have been kept on file – refer letter IHMS to DIBP 14 August 2015). s. 47C(1), s. 47E(d), 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

- IHMS has failed to provide evidence to demonstrate that it provided appropriate vaccination coverage, child health milestone checks or specialist referrals during the period June to December 2013 (the date relevant to the leaked document).
- Regarding specialist referrals, the Review Team is satisfied that these do now generally occur in accordance with Australian standards (both onshore and at the Regional Processing Centres).
- 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).

Discussion

The Review Team focussed on three key service delivery items: vaccinations (children and adults); child health milestone checks and specialist referrals.

In its letter of 11 August 2015, the Department offered IHMS an opportunity to provide evidence of the rates of vaccination completion, child health milestone checks and specialist referrals, at the time of the allegations and currently. IHMS advised that assurance data could only be obtained from conducting manual analysis of files which would not be possible due to time and resourcing constraints.

Vaccinations

IHMS provided minimal relevant evidence to address this allegation, although the Review Team notes that initial vaccinations were moved into the Health Induction Assessment process from May 2013, which provides greater assurance that, from that time, vaccination coverage was more comprehensive.

Regarding the current vaccination rate, in its letter of 14 August 2015, IHMS advised the Department that 96% of current detainees (onshore) are up to date with their vaccinations. In calculating this rate IHMS used a denominator comprising those detainees who require vaccination, have consented to vaccination and attended vaccination appointments. The Review Team notes that the performance metric for vaccination rates (*Immigration Detention Health Services Contract*, Schedule 5, Annexure A) specifies a denominator for this calculation as being:

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

Child Health Milestone Checks

IHMS was unable to provide evidence of the former and current status of child health milestone checks, advising that it would need to undertake manual analysis of records for this to occur. This is of concern given that when the Australian Human Rights Commission visited Christmas Island during March 2014, in relation to its National Inquiry into Children in Immigration Detention, it found that routine health checks for babies were only up to date in around 40-60% of cases (AHRC report, page 97). Therefore, further confirmation of these rates is recommended.

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. 47E(d), 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.

The Review Team requested IHMS to provide the guidelines and/or procedures related to Discretionary Days and Excusable Performance Failures that were in place at the time of the allegation. IHMS incorrectly informed the Department that "*by mutual agreement, IHMS did not commence performance reporting until 2014. As a direct consequence, the [Excusable Performance Failure] EPF regime did not become functional until the performance reporting commenced.*" This is not the case (performance reporting commenced March 2013) and as such, the Review Team cannot confirm that IHMS had correct procedures in place to ensure Discretionary Days or Excusable Performance Failures were allocated in accordance with the contract.

s. 47E(d), s. 47G(1)(a)

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. The Review Team does not consider further action is required on this item.

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.

Despite their provision of clinical risks, above, the Review Team does not consider that IHMS has provided any examples where a detainee's health care was adversely impacted by incorrect data being received from the Department. The Review Team considers that the DHS Branch currently manages this issue appropriately in cooperation with IHMS.

Conclusion

The Review Team has noted throughout this report where further actions are required to ascertain the veracity of the allegations. Further details of these are outlined in the Work Plan (**Attachment 3**). The Review Team highlights the following issues of most significance, and in need of urgent further review:

s. 47E(d), s. 47G(1)(a)

- In relation to Working with Children Checks, IHMS has been unable to provide evidence that the required check had taken place for one staff member in Perth. This is of major concern due to the potential impact this could have upon child detainees. Review of IHMS assurance processes and record keeping around Working with Children Checks is warranted, as is a review of whether the current Working with Children Check requirements in the current IHMS contracts are appropriate.

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

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



cutting through complexity

Management Initiated Review – IHMS Contract

Deed Reference Number: 127074-33

Work Order Number: CBS15-99

Classification: Sensitive

31 August 2015

1. Contents

The contacts at KPMG in connection with this document are:

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. 47C(1), s. 47E(d)

Allegation Two

Allegation Two:

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

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

s. 47C(1)

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

2.3.7 Although audits have limitations, two separate audits identified concerns around the level of health care being provided by IHMS during the timeframe relevant for this review. Those concerns include the effectiveness of the vaccination programs. s. 47C(1)

Allegation Five:

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

Allegation Five

2.3.8 Further investigation of this allegation is of itself not warranted, however, the Department should ensure persons responsible for the IHMS contract are aware of the commerciality of its operations and are equipped to deal with them. Recommendations set out for Allegation One and Two should also be considered for this allegation.

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 on 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.

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

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 EL1 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.
- Some alleged misreporting by IHMS had been identified during the process of implementing major deed variations to the original contract and increased scrutiny being applied.

s. 47E(d), s. 47G(1)(a)

s. 47E(d), s. 47G(1)(a)

s. 47E(d), s. 47G(1)(a)

- There was an example where IHMS misreported clinical hours at Villawood, but the Department was of the view that this came about more due to IHMS's poor quality assurance systems and not through fraud.
- The Department essentially does the 'QA' process for IHMS, where errors like that get picked up and IHMS change the claim. An example is that IHMS would provide a monthly clinical hours report, the Department would ask if there are any exceptions or under delivery for the month, IHMS would advise there wasn't, the Department would then identify that a clinic was not run on a particular day, they would query it with IHMS, who would then amend the report. This type of activity was a regular occurrence during 2013/14.
- It was not always clear how IHMS built up staffing models and costs in proposals. The Department would ask IHMS to show the workings of how they arrived at a position and the Department would often identify errors. The actions of IHMS weren't viewed as fraudulent, but had a lack of transparency.

s. 47E(d), s. 47G(1)(a)

s. 47E(d), s. 47G(1)(a)

s. 47E(d), s. 47G(1)(a)

s. 47E(d), s. 47G(1)(a)

- The Department tended to treat these types of issues as under delivery, rather than fraud. The Department didn't have the resources to investigate fraud.
- There were discussions within the Department as to the risk of this type of claiming having occurred earlier in the contract, but there was no appetite to pursue it.

s. 47E(d), s. 47G(1)(a)

- 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, the 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. 47E(d), 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. We do however consider the risk of IHMS claiming payment for services not provided in accordance with the contract as being high.

s. 47C(1)

- 4.3.7 We can say that from our work in reviewing claims made under major contracts, particularly those in high intensity workloads and remote localities, our experience is that there is a tendency for contractors to submit claims under the contract, without necessarily having certainty that the services claimed for are within the terms of the contract, and leave it to the contract owner to identify any challenges to those claims.
- 4.3.8 We note that it appears IHMS did not have a fraud control plan in relation to the 2009 contract or the Christmas Island variation and a departmental risk assessment in relation to the variation of the original contract to take into account Christmas Island, which appears to have been done in October 2011, does not include any reference to fraud or corruption risk in the delivery of the contract.
- 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, the information does disclose potential lack of fraud control in IHMS and limited monitoring by the Department during the relevant period and as such, we consider the risk of IHMS claiming payment for services not provided in accordance with the contract, over the period subject to this review, as being high.

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.

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 credibility 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:

5.2.3 IHMS submitted to the Department a performance report for Christmas Island for May 2013.⁷ That report sets out performance attained against six performance criteria, in particular noting that it had met the performance metric in relation to the "*Timely Completion of Critical and Other Incident Reports*". The report indicates a 99% rate of completion, which is a pass against the 98% performance requirement for incident reporting.⁸

5.2.4 IHMS apparently produced a document in May 2013,⁹ which appears to be an internal presentation on its performance under the contract. That presentation contains specific information on IHMS performance in May 2013. Of particular note is the part relating to Critical and Other Incident Reports, which although reflecting a 100% performance for Christmas Island¹⁰, sets out that "*Currently, there are two major data entry errors that distort performance measurements*".¹¹

⁶ This was a gradual introduction starting with Christmas Island and with limited metrics.

⁷ IHMS Monthly Performance Report – Christmas Island May 2013.

⁸ Ibid pg 4, section 6 -Abatement Metrics

⁹ IHMS – Performance by Site (Except Regional Processing centres) May 2013

¹⁰ Ibid slide 31

¹¹ Ibid slide 28

- 5.2.5 The presentation notes that there is potentially an approximate 46% error rate in time recording, of which some is due to the incident reporting date being prior to the incident notification date¹², but the balance (approximately 41%) is due to another data error.¹³ The presentation notes that "*Measurements are distorted by major data errors*".¹⁴
- 5.2.6 There is no mention of this potential data error in the May 2013 IHMS performance report referenced above, nor in any subsequent reports which we have reviewed,¹⁵ nor in any of the departmental monitoring reports which we have viewed¹⁶ and in particular, not in the monitoring report for June 2013, which shows no performance issues against this performance criteria.
- Another example occurred the following month:
- 5.2.7 IHMS submitted to the Department, a performance report for Christmas Island for June 2013.¹⁷ That report sets out performance attained against six performance criteria, noting that it had only not met the performance metric in relation to the "*Timely Completion of Critical and Other Incident Reports*". The report indicates a 97% rate of completion, which is a failure against the 98% performance requirement for incident reporting.¹⁸
- 5.2.8 The 97% measurement represented that IHMS had missed its performance criteria in relation to nine incident reports.¹⁹ The report then claims eight of those nine incident reports as "*excusable performance failures*".²⁰
- 5.2.9 The report then sets out details of the how the calculation for this performance metric was arrived at.²¹ The report notes that five reports reflect a data error which caused the incident reporting date to be prior to the incident notification date.²² Those five reports are not included in the nine reports referred to above.
- 5.2.10 The IHMS report contains general disclaimers as to data quality,²³ however, there is no specific note as to data quality in the section of the report which details the measurement process for this performance criteria.²⁴
- 5.2.11 IHMS apparently produced a document in August 2013,²⁵ which appears to be an internal presentation on its performance under the contract. In referring to the abatements process, that document notes that "*IHMS is unprepared for abatements regime*",²⁶ "*DIAC had accepted all excuses we have proposed for Christmas Island*",²⁷ and "*Had the regime been live in June, we would have fared badly*", noting a potential \$290k abatement for non performance.²⁸
- 5.2.12 Those comments would appear to be contrary to the June 2013 performance report lodged by IHMS with the Department for June 2013.
- 5.2.13 The presentation further notes that "*Currently, there is a high risk of failing most metrics*" with all but 2 rated as high to extreme risk of failure.²⁹

¹² More detail on how this occurs is discussed below in relation to the June 2013 report

¹³ IHMS – Performance by Site (Except Regional Processing centres) May 2013 slide 28

¹⁴ Ibid slide 29

¹⁵ IHMS reported monthly to the Department

¹⁶ The Department commenced monitoring in mid 2012 and reported monthly

¹⁷ IHMS Monthly Performance Report – Christmas Island June 2013.

¹⁸ Ibid - pg 4, section 6 -Abatement Metrics

¹⁹ Ibid

²⁰ Ibid - pg 6 & 7

²¹ Ibid - pg 12

²² Ibid - Commentary

²³ Ibid - p3 – Accuracy of Data & p15 – Computer and Data Handling Errors para 4

²⁴ Ibid – Annexure B – Measurement Assumptions and Inputs, pg 19 paras 16 - 20

²⁵ IHMS – Contractual Performance Management – Status 5 Aug 13

²⁶ Ibid slide 3

²⁷ Ibid slide 4

²⁸ Ibid slide 5

²⁹ Ibid slide 7

5.2.14 Section II of that presentation contains specific information on IHMS performance in June 2013. Of particular note is the part relating to Critical and Other Incident Reports, which although reflecting the 97% performance for Christmas Island³⁰ as appears in the IHMS performance report for June 2013, sets out that *"Currently, there are two major data entry errors that distort performance measurements"*.³¹

5.2.15 The presentation notes that there is potentially more than a 50% error rate in time recording, of which some is due to the incident reporting date being prior to the incident notification date as noted in the IHMS performance report, but the balance (approx. 48%) is due to another data error. The presentation notes that *"IHMS's ability to meet the threshold is largely dependent on these errors"*.³²

5.2.16 There is no mention of this potential data error in the June 2013 IHMS performance report referenced above, nor in any subsequent reports which we have reviewed,³³ nor in any of the departmental monitoring reports which we have viewed³⁴ and in particular, not in the monitoring report for June 2013, which shows no performance issues against this performance criteria.

Another example occurred earlier in January 2013:

5.2.17 IHMS apparently produced an internal version of its January 2013 Monthly Performance Report for Manus Island which recorded in the Performance Summary a 'fail' in relation to the Maintenance of Clinician Staff Records Performance metric.

5.2.18 The failure is shown as being driven by 4 non-compliant records.³⁵ The more detailed information in relation to this performance criteria has the following commentary *"Explanation needed from Ops in Sydney as to why IHMS deployed four PNG nationals to Manus Island despite not having police checks."*³⁶ There is nothing in the document to suggest the exact date it was produced and the document notes that the measurement day for performance is the first business day after the end of each calendar month.³⁷

5.2.19 A document that purportedly comes from IHMS records, under the title "Manus", that *"A couple of missing police checks resulted in a slight miss on the staff records metric"*.³⁸

5.2.20 IHMS submitted to the Department a performance report for Manus Island for January 2013,³⁹ which recorded in the performance summary a Pass in relation to the Maintenance of Clinician Staff Records, indicating there was only one non-compliant record.⁴⁰ The more detailed information recorded the following commentary *"The staff record that was identified as non-compliant at the time of the assessment related to a PNG national employee who had not provided the adequate criminal history check documentation from the local police authorities. This has subsequently been rectified....."*⁴¹

5.2.21 There were also earlier indications of IHMS' potential inability to meet the performance criteria. The first monthly performance report issued in May 2012 indicates Significant Performance Failure.⁴² There does not appear to be any attempt to conceal that from the Department and it features in other IHMS internal documents.⁴³ It should be noted that the abatement scheme was not operating at this point in time.

³⁰ Ibid slide 37

³¹ Ibid slide 35

³² Ibid slide 34

³³ IHMS reported monthly to the Department

³⁴ The Department commenced monitoring in mid 2012 and reported monthly

³⁵ IHMS Monthly Performance Report – Manus Island January 2013 INTERNAL VERSION - pg 4

³⁶ Ibid - pg 7

³⁷ Ibid - pg 5

³⁸ Document titled January Performance report additional comments

³⁹ IHMS Monthly Performance Report – Manus Island January 2013

⁴⁰ Ibid - pg 4

⁴¹ Ibid - pg 5

⁴² IHMS Monthly Performance Report 2012 - pg 12

⁴³ IHMS Abatements – Progress Review 19 July 2012

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. 47E(d), s. 47G(1)(a)

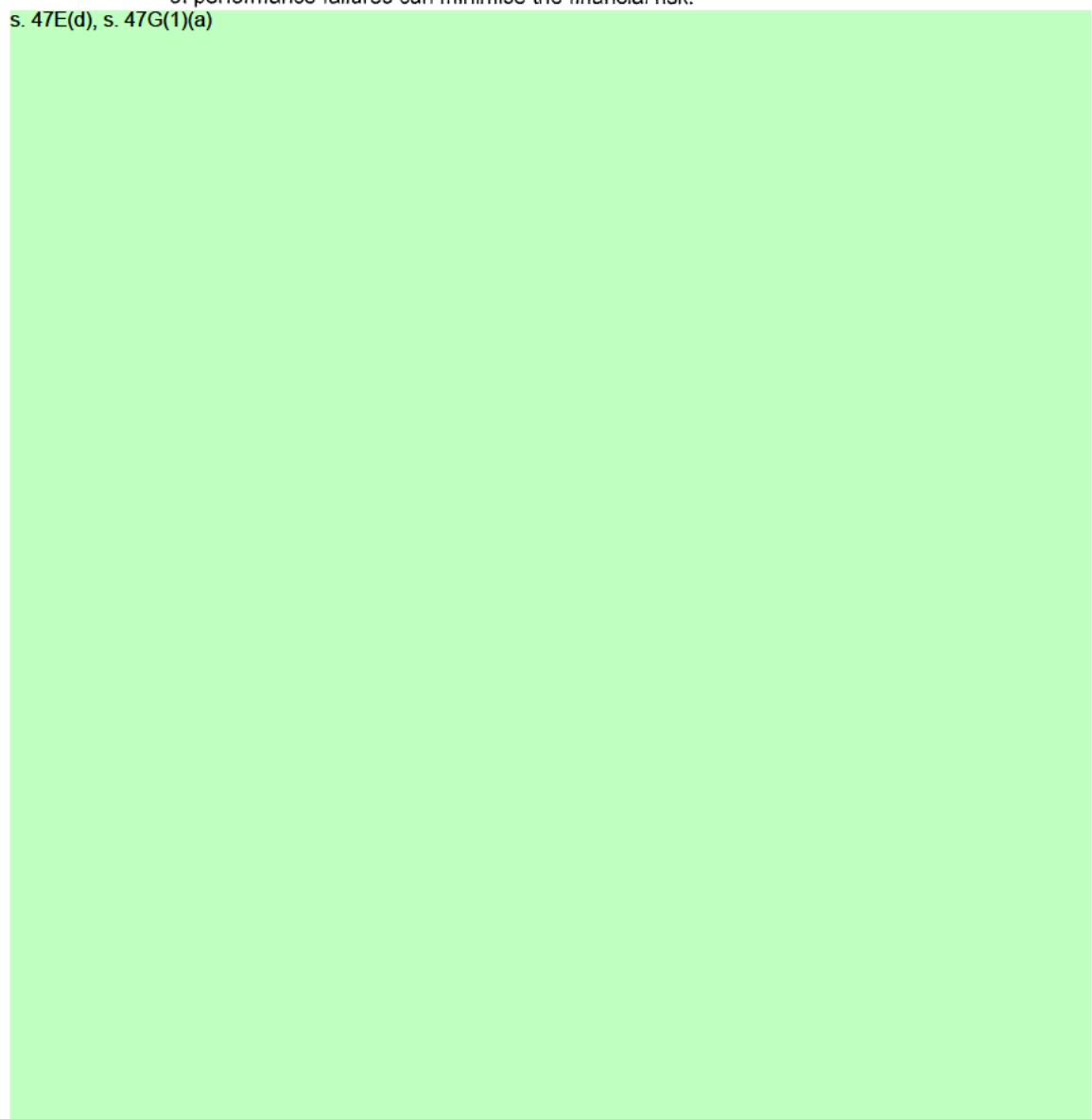
- The monitoring process really relied on looking at IHMS reports, departmental monitoring reports and other available information, then making a decision on compliance. Sometimes things matched, sometimes they didn't and sometimes they couldn't tell. IHMS would re-release performance reports (v1, v2 etc.) to get the figures right.

s. 47E(d), s. 47G(1)(a)

s. 47E(d)

- There is a possibility that figures under the old contract are incorrect, but the Department would need to see the internal workings of IHMS to verify it. The exclusion of performance failures can minimise the financial risk.

s. 47E(d), s. 47G(1)(a)



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.

s. 47E(d)



- 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:

- IHMS provided an analysis of its incident reporting for January to December 2013. That analysis identified that 55% of incident reports had the same incident and entry time.
- IHMS advised that between May 2012 and January 2014, it only identified one confirmed instance where the Department had raised a query on IHMS performance reporting and it had been addressed by IHMS. This related to observations on the lower than anticipated GP appointments for Christmas Island in June 2013. Other resubmitted reports were also identified, but IHMS were not able to establish what triggered the resubmission and did not provide further details.
- 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.

5.3.2 The information obtained during this review evidences that the Department was not aware of the potential extent of data discrepancies contained in the IHMS reports. Whether or not those potential discrepancies translated into rebateable performance failures will require further analysis as to the timing and extent of the issues.

s. 47E(d), s. 47G(1)(a)

s. 47C(1)

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

Information from IHMS and departmental documents

6.2.1 A document which purportedly comes from IHMS, records that "*Some sites are likely to fail at the moment for Working with Children Checks....*" and further, "*Not all people have working with children....*".⁵¹ There is no indication on the document as to its source or author.

6.2.2 IHMS apparently produced an internal version of its January 2013 Monthly Performance Report for Manus Island which recorded in the Performance Summary a failure in relation to the Maintenance of Clinician Staff Records Performance metric. The failure is shown as being driven by four non-compliant records.⁵² The more detailed information in relation to this performance criteria has the following commentary "*Explanation needed from Ops in Sydney as to why IHMS deployed four PNG nationals to Manus Island despite not having police checks.*"⁵³

6.2.3 A document that purportedly comes from IHMS, records under the title "Manus", that "*A couple of missing police checks resulted in a slight miss on the staff records metric*".⁵⁴ There is no indication on the document as to its source or author.

6.2.4 The IHMS performance report for Manus Island for January 2013 submitted to the Department,⁵⁵ recorded in the performance summary a "Pass" in relation to the Maintenance of Clinician Staff Records, indicating there was only one non-compliant record.⁵⁶ The more detailed information recorded the following commentary "*The staff record that was identified as non-compliant at the time of the assessment related to a PNG national employee who had not provided the adequate criminal history check*"

⁵¹ Reported by Guardian as being a IHMS briefing note of January 2014

⁵² IHMS Monthly Performance Report – Manus Island January 2013 INTERNAL VERSION - pg 4

⁵³ Ibid - pg 7

⁵⁴ Document titled January Performance report additional comments

⁵⁵ IHMS Monthly Performance Report – Manus Island January 2013

⁵⁶ Ibid - pg 4

*documentation from the local police authorities. This has subsequently been rectified.....*⁵⁷

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.
- Where IHMS identified non-compliance (e.g. Villawood) it was transparent in reporting it to the Department.
- In relation to Manus Island, IHMS acknowledged that in January 2013 there were four people without the required police checks. By the time it was required to report, there was only one, which was reported and which explains the discrepancy between the two report versions.
- IHMS noted there was no financial penalty regime in force at that time of the Manus Island issue, so no consequences.

6.2.7 The key points from the Second IHMS Response in relation to this allegation are:

- IHMS provided copies of the criminal checks for the persons in respect of Manus Island and the January 2013 performance report. Those checks were dated 17 March 2011 & 2 April 2013 (person 1), 2 April 2013 & 19 March 2015 (person 2), 30 October 2013 & 27 May 2015 (person 3), noting that it did not pursue a police clearance for person 4, as they were terminated shortly after deployment.

⁵⁷ Ibid - pg 5

- IHMS advised it was the responsibility of the recruitment team to ensure all clearances are gained prior to employment and then teams at site monitor ongoing requirements.
- IHMS advised that staff at Perth IDC during December 2013 to February 2014, who had contact with children, had the necessary working with children clearances in place, but could not provide evidence for one of those persons as they had left IHMS.

6.3 Observations and Recommendations

Recommendation:

s. 47C(1)

6.3.1 It is evident that four persons deployed to Manus Island did not have the appropriate police clearances at the time of the deployment and did not obtain them until April 2013 (2 clearances), October 2013 (one clearance) and the fourth was never obtained. Given that evidence, it appears the January 2013 report for Manus Island is incorrect and did not fully disclose the level of non-compliance.

6.3.2 Further, although IHMS claims that all four persons at Perth IDC had the appropriate working with children checks in place at the time, it could not provide evidence in relation to one of those persons.

6.3.3 As such, the information obtained indicates there is evidence to support the allegation.

s. 47C(1)

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

Information from IHMS and departmental documents

7.2.1 An audit report produced by Protiviti in July 2012 contained the following comment as reported in the media "*the extent of non-compliance introduces significant risks to the department and their clients, for which it owes a duty of care*".⁵⁹ That observation was actually preceded by the following "*While the findings indicate that the HSP is compliant with aspects of the contractual requirements, Detention Health Standards and accepted industry practice for HCR's, the extent*".⁶⁰

7.2.2 Further, the report notes "*Overall, the results of the audit indicate that the HSP has not satisfied the 95% performance threshold required by the Health Services Contract for the maintenance of HCRs for PiD. The audit however found relatively high levels of compliance and/or partial compliance with some criteria, with a basic health record being in place for all PiD sampled.*"⁶¹

7.2.3 It should be noted that the Protiviti audit was based on a sample of 80 health records for Christmas Island only, at a point in time being July 2012 and further, that the report notes a number of limitations including the following:

- Testing was limited to a desktop review of available information. There were no other sources of information to compare or validate the information.
- The review was based on circumstances at the time and does not take into account subsequent changes.
- Sample testing was based on judgemental rather than statistical sampling. Samples are not intended to be statistically valid and the testing results should not be statistically extrapolated as standalone outputs of the audit.⁶²

⁵⁸ IHMS Vaccination Statistics 11 December 2013

⁵⁹ Protiviti Independent Audit of Health Care Records for People in Detention on Christmas Island 25 July 2012 - pg 3, section 1.2

⁶⁰ Ibid

⁶¹ Ibid

⁶² Ibid - pg 9

7.2.4 The IHMS response to the audit included the following observations:

- The sample used had contained incorrect data as the selected files were permanent files and did not contain information available in unmerged temporary or permanent files. This issue related to 27 files.
- 11 of the files selected related to clients who were not on Christmas Island, so their files on Christmas Island would have been incomplete. Conversely, 4 files selected related to recent arrivals onto Christmas Island from the mainland, so there was a risk of incomplete data for them.
- The printed records used for the audit do not reflect everything contained in the electronic records.⁶³

7.2.5 The Department apparently undertook an audit of health care records for transferees on Nauru and Manus Island in October 2013.⁶⁴ The report notes that there had been an improvement in the average compliance level for each criteria part, but an overall decrease in HCR compliance, when compared to an earlier audit conducted by Protiviti.⁶⁵ s. 47E(d), s. 47C(1)(a)

7.2.6 IHMS apparently produced an internal briefing document relating to vaccinations in December 2013.⁶⁷ The document notes that "*Actual Productivity is lower than Expected Productivity*",⁶⁸ with Villawood and Yongah representing the most detainees not having commenced the immunisation process.⁶⁹

7.2.7 The document records that detainees under 7 years of age are most likely to have finished or at least commenced a vaccination pathway.⁷⁰ According to the document, app 4% of children and app 18% of adults in detention had not commenced the vaccination pathway.⁷¹

The factors affecting productivity are listed as:

- Presence (or not) of Imm Nurses
- Imm Nurses fulfilling general RN tasks
- Expectation that nurses – not GPs – will immunise
- Redundant work practices
- Lack of priority (Villawood and Yongah)
- Lack of business intelligence
- Supply chain issues – sufficient stock-on-hand at time of vaccination
- Make-up of the detainee cohort
- The usual suspects – absence of interpreters and appointment failures⁷²

The document also notes that some statistics are understated.⁷³

⁶³ Final Response Audit of IHMS's Health Care Records – 27 to 29 June 2012

⁶⁴ DIBP Audit of Health Care Records for Transferees on Nauru and Manus Island 21 to 23 October 2013.

⁶⁵ Recorded as having been done in July 2013

s. 47E(d)

⁶⁷ IHMS Vaccination Statistics 11 December 2013

⁶⁸ Ibid slide 7

⁶⁹ Ibid slide 17

⁷⁰ Ibid slide 24

⁷¹ Ibid slide 24

⁷² Ibid slide 10

⁷³ Ibid slide 3

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.
- Vaccination schedules was a continuing sore point as the Community and Public Health Sub-Group of the DHAG/IHAG thought IHMS could be doing better as community standards weren't being met. Children health screenings were also an area of contention, though with policy change and stricter guidelines, that became less of a concern.
- 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.
- Another area of concern was complaints, which were often buried in a health record. Although there were complaint boxes located in the facilities, detainees were often reluctant to use them in relation to complaints about medical matters. s. 47E(d), s. 47G(1)(a)

IHMS Responses

7.2.9 The key points from the First IHMS Response in relation to Allegation Four are:

- IHMS acknowledged and implemented a number of recommendations in the Protiviti audit, which were noted in a subsequent Protiviti audit.
- IHMS challenged a number of findings in the Protiviti audit viewed as inconsistent with RACGP standards.
- 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.

7.3 Observations and Recommendations

s. 47C(1)

Recommendation:

s. 47C(1)

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

Information from IHMS and departmental documents

8.2.1 The document which appears to be an internal briefing paper which IHMS apparently produced in July 2012, contains the following comment *"Inevitably: fail to meet a KPI – grab from 'The Excuse Bag'".*⁷⁵ The document contains a section headed *"The Excuse bag"* which then sets out a number of Automatic exclusions and other Excusable Performance failures. It also contains the following comment *"Many of the metrics are poorly designed...So inevitably, any discussion about performance will revolve around what's been pulled from the excuse bag, not on performance itself".*⁷⁶

8.2.2 The slide from the document noted above is the only slide with the reference to 'The Excuse Bag'. The remainder of the document refers to the abatement program and metrics under development. There is no indication in the document itself as to who is the author or the audience.

8.2.3 IHMS apparently produced an earlier document in October 2011.⁷⁷ This paper works through the performance management regime and does not contain any evidence reference to misusing the Excusable Performance Failures regime.

8.2.4 IHMS apparently produced another document in July 2012,⁷⁸ a week before the "Excuse Bag" reference, which references the Excusable Performance failures regime. It sets out what are excusable performance failures, but does not indicate anything more than the process.⁷⁹

8.2.5 The IHMS document produced in September 2013 (referenced above) contains a number of slides on the Discretionary Days Mechanism, noting it replaces the Excusable Performance Failures mechanism.⁸⁰ It notes a series of reasons why a Discretionary Day might apply.⁸¹ There is nothing in that presentation which indicates a culture of seeking excuses for non-performance.

8.2.6 A further document apparently produced by IHMS in August 2013,⁸² makes reference to the excuse regime, but again, does not indicate a culture of seeking excuses.

s. 47E(d), s. 47G(1)(a)

⁷⁴ IHMS Abatements – Progress Review 19 July 12

⁷⁵ Ibid slide 4

⁷⁶ Ibid

⁷⁷ IHMS Contractual Performance Management Overview IHMS EXCO (+) 12 Oct 11

⁷⁸ Contractual Performance Management Overview 12 July 12

⁷⁹ Ibid slide 7

⁸⁰ IHMS Briefing – Contract Performance management 26 September 2013 slide 19

⁸¹ Ibid slide 20

⁸² Briefing Performance Management 7 Aug 13

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:

- IHMS acted very commercially. If asked a question they would only answer the specific question, but not consider answering any potential follow on question, unless asked.
- The IHMS internal presentations reflect the attitude of one particular IHMS person. That person had an attitude of "no" and would raise "red herrings" to deflect the Department away for the issues.

IHMS Responses

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

- The original HSC recognised that there were going to be occasions when IHMS would not be able to meet the contracted performance measures, so the Excusable Performance Failure regime catered for those times.
- The Performance Management Framework dissuades stacking or attributing poor performance to a particular site to minimise abatements.
- IHMS provided some statistical information for periods outside the scope of this review.

8.2.10 The key points from the Second IHMS Response in relation to this allegation are:

- 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.
- IHMS advised there were only 5 discretionary day applications from May 2012 to January 2014, of which 3 were not ultimately used.
- 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

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".

8.3.2 Information from the Department did indicate a tendency, particularly in one person, to deflect the Department, however, there was also a view that IHMS was acting very commercially.

Recommendation:

s. 47C(1)

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.
- IHMS staff had limited contract training and were not fully aware of their contractual requirements.
- 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.
- DHAG/IHAG had the view that IHMS could be doing better and weren't reporting well. They wanted more information about health care (not about contract compliance).

s. 47E(d), s. 47G(1)(a)

⁸⁴ IHMS Briefing – Contract Performance management 26 September 2013, slide 4

- Conflicts did exist, for example, IHMS would want someone to go from initial diagnosis to extreme care without really considering the practical options in between. There were personal views within IHMS about care in detention, remote locality operations etc. but they were more about IHMS employment issues.
- 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. 47E(d), 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

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. 47E(d), s. 47G(1)(a)

10.2.6 In response to the Department's request to provide details of what steps IHMS undertakes to ensure information requests appropriately, IHMS has provided a flow chart setting out how various requests are handled.

10.2.7 We note the chart is at a very high level and does not detail what considerations are required to be made at each decision level. The chart shows that HCR (Health Care Records) are provided to the Detention Health Branch of the Department when requested. IHMS has noted that these processes existed prior to September 2013 but were documented in November 2013.

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)

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. 47E(d), 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 to 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)

12. 2014 Internal Audit Report

12.1 Background and Scope

- 12.1.1 An internal audit of the contract management practices that were in place under the G4S and IHMS contracts for Manus Island and Nauru was undertaken in 2014. The objective of the audit was to identify any opportunities for improvement that may be incorporated into the new arrangements commencing in April 2014. The findings and recommendations of the internal audit were set out in an internal audit report (2014 Internal Audit Report).
- 12.1.2 As part of this Management Initiated Review, we have been asked to provide a high level 'oversight' of the 2014 Internal Audit Report to assess whether those findings are still considered relevant and reasonable in the context of our findings from the assessment of the allegations included in this review.

12.2 Findings and Recommendation from the Audit

- 12.2.1 A summary of the findings and recommendations from the 2014 Internal Audit Report are set out in the following paragraphs.

Recommendation 1 – Consider and incorporate lessons learnt, as appropriate

- 12.2.2 A number of "lessons learnt" were identified from the G4S and IHMS contracts and these should be considered for applicability and / or implementation in future OPC arrangements, as appropriate. The opportunities largely relate to planning, risk assessment, the performance framework and assurance activities, noting that a very short timeframe was available for these activities prior to contracting G4S and IHMS in relation to the arrangements reviewed. Notwithstanding, after contracts were entered into, some of these weaknesses should have been addressed through enhancing risk assessments, performance frameworks, performance standards and KPIs.

Recommendation 2 – Assurance for new offshore processing contract arrangements

- 12.2.3 Internal Audit was not aware of any review activity of contract management arrangements undertaken during the term of the Contracts. A review of contract management arrangements for the future OPC contracts (once implemented) by Internal Audit or another management review function may be prudent, to assess whether appropriate practices and frameworks are in place, and whether previous 'lessons learnt' have been incorporated / addressed, as appropriate.

Recommendation 3 – Internal Contract Reporting and Escalation Processes

- 12.2.4 When the formal contract reporting process ceased no audit trail was evident of contractor assessment against the contract being reported to, and reviewed by, an appropriate Executive. There was no reporting channel or other documented escalation procedures for significant risks or issues associated with the contract or assessed contract performance.

12.3 Reasonableness of Audit Findings

- 12.3.1 The findings and three recommendations made in the 2014 Internal Audit Report are still considered to be relevant and reasonable following our assessment of the allegations. Examples of findings from this review which support the conclusion are:
- The Department did not appear to have developed and maintained documented risk assessments (with details of how identified risks would be managed) over the term of the contract. There was a risk assessment prepared in October 2011. It did not include an assessment of fraud and corruption risks.

- There was contract monitoring program implemented partway through the contract in 2012. There was no substantive evidence of a detailed contract management plan for the period October 2011 to January 2014.
- An appropriate performance management framework (including performance standards, metrics and KPIs) was developed partway through the contract.
- We are not aware of any independent review of contract management arrangements during the period October 2011 to January 2014.

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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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

Allegation	Verified?
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.	No

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. 47E(d), 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

Allegation	Verified?
IHMS deliberately misreported various events and data to the Department to avoid or minimise contract non-performance penalties.	Partially

20. Both the external and internal reviews found evidence to suggest that the risk of IHMS misreporting against performance metrics in the relevant period was high.

s. 47E(d), s. 47G(1)(a)

21. The external review recommends undertaking further analysis of performance reporting over the period, but then questions whether this is a cost effective exercise.

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

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

25. All parties agree that there were four individuals at the Manus Regional Processing Centre in January 2013 who had not undergone the appropriate police checks.
26. Similarly, IHMS was not able to provide evidence of working with children checks for a small number of individuals working at the Perth Immigration Detention Centre around the same time.
27. IHMS argues that given there is not a financial penalty for this non-compliance, they would have no incentive to mislead the Department. s. 47E(d), s. 47G(1)(a)
28. While worded differently, both the internal and external reviews recommend that further assurance is required around IHMS compliance with working with children and police checks.
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.

Allegation 4: Failure to deliver health services

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

31. The external review comments that two separate audits have identified concerns around the level of health care provision for the period.

s. 47E(d), s. 47G(1)(a)

34. The external review recommends that the Department should undertake further review to ensure it is comfortable with the level of healthcare service provision.
35. The internal review recommends analysis of the measures introduced in the new Immigration Detention Health Services Contract to ensure that these measures are adequate to support the provision of appropriate health services.
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

Allegation	Verified?
IHMS having a culture of seeking excuses for non-performance.	Partially

38. The internal review found that this allegation was justified, and that IHMS did have a culture of using excuses to avoid findings of non-compliance or underperformance.
39. The external review differs in finding that IHMS was simply acting 'commercially', or in other words looking to maximise outcomes.

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

Allegation	Verified?
Fundamental conflicts between contractual and clinical objectives.	No

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 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

Allegation	Verified?
Inappropriate access to medical records sought by department staff and inappropriate provision of medical information to other governments.	No

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

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. 47E(d), s. 47G(1)(a)

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

Allegation 8: Unable to locate detainees

Allegation	Verified?
The IHMS has been unable to 'locate' detainees due to poor data provision by the Department.	No

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.