



# ***MAKING CHILDREN SAFER: IMPLEMENTATION REVIEW***

December 2017

# Contents

<b>1.</b>	<b>Executive Summary</b> .....	<b>1</b>
<b>2.</b>	<b>Introduction</b> .....	<b>3</b>
<b>3.</b>	<b>Recommendations</b> .....	<b>4</b>
	Recommendation 1 .....	4
	Recommendation 2 .....	5
	Recommendation 3 .....	6
	Recommendation 4 .....	7
	Recommendation 5 .....	8
	Recommendation 6 .....	9
	Recommendation 7 .....	11
	Recommendation 8 .....	12
	Recommendation 9 .....	14
	Recommendation 10 .....	15
	Recommendation 11 .....	16
	Recommendation 12 .....	17
	Recommendation 13 .....	18
	Recommendation 14 .....	19
	Recommendation 15 .....	20
	Recommendation 16 .....	22
	Recommendation 17 .....	24
<b>4.</b>	<b>Policy review</b> .....	<b>25</b>
<b>5.</b>	<b>Incident reviews</b> .....	<b>27</b>
<b>6.</b>	<b>Stakeholder consultations</b> .....	<b>28</b>
<b>7.</b>	<b>Conclusions</b> .....	<b>30</b>
<b>8.</b>	<b>Future challenges</b> .....	<b>31</b>
<b>Appendix 1</b>	<b>Terms of Reference</b> .....	<b>32</b>
<b>Appendix 2</b>	<b>Policy related documents reviewed</b> .....	<b>33</b>
<b>Appendix 3</b>	<b>Consultation schedule</b> .....	<b>34</b>
<b>Appendix 4</b>	<b>Implementation status of the Panel's recommendations</b> .....	<b>38</b>
<b>Appendix 5</b>	<b>Panel members</b> .....	<b>39</b>

# I. Executive Summary

This report examines the Department's progress in implementing the recommendations of the Child Protection Panel's (the Panel's) 2016 report *"Making Children Safer – the wellbeing and protection of children in immigration detention and regional processing centres"*.

Since the Panel commenced its work in early 2015, there has been a significant change in the detention environment and the way in which the Department of Immigration and Border Protection (the Department) deals with children<sup>1</sup> and their families who are subject to immigration detention. It is now a rarity for a child to be in a held detention environment and then only for a limited period. It is also less common for children and their families to reside in the community subject to community detention, with most now transitioning to a range of visa types.

There has been a remarkable improvement in the awareness of child wellbeing needs and in departmental and service provider responses to reported incidents of child abuse and neglect.

The number of incidents reported is much lower and those matters tended to be less serious than the incidents reviewed by the Panel for its 2016 report. Although the 2017 case sample was small, the Panel assessed the departmental response overall as being "adequate or good" in 87.5 per cent of cases, compared with 51.4 per cent being similarly assessed in the 2016 review.

With all recommendations accepted in full or in principle, it is clear that the Department has actively managed the report's implementation. There is an implementation plan with assigned responsibilities for senior departmental executives. Some seven management initiated reviews have been undertaken to monitor progress, as well as an external audit.

Beyond this, it is equally clear that the Department has not merely adopted a compliance approach to implementation. Departmental officers at all levels were interviewed, as were both management and front-line representatives of service provider organisations. The Panel was impressed at the extent to which an awareness of child protection matters was embedded in the Department in officers at all levels and in a range of roles. This was demonstrated not only through interviews, but also through an examination of a number of incidents involving child abuse and neglect, to which the Department responded during the previous financial year.

It was evident that the Department's high priority given to child protection matters has been well communicated to service providers. The Panel was impressed with the knowledge and commitment of service providers and the training and support they provided to their staff. Pleasingly, service providers also reported increased responsiveness from departmental officers when reporting and managing incidents involving children.

The Department's key achievements include:

- a cultural change within the Department that has embedded awareness of child protection issues very broadly
- the introduction of the Child Safeguarding Framework (the Framework) and associated policies and procedures, which have promoted child wellbeing and

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<sup>1</sup> Children, child and young person in this report means any person up to, but not including, the age of 18 years.

provided standardised and structured responses to the more serious incidents dealt with as Child Safeguarding Inquiries (CSIs)

- effective engagement at all levels with service providers regarding the high priority the Department places on child protection issues and its expectations of the services they will deliver, and
- demonstrable improvement in incident reporting and response.

Although much has been achieved, the Department's efforts need to mature further and to be sustained. The Panel's assessment is that nine of the Panel's recommendations have been implemented in full. Five recommendations have been partially implemented and will require ongoing attention in order to complete implementation. Three recommendations are scheduled for implementation in 2018 or beyond, and are on track.

Necessary areas of focus for the Department include:

- using the Department's assurance function to continue to monitor current and emerging child protection issues and the effectiveness of the Department's response to them
- improving relationships with state and territory welfare authorities and police, both at the management and operational levels
- improving the management of, and access to, personal and health information, and
- redirecting some intelligence capacity in support of child protection priorities.

With the need to address the above issues, and the unpredictability of world events that could impact on the international movements of people, it is imperative that focus on the wellbeing of children continues unabated, and that an operational readiness to respond to a range of scenarios is maintained.

The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) is due to report on 15 December 2017. This will provide a further opportunity for the Department to consider its responses to the wellbeing and protection of children in immigration detention.

The establishment of the new Department of Home Affairs is an opportunity to consolidate portfolio activity in relation to child protection issues, revisit departmental structural arrangements and to renegotiate more comprehensive and flexible Memoranda of Understandings (MOUs) with states and territories.



Mr John Lawler AM, APM



Ms Margaret Allison



Mr Dominic Downie

## 2. Introduction

- 2.1 In May 2016, the Panel presented its report *“Making Children Safer - The wellbeing and protection of children in immigration detention and regional processing centres”* (the 2016 report) to the Secretary of the Department.
- 2.2 The Secretary requested that the Panel reconvene in late 2017, to examine the Department’s progress in implementing the 17 recommendations outlined in the 2016 report. The Terms of Reference for the implementation review are at Appendix 1.
- 2.3 The implementation review was required to give particular emphasis to the effectiveness of the Framework and its associated policies and procedures. An evaluation of the “triple track” approach in responding to incidents of child abuse across the immigration detention network was also sought.
- 2.4 In examining the recommendations, the implementation review would also examine the needs of vulnerable populations (including unaccompanied minors (UAMs) and individuals with special needs) and recidivists. Finally, there needed to be a careful examination of the effective exercise of control and accountability by Detention Operations Superintendents and the quality assurance and policy role of the Child Wellbeing Branch.
- 2.5 The implementation review consists of three elements:
- a detailed examination of the key policies and procedures that support the Framework. This extended to an assurance process in relation to service provider policies
  - an examination of 24 incidents of reported child abuse and neglect during the last financial year, including all 17 reported CSIs, and
  - an extensive stakeholder consultation program, with departmental executives, officers and external service providers at management and service delivery levels and across geographical locations.
- 2.6 With respect to each recommendation, the Panel outlined their expectations of the implementation standard, and the evidence they would be seeking to support claims by the Department about its achievements. This was provided in March 2017 and ensured that departmental executives had maximum visibility of the Panel’s view of what would be effective responses to the recommendations.
- 2.7 Significant reductions in the population of children in immigration detention have occurred. For example, on 15 February 2015 there were 133 children in held detention and 1544 in community detention. On 1 November 2017, there were 183 children in community detention and four children in held detention. This latter group were held for short periods and in Alternative Places of Detention (APODs).
- 2.8 The Panel’s Terms of Reference require it to report to the Secretary by 8 December 2017.

## 3. Recommendations

### Recommendation I

**That the Department review its operational framework for community detention to ensure that the:**

- a. current and emerging risks to children and families in the changing community detention environment are fully understood and acted upon**
- b. services available to detainees are tailored to their needs, including enhanced support and transitional arrangements.**

3.1.1 The Department has undertaken a risk assessment of the Status Resolution Support Services (SRSS) program and identified the highest risks to children. It has implemented three tools to address these and other risks:

- a Community Protection Assessment Tool (CPAT) which is completed when a child enters or leaves community detention. The CPAT identifies the risks that a child faces, including those based on age, and the best way to manage them
- a revised case management plan for children which includes a quarterly Child Wellbeing Assessment. The case management plan provides the opportunity to address particular risks faced by an individual child, and
- a structured quality assurance process, designed by the Department to ensure that the risk management plans of community detention service providers address the risks faced by children in community detention and are aligned with departmental risk plans.

3.1.2 The Panel is satisfied that these mechanisms are working effectively. The Panel's review of 24 incidents demonstrated a more consistent and sophisticated application of risk management approaches. Similarly, discussions with service provider managers and staff and with status resolution managers and staff demonstrated that these groups were very aware of the emerging risks facing families and children in community detention, including when those families moved onto a range of visas. Service providers spoke very positively of the contribution of Child Wellbeing Assessments and revised case management plans to child wellbeing.

3.1.3 The Panel had recommended in its 2016 report that the services available to detainees should be tailored to their needs, including enhanced support and transition arrangements. Case management plans and Child Wellbeing Assessments provide a means to ensure that the needs of individual children are taken into account in the coordinated provision of services to them. Service providers report that the Department is now more responsive in approving additional services when these are required.

3.1.4 Many stakeholders raised concerns with the Panel that the transitional arrangements for those moving from community detention to a range of visa classes create further vulnerability and risk to the wellbeing of some children. Given these transitional arrangements reflect Government policy, the Panel's view is that the Department has fully implemented this recommendation.

## **Recommendation 2**

**That the Department work with community detention service providers to strengthen performance around:**

- a. the capability of service provider and subcontractor staff to identify and act upon emerging risks to the safety of children**
- b. the capability of front-line support staff to respond to critical incidents**
- c. rationalising reporting arrangements between the Department, service providers and subcontractors.**

3.2.1 In their interviews, the Panel found service provider organisations to be highly aware of their obligations to children and their families, and readily able to identify current and emerging risks to children in community detention. These included impacts of parental mental health issues, domestic violence and age-inappropriate relationships. Many organisations had established comprehensive training and support arrangements for staff, as well as ensuring access to the Department's online training and its policies and procedures through *govdex*. It is also evident that service provider staff feel well supported by their managers through training and supervision.

3.2.2 There still needs to be further refinement in the area of departmental responses to incident reporting. Service providers reported that they often received several follow up calls in response to an incident report, each from officers in different areas of the Department who were apparently unaware that anyone else had called for information. While at one level this is a very positive sign of the Department's increased responsiveness and engagement, this process needs to be streamlined, so that contact with service providers is managed through a single departmental officer or team.

3.2.3 Critical incident response procedures had also improved substantially. Service provider staff were aware of the need to respond quickly, and were able to exercise their own initiative in responding. In the previous review, the Panel found that effective management of critical incidents was hampered by cumbersome internal reporting requirements, especially where subcontractors were used. The use of subcontractors has decreased, and where they are being used, they are subject to the same introduction and training as employees.

3.2.4 This recommendation is fully implemented, although challenges will still exist with the need for both departmental officers and service providers to stay abreast of emerging risks, and for the Department to better coordinate how it collects information from service providers.

### **Recommendation 3**

**That the Department review the management of unaccompanied minors (UAMs) in community detention, to ensure that:**

- a. contractual arrangements for the provision of day-to-day care of UAMs include expertise in out-of-home care, as well as settlement services**
- b. a ‘transition from care’ scheme is established that extends current levels of support to UAMs beyond their 18th birthday where this is required, especially for the purpose of completing school.**

3.3.1 Since the Panel reported, the number of UAMs in community detention has declined significantly. As at 1 November 2017, there were only nine young children in this category, and that number continues to decline.

3.3.2 The Panel formed the view that UAMs were receiving a high standard of service. These services are often delivered in difficult circumstances as many of the children have challenging behaviours. In particular, the Panel noted the work being done by service providers to prepare older children for independent living and their willingness to extend informal support when required.

3.3.3 The Panel’s recommendation that the Department includes contract provisions to require service providers delivering programs to UAMs to be accredited as out of home care (OOHC) providers has not been actioned. In part, this is because the current contracts for the SRSS program are not due to be renewed until mid-2018, and the departmental advice is that any prior contract variations would cause undue expense. The Department should consider inclusion of OOHC accreditation as part of any new contract. In any event, it is noted that almost all current service providers have OOHC accreditation related to the broader suite of services they deliver.

3.3.4 Service providers advised that transition periods can be very short when older children are transitioning from the program for reasons other than attaining the age of majority (e.g. being granted Unaccompanied Humanitarian Minor status), and this can be logistically complex. Service providers acknowledged that the Department often provides some limited flexibility in managing a young person’s exit from Band 2 when they turn 18 years, but it does not extend to the services envisaged by the Panel in its 2016 report (e.g. being able to stay in a Band 2 house to complete schooling).

3.3.5 The Panel notes that a formal “transition from care” scheme has not been established. The Panel, however, accepts that the very small numbers of UAMs in community detention do not justify the creation of a transition program at this point in time, as long as the Department can provide effective transition support on a case by case basis.

3.3.6 The Panel is of the view that this recommendation is fully implemented, noting that OOHC accreditation needs to be formally included in contracts when they are next changed.

## Recommendation 4

That the Department give effect to the Child Safeguarding Framework (the Framework), by:

- a. finalising the stated policies, procedural instructions, operating procedures and supporting material that underpin the Framework
- b. ensuring that service provider and subcontractor policies that support child wellbeing and protection are amended to align with the Framework
- c. ensuring that Detention Superintendents and Field Compliance Operations Superintendents<sup>2</sup> have the necessary authority and knowledge to fulfil their accountabilities under the Framework.

3.4.1 Associated with the implementation of the Framework on 17 October 2016, the Department developed and published 19 child protection policies and associated documents.

3.4.2 The Panel has reviewed each of these documents and its assessment is set out in Chapter 4 of this report. In short, the Panel's assessment is that the content and scope of these policies are generally fit for purpose and give effect to the Framework.

3.4.3 It is very clear from discussions with both service provider and departmental staff that the Framework and associated policies have been effectively implemented and are seen as useful documents. Of particular note was the universal awareness among front-line staff of the Framework and policy documents. Service provider staff said that in addition to its content, the Framework was important for what it conveys about the importance the Department places on child protection.

3.4.4 The Panel is satisfied that service provider child protection related policies had been adapted to align with the Framework and associated policies. Service providers have reviewed and redeveloped their policies, and these have been subject to review and quality assurance by the Department. Service providers had trained their front-line staff in the new policies, and staff could clearly articulate how this training had led to performance improvements in areas such as incident reporting. The Panel's review of incidents confirmed these improvements.

3.4.5 It is clear to the Panel that all Detention Operations Superintendents have the authority to fulfil their accountabilities under the Framework. The Panel observed variable levels of knowledge amongst Detention Operations Superintendents and supports the recent employment of regionally based Child Wellbeing Officers as well as any necessary guidance by the Child Wellbeing Branch.

3.4.6 It is the Panel's view that this recommendation has been fully implemented, noting the ongoing requirement for regular face-to-face training of Detention Operations Superintendents, departmental staff and service providers. Renewed effort is required to mature and embed the functions of Detention Operations Superintendents and Child Wellbeing Officers and to integrate these with status resolution staff.

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<sup>2</sup> In its 2016 report, the Panel envisaged that Field Compliance Superintendents would have a key role in child wellbeing and protection in community detention. When the Department determined that this role would not be established, it allocated this responsibility to Detention Superintendents who are renamed as Detention Operations Superintendents.

## **Recommendation 5**

**That the Department complete a review of the implementation and effectiveness of the Framework within 18 months of its endorsement, with particular focus on the:**

- a. effective exercise of accountability and control by Detention Superintendents and Field Compliance Operations Superintendents**
- b. quality assurance and policy roles of the Child Protection and Wellbeing Branch**
- c. use of the 'triple track' approach to incident response.**

3.5.1 The Framework was implemented on 17 October 2016, so the 18 month period referred to in this recommendation has not yet expired. The Child Wellbeing Branch is actively engaged in planning the review, which is intended to engage with both internal and external stakeholders, including the National Children's Commissioner.

3.5.2 Stakeholder suggestions for improvements to the Framework included:

- clearer expression of procedural requirements (incorporating, for example, flow charts) and decision accountabilities
- a succinct statement of the core policy intent at the commencement of the document
- reduction in its complexity and size, and
- a stronger focus on children in community settings rather than held detention, including clarification of which elements of the Framework apply to these children.

3.5.3 During consultations with staff and service providers, the Panel took the opportunity to discuss awareness, understanding and application of the Framework. Awareness of the Framework was universal, and all operational staff interviewed advised that they had undertaken the six module online course that explains the core elements of the Framework.

3.5.4 This recommendation reflected the importance placed by the Panel on the need for Detention Operations Superintendents to have the necessary accountability and control over the effective management of child protection matters at the local level, with the role of the Child Wellbeing Branch focused on policy oversight, quality assurance and trend identification. In effect, these roles and relationships are still maturing. The Branch has needed to provide case advice and support to Detention Operations Superintendents, and the authority of the Assistant Secretary is required to close CSIs. The National Office case advisory role should lessen with the establishment of the regionally based Child Wellbeing Officers.

3.5.5 The "triple track" approach advocated by the Panel is well understood, although it is dealt with inconsistently in some departmental policy documents, and not at all in others. The least developed area was in the implementation of the third "track", which deals with systemic review and incorporation of improvements identified through this process.

3.5.6 This recommendation is not yet implemented, although there is a credible plan in place to do so.

## **Recommendation 6**

**That the Department continue to build sound working relations with state and territory authorities on child protection matters, to:**

- a. ensure the reciprocal flow of information about child protection matters**
- b. establish a common understanding of the processes followed by each party so that complex cases can be effectively resolved**
- c. seek to brief law enforcement, judicial and mental health authorities to enhance their understanding of Australian Government immigration detention arrangements**
- d. seek the leave of the relevant court or tribunal to appear and make submissions relating to a held or community detention issue.**

3.6.1 There have been some localised efforts to improve relationships with state and territory authorities on child welfare matters, but these efforts appear to be fragmented, patchy and immature. During stakeholder consultations, some regionally based departmental officers reported centralised points of engagement with long established agency contacts that were working well. Others advised that the central point of contact was lost when the previous incumbent moved on, often requiring Status Resolution Officers to contact multiple people across the state or territory.

3.6.2 At a national level, the Child Wellbeing Branch has been active in finalising MOUs with all but three state or territories. Whilst positive, the MOUs and related attachments do not demonstrate the key elements of a broad, mature, high level relationship. Examples where this was lacking include:

- no reference to service providers and their key roles
- no arrangements for the access, exchange and use of information and intelligence, and
- no centralised points of contact or agreements about the use of state or territory based specialised facilities.

The MOUs are still too narrowly focused on immigration detention centres. The establishment of the Department of Home Affairs presents an important opportunity to revisit the content and breadth of the MOUs.

3.6.3 The Department advised that, with the recruitment of the Child Wellbeing Officers, regular meetings and multi-agency forums will be coordinated. Given these roles have only just been filled, it is too early for the Panel to assess whether this will prove effective. Discussions with Detention Operations Superintendents demonstrated that there had been no engagement by them with state and territory authorities, in relation to CSIs. In contrast, incident reviews highlighted enhanced engagement on case matters by Status Resolution Officers and service providers, but there were cases where engagement with state and territory authorities was inappropriately delegated to service providers.

3.6.4 There has been no real progress to date on the briefing of judicial officers as envisaged, but whilst undertaking the review, aided by the Panel's intervention, the Department's views were represented before the court in a complex case, leading to positive outcomes. Where children in immigration detention or detainees who are a risk to children appear before the courts, the Department's

Legal Division should always be advised. This practice needs to be formalised in a standard operating procedure (SOP). This will provide maximum opportunity to represent the best interests of the child and the Department.

- 3.6.5 The Department has partly implemented this recommendation. There is not a credible plan to achieve full implementation.

## **Recommendation 7**

**That the Department develop an enhanced incident categorisation system, in conjunction with service providers, that accurately identifies the number, nature and seriousness of incidents, including child abuse.**

- 3.7.1 The earlier work of the Panel identified serious shortcomings with the information systems used by the Department and its service providers to categorise incidents of child abuse and neglect. Just over 40 per cent of the incidents reviewed by the Panel were accurately classified. Further, changes to incident classifications caused the system to duplicate incident entries, erroneously increasing the number of incidents. The Department was often unable to establish what happened, who was involved and the seriousness of the incident. At the time of its 2016 report, the Panel acknowledged that these system changes would likely take some time to implement, however, substantial progress has been made.
- 3.7.2 The incident enhancement project has been endorsed by the Executive and the project documentation written. Sensibly, the changes required for enhancements to incident reporting of child abuse and neglect have been incorporated into a larger project to improve incident classification more broadly within the Department. There has been extensive consultation, both within and outside the Department, on the structure and type of incidents to be recorded for child abuse and neglect matters. This will assist in the acceptance of changes by service provider staff.
- 3.7.3 On the basis of information available to the Panel, it is clear the enhancement project is on track for completion in March 2018. Solution visualisation maps were presented to the Panel and the incident categories outlined. The testing of the system has been undertaken with real cases, along with assessments made to validate the outcomes. Work is still required to test the system for outcomes where there are incidents involving children offending against other children.
- 3.7.4 Noting the positive system enhancement progress, a quality assurance focus will still be required to ensure that clear, concise and accurate information is recorded in the system, allowing the nature and seriousness of the reported child abuse to be properly understood. The Panel notes that the quality of incident reporting has improved very significantly and this augurs well for the implementation of these system enhancements.
- 3.7.5 In the Panel's view, this recommendation has not yet been implemented but is on track to be fully implemented in 2018.

## **Recommendation 8**

**That the Department strengthen its capacity to conduct child safeguarding inquiries by:**

- a. ensuring effective leadership and management of inquiries by Detention Superintendents and Field Compliance Operations Superintendents**
- b. requiring service providers to deliver accurate and complete incident reporting**
- c. establishing regular multi-agency forums to coordinate and facilitate the outcomes of child protection investigations**
- d. ensuring that inquiries are not finalised until all available facts are established and effectively responded to**
- e. ensuring that any complaint withdrawals are fully documented and transparent.**

3.8.1 The introduction of a formalised and structured approach to CSIs has seen a remarkable improvement in the Department's and service providers' responses to reported incidents of child abuse. This is supported in the Panel's assessment of the 24 incident reviews and through stakeholder consultations. Incident reporting has improved substantially as a result of enhanced training and quality assurance within service provider agencies. Service providers also noted that their experience of reporting was that departmental officers were more responsive.

3.8.2 Although there was potential for challenges in the relationships between the Child Wellbeing Branch, at a national level, and the Detention Operations Superintendent's role at a regional level, the Panel observed close cooperation and assistance. Some Detention Operations Superintendents expressed concerns to the Panel that, given the ambit of their usual responsibilities, they do not have the necessary service provider relationships, or statutory welfare agency contacts to be effective in the community detention context. Detention Operations Superintendents were concerned that this may be exposing the Department to an unacceptable level of risk. They also said that they only became aware of cases after there was an incident reported and, therefore, had no prevention role.

3.8.3 The Panel acknowledges these concerns, but noting the improvements that have been achieved to date, the relatively limited time the roles have been in operation, and the increased support now being provided, the Panel's view is that Detention Operations Superintendents should continue to have responsibility and accountability for CSIs. The recent introduction of Child Wellbeing Officers and an increase in confidence and familiarity with the role, should reduce Detention Operations Superintendents' concerns over time.

3.8.4 In the review of the 24 incidents, the Panel observed that few CSIs had been formally closed. A guideline outlining the criteria for the closure of a CSI is in existence. However, the status of the document should be, at least, a SOP. Further, the criteria need to be amended to provide a pathway for cases unable to be resolved with short-term intervention. These should be dealt with as complex cases. CSIs not in this category should be closed when the immediate incident is dealt with and a business as usual approach adopted to manage ongoing risk.

3.8.5 No incidents were reviewed where a complaint had been withdrawn. The Panel notes the Detention SOP – "29 Protection of Families and Minors" - outlines the process for complaint withdrawal.

3.8.6 In the Panel's assessment, the Department has fully implemented this recommendation. New structural arrangements within the Department of Home Affairs may require a reconsideration of roles and responsibilities in the future.

## Recommendation 9

**That the Department develop, in conjunction with relevant service providers, case management standards for children in immigration detention. Further, the Department should design a complex-case management protocol, in consultation with Detention Superintendents and Field Compliance Operations Superintendents, within the ambit of the Child Safeguarding Framework.**

- 3.9.1 The Department has undertaken some significant work in case management since the completion of the Panel's 2016 report. This has included the establishment of a Status Resolution Sub-Committee – Complex Cases (which includes child related matters), and the establishment of a new classification level (Tier 4) for detainees with the most extreme and complex needs. The Panel noted that this group included people with very high disability support needs.
- 3.9.2 Following the Department's acceptance of the Panel's 2016 report, there was an urgent imperative to put new case standards and procedures in place. To some extent, this was achieved at the expense of robust consultation processes with service providers and departmental officers. In any further review of the standards, it will be important to consult internally and externally to continue the goodwill and extend the common understanding that currently exists.
- 3.9.3 Importantly, one of the issues not yet resolved in the Department's matrix structure is single point accountability for case management except at the most senior level of Chief Status Resolution Officer. Rather, different areas of the Department contribute to those parts of the service chain they manage. It is important for accountability and coordination to have a single case manager responsible for a case, even though aspects of case management (e.g. approval of certain expenditure) may be outside their remit.
- 3.9.4 There is still a need for further face to face training in case management within the Department, and Status Resolution Officers also want regular consultation and guidance on the cases for which they are responsible. In the jurisdictions where Child Wellbeing Officers are located, this will be easy to organise. In other jurisdictions, sourcing a person with relevant expertise on a fee for service arrangement would also be a simple exercise.
- 3.9.5 The Department has a structure of review committees aimed at resolving immigration status. There is, however, a need for clear criteria to declare cases as complex and procedures to manage such cases. Although departmental officers and service providers both reported participating in case conferences on complex matters, there was uncertainty about whose responsibility it was to initiate these and when it was appropriate to do so.
- 3.9.6 Another matter noted by the Panel was the need for a review of compliance processes and correspondence from the Department. Warning and breach letters viewed by the Panel that were issued to children need to be expressed more simply and to state consequences clearly.
- 3.9.7 This recommendation is partially implemented, but further work needs to be undertaken to clarify case management responsibility and to set clear criteria for when cases are considered complex.

## **Recommendation I0**

**That the Department ensure that Detention Superintendents and Field Compliance Operations Superintendents, service providers and subcontractors are aware of, and have access to, appropriate professional services that are required in complex child wellbeing and protection cases.**

- 3.10.1 The Department has strengthened measures to ensure that those managing complex child wellbeing cases have access to appropriate professional services. The SRSS Operational Procedures Manual outlines how service providers can access services for detainees in community detention and a range of SOPs set out how to access services in held detention.
- 3.10.2 In its 2016 report, the Panel recommended that the Department establish a panel of experts to provide professional services in complex cases on a fee for service basis. This has not happened, however the Panel is satisfied from its review of incidents and interviews with stakeholders that the Department is achieving the intent of this recommendation.
- 3.10.3 The incidents reviewed by the Panel for this report were not as numerous or as serious as those examined as part of the Panel's 2016 report, but did include two very complex cases. It was evident from the Panel's review of these cases that the Department and service providers were able to provide a range of appropriate specialist services in very difficult circumstances.
- 3.10.4 The Department has now completed the recruitment of regionally based Child Wellbeing Officers to provide support to Detention Operations Superintendents and other staff in the management of complex cases. The Department has also established mechanisms to manage complex cases at a national level.
- 3.10.5 The Panel's view is that the Department has fully implemented this recommendation.

## **Recommendation 11**

### **That the Department:**

- a. extend its risk assessment mechanisms to ensure that they specifically address the safety of children in immigration detention, including**
  - i. children under the age of six years and others known to be at high risk of abuse**
  - ii. recidivist persons of interest**
- b. introduce a risk-assessment process around the movement of children and their families**
- c. extend the National Detention Placement Model to include the needs of, and mitigation of the risks faced by, children and families in immigration detention.**

3.11.1 The Panel's 2016 report identified children under the age of six as a particularly vulnerable group. The Department's primary risk assessment tool for people in community detention, the CPAT, has been amended to specifically address this group. The introduction of quarterly Child Wellbeing Assessments and upgraded service provider risk assessment processes are further protections for this group. The Panel reviewed seven incidents that involved children under six as victims. The management of these incidents indicated that the Department and service providers were alert to the particular risks faced by this group.

3.11.2 The Panel examined two child protection cases that involved recidivists. Both cases confirmed that the individuals involved posed an ongoing threat to children and others, and required specialised services unavailable in the immigration detention network. The Panel reiterates its view that the Department needs to identify other more appropriate forms of detention in such cases, including the use of state government forensic disability facilities.

3.11.3 The Panel notes that any children in held detention from time to time tend to be those in transit. In these cases, children are not held in immigration detention facilities, but in other forms of held detention, such as immigration transit facilities or APODs. The Department has implemented and updated a range of SOPs to address the needs of these children. The Panel notes that the National Detention Placement Model and the Detention Placement Assessment Tool (DPAT) have not yet been changed to specifically address the risks to children in immigration detention.

3.11.4 The Panel's view is that the Department has fully implemented this recommendation.

## Recommendation 12

That the Department identify, assess and effectively respond to:

- a. children who have been the victims of abuse on multiple occasions
- b. persons of interest who have been involved in multiple child abuse incidents.

3.12.1 The Department has focused on children who have been a victim of abuse or neglect and maintains files on each child. Individual case management plans now include Child Wellbeing Assessments. The Department uses two tools, one being the CPAT, to assess and respond to children when placed in community detention, including those who have been the subject of abuse on multiple occasions.

3.12.2 The second tool is the DPAT, noting that its use, with few or no children in held detention at this time, takes on a lesser priority (DPAT does not specifically address the risks faced by children). It should be noted these tools are only effective if the information they draw upon from departmental information systems is complete and accurate.

3.12.3 An important and welcome development has been the establishment of the Status Resolution Sub-Committee – Complex Cases. This group is engaged on the most difficult detainee cases, often involving children. The committee not only examines the status resolution complexities of an individual, child or family, it extends to examining individual CSIs, in determining holistic responses. The Panel notes that the Department has a Person of Interest (POI) Committee and a POI Placement Assurance Framework.

3.12.4 The Status Resolution Committee has taken the lead in responding in a multi-faceted way to some of the most vulnerable children and prolific recidivists, identified by the Panel in its 2016 report. This has resulted in a number of very positive outcomes. What is not clear to the Panel are the criteria and procedures for the declaration of a case as being complex, particularly at the regional level.

3.12.5 In noting the positive progress made, gaps remain. [REDACTED]  
[REDACTED] offenders will likely first come to the attention of local state and territory authorities, rather than the Department. [REDACTED]  
[REDACTED]  
[REDACTED]

3.12.6 There has been significant progress in implementing this recommendation. However, [REDACTED] weaknesses will remain.

## **Recommendation 13**

**That the Department continue to implement the findings of the review of internet safeguards conducted by the Detention Assurance Team, including:**

- a. the restriction of data-transfer capability**
- b. the capacity to identify users of departmental computers in immigration detention facilities**
- c. a regular review of data access records to identify unlawful and inappropriate access**
- d. age-appropriate access to online and other digital media.**

3.13.1 The impetus for this recommendation arose from review of a number of incidents where the internet had been used to facilitate child abuse. However, this recommendation has application and relevance beyond the focus of the Panel on the wellbeing and protection of children. It extends to the risks posed by individuals in immigration detention from terrorism, organised crime and associated criminality. As a result, on-line access to and use of the internet by persons in immigration detention must be carefully managed, whilst at the same time balancing the privacy of detainees. This takes on added importance given the changing profile of detainees, with a greater number of individuals with extensive criminal history entering the held detention network.

3.13.2 Government policy changes to remove all children from held detention have clearly helped reduce the risks to children associated with the use of the internet in those facilities. The Panel did not observe inappropriate use of computers linked to child abuse in any of the incidents reviewed.

3.13.3 The Department has continued its work to make on-line access in immigration detention centres more accountable and secure. A Proof of Concept (POC) seeking to address the shortcomings identified in the Detention Assurance Team (DAT) review has been underway for nearly a year. The POC has concluded and the learnings are due to be implemented in other detention centres over the next six months. The trial delivered enhancements on data transfer capability, user access controls and improved access and data monitoring. It was, however, conceded that managing internet access and use remains a challenging area with an array of new platforms and technologies that allow users to circumvent controls, aiding anonymity and disguising on-line activity. The Detention Operations Branch is actively seeking practical solutions to harden the on-line environment against criminal or improper use.

3.13.4 The risks are even more difficult to manage in community detention. The level of departmental oversight in this environment is greatly reduced. Band 2 UAMs have some constraints whereby departmentally supplied computers must be fitted with parental control software and also located in public areas in the house such as the lounge. There is nothing to prevent detainees, including children, from purchasing their own smart phones or computers for which there are no restrictions. Ultimately, as with the broader community, education of children and parental control or adult supervision are the best responses to the risks posed by the on-line world.

3.13.5 This recommendation has been fully implemented.

## **Recommendation 14**

**That the Department improve its management of case-related information, including by:**

- a. developing a mechanism to ensure that officers who need this information know where it is and how to access it**
- b. integrating the currently fragmented information holdings relating to children and their families in immigration detention.**

3.14.1 At the time this recommendation was made, the amalgamation of the previous Department of Immigration and Border Protection and the Australian Customs and Border Protection Service was still in the early stages. Eighteen months later, the Department is on the brink of another quantum shift with the establishment of the Department of Home Affairs. The need to streamline data holdings relating to individuals within the immigration system is even more compelling in this environment.

3.14.2 Whilst acknowledging that addressing this problem was long-term and complex in nature, the Panel's recommendation envisaged the introduction of some simple mechanisms or protocols that would allow officers to identify and search possible repositories of case information in the interim. The Panel could find no evidence that this has been done. The Panel is of the view that this work is still required.

3.14.3 Departmental officers continue to report difficulty in accessing case related information. In particular, they are not confident that they know when they have the complete information on a child or family. This problem is exacerbated when the child or family has been previously resident in a regional processing centre.

3.14.4 The Child Wellbeing Branch advises that they have introduced new procedures for recording and maintaining information relating to child protection incidents which mandate what information must be recorded and where it must be stored. These changes should improve access to information relating to child protection incidents in the future.

3.14.5 The system changes planned for March 2018 will further improve data accessibility by enabling all the people involved in an incident to be linked to the incident or, for example, the linking of an individual to a number of child protection incidents. This change will not assist with searching for information in relation to historical incidents.

3.14.6 The Department reports that it has well developed plans to integrate its fragmented data holdings and to improve how staff can access these holdings. Over the next two years, it is envisaged that all data holdings will be integrated into one repository. There will be a new facility for staff to access the information they need. This development will further assist in the response to and tracking of child protection incidents.

3.14.7 This recommendation has not been implemented, however, there are credible plans for improvements to be made over the next two years and beyond. The Panel notes no action has been taken on what it saw as the most readily implementable component of the recommendation ie. a users guide to where data is held and how to access it.

## Recommendation 15

### That the Department:

- a. **ensure that all relevant information on the history and background of the child and the person of interest is communicated to all relevant stakeholders (including state and territory authorities) when the child or person of interest is moved within or outside the immigration detention network**
- b. **seek consent, where necessary, from the detainee concerned to authorise the sharing of information to enhance the services to be provided – or consider if there are other grounds to lawfully disclose the information.**

3.15.1 There have been significant improvements in the sharing of information within the Department and between the Department and its stakeholders in relation to child safety and wellbeing. These improvements include the upgraded case management plans and Child Wellbeing Assessments, complex case management arrangements, the upgraded SRSS Incident Management Hotline, the implementation of the Framework and the use of the “triple track” approach.

3.15.2 However, significant gaps in the sharing of information relevant to the safety of children remain. These include the problems of the Department’s fragmented information holdings discussed in Recommendation 14, the sharing of personal and case related information (especially health), and the lack of reciprocal formal information sharing between the Department and the states and territories. The Panel notes that case by case sharing information does occur.

3.15.3 In particular, departmental status resolution staff told the Panel that their lack of access to current and complete health information impeded their ability to confidently identify vulnerabilities before providing the Minister for Immigration and Border Protection or delegate with placement options, including bridging visas.

3.15.4 Service providers said that they could not access the personal and health information to the extent that they needed to provide effective services and support to their clients. Service providers gave examples of how this situation negatively affected both the physical and mental health of detainees.

3.15.5 Detainees moving from held to community detention are meant to receive a Health Discharge Summary that they could share with their service provider. Service providers said that they rarely see this information, and that detainees assume that the agencies supporting them will already have their detailed background information.

3.15.6 Community Protection Division is working with other internal stakeholders to remedy the concerns related to access to health information within the Department. It is imperative that this issue is resolved quickly. The Panel has been advised that this work will be formally considered by the Status Resolution Committee in early 2018. It is just as important that any solution also addresses the flow of personal and health related information to service providers.

- 3.15.7 The Panel is of the view that the most appropriate model to facilitate information access is a properly administered scheme that allows ready access to designated staff on a “need to know” basis. It is understood that recent changes to the *Border Force Act 2015* may facilitate the sharing of personal and health information.
- 3.15.8 All parties, including IHMS, agree that client consent is a practical solution to most problems associated with sharing personal and health information. The Panel notes that a new medical consent form has been developed and is available online. The Panel is still not convinced that these processes are working effectively.
- 3.15.9 The Department has partially implemented this recommendation. While there is constructive work underway to address the sharing of personal and health information within the Department, this must be extended to address the issue of sharing information with service providers.

## Recommendation 16

**That the Department develop its intelligence capability in the immigration detention network to address child abuse risks, in line with the findings of the Integrated Intelligence Capability Review, so that:**

- a. the incidence of child abuse is reduced**
- b. intelligence products are used to inform decision making.**

3.16.1 With the establishment of the Department of Immigration and Border Protection, it was identified that an enhanced centralised intelligence capability was required to meet the Department's current and emerging challenges. The Secretary commissioned a review of the Department's intelligence capability – *The Irvine Review 2015*. The Panel spoke to the reviewers at that time and, whilst the review ultimately acknowledged the need for intelligence capability in the detention environment, no specific reference was made in the review to the use of intelligence to respond to child abuse risks.

3.16.2 The Panel was advised that an intelligence capacity has been delivered to the national held detention network through a 'hub and spoke' approach [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] The Panel found no evidence of the tasking of the Intelligence Division or the delivery of specific child protection intelligence products. The Panel notes, however, that child protection matters are included in the Immigration Detention Network Collection Plan.

3.16.3 There is a significant transition underway, with detainees, including children, moving into the broader community on visas.

3.16.4 The Panel considers that the Department has a legitimate interest in persons in the community on visas, who are a threat to the safety and wellbeing of children, whether the matters that bring them to the attention of authorities result in criminal charges or not. While state and territory agencies have a primary response role in relation to such incidents, the Department has a legitimate and important national interest role in ensuring that intelligence on child abuse is made known to key visa decision makers. A properly structured intelligence collection and analysis capacity will potentially deliver strong child protection outcomes [REDACTED]. Most departmental stakeholders reinforced the need for this intelligence support.

3.16.5 The Panel is also acutely aware that the Department is working in an environment where it is endeavouring to manage extreme risks from terrorism to people smuggling, drug trafficking to hi-tech crime. The Department is confronted with an environment where there is a growing need for intelligence support, whilst, at the same time, endeavouring to build a sophisticated intelligence capacity.

3.16.6 Notwithstanding the challenging environment, the Panel's view is that the Secretary should consider the redirection of some intelligence capacity in support of child protection priorities. A child safety and abuse category should be included in the Department's intelligence priorities. The outcomes of this inclusion should be monitored through the Intelligence Board.

3.16.7 The Panel's assessment is that the Department has partially implemented this recommendation as it relates to held detention. [REDACTED]

[REDACTED]

[REDACTED]

## Recommendation I7

**That the Department consider providing a copy of this report to the Royal Commission into Institutional Responses to Child Sexual Abuse, drawing its attention to the enhancements that could be made to Australia’s mandatory reporting arrangements.**

- 3.17.1 As outlined in their 2016 report, the Panel observed that the “*complexity and inconsistency*” of state and territory mandatory reporting requirements created an environment of increased risk to children, and suggested that a nationally consistent approach should be considered.
- 3.17.2 On this basis, the Panel recommended that a copy of its 2016 report be provided to the Royal Commission, which was grappling with broader issues regarding reporting of child abuse matters. This recommendation was accepted by the Department and the Royal Commission received a copy of the Panel’s 2016 report on 6 June 2016.
- 3.17.3 As the Royal Commission will not provide its 2016 report until 15 December 2017, it is not possible to establish whether the Panel’s views have been adopted.
- 3.17.4 This review has highlighted some further issues about the impacts of jurisdictional differences, and the operational inconsistencies and complexities thus created. For example, it was reported that state and territory child protection agencies are reluctant to engage in matters related to older children, largely because of the pressures of work related to younger and, arguably, more vulnerable children. However, departmental officers reported that this older group is the cohort of children about which they are most concerned. Issues such as older children being “abandoned” by parents who return to their country of origin, being forced into arranged marriages, and being groomed or exploited by much older adults were all highlighted as concerns of departmental officers.
- 3.17.5 This recommendation has been fully implemented by the Department. However, the Department will need to consider fully any recommendations of the Royal Commission that might impact on its operations, or might provide further opportunity to facilitate inter-jurisdictional information sharing and coordinated response.

## 4. Policy review

- 4.1 The Panel's terms of reference required it to review the policy documents that underpin and give effect to the Framework. The Panel has reviewed 19 policy related documents and nine SOPs that the Department identified as supporting the implementation of the Framework. A list of the documents reviewed by the Panel is at Appendix 2.
- 4.2 In reviewing policy related documents, the Panel applied five criteria - relevance, clarity, consistency, useability and reliability. The Panel also reviewed the policies against the Department's Policy and Procedure Control Framework (PPCF). The Panel had access to comments made by members of the Minister's Council on Asylum Seekers and Detention (MCASD) in relation to the Framework and associated policies.
- 4.3 The Panel acknowledges the substantial work undertaken by the Department to complete the suite of policies that underpin the Framework and to amend SOPs to comply with the Framework.
- 4.4 The Panel's assessment is that the content of these policies is generally fit for purpose. The Panel recommends that the Department address the following four issues when next updating policies:
- make the policies more relevant to the circumstances of children in community settings
  - correct inconsistent definitions and descriptions of the "triple track" approach across various documents
  - develop a new policy for children visiting immigration detention facilities to protect them from detainees who pose a risk, and
  - clarify when parents should be advised of a child protection incident and the specific circumstances when it is not in the best interests of the child to do so.
- 4.5 At a process and presentation level, the Panel considers that the policies will be more accessible and useable if the Department addresses the following issues:
- state the purpose of each document clearly at the beginning (SOPs provide a good example of how to do this)
  - present all elements of a policy at the beginning of a document rather than spreading them throughout
  - ensure document/version controls are complete for all documents, so that it is clear what the current version is and also that appropriate controls exists for the approval of policy amendments, and
  - review the status of each document to identify if it is a policy, a policy instruction (procedural and process requirements) or supporting material. At present, some "supporting material" documents (e.g. "Incorporating child safeguarding into contract management and service delivery") contain policy directives in them. The PPCF provides guidance on how to classify documents.
- 4.6 The Panel's review of SOPs demonstrated that these have been adapted to give effect to the Framework. One matter of concern to the Panel is that many of the SOPs have a generic section about what to do in the case of an incident involving a

child. The Department needs to update this advice to link to the relevant child protection policies and processes and other related SOPs and emphasise the need to act in accordance with the “triple track” approach.

- 4.7 The Panel’s view is that the Department has effectively developed and implemented the policies that underpin the Framework and should refine them as part of the planned review, and with greater focus on clarity and simplicity.
- 4.8 Any review and updating of policies should occur after the review of the Framework, not incrementally. The Panel has provided more detailed comment on individual policies and SOPs to the relevant business owners.

## 5. Incident reviews

- 5.1 A critical element of the Panel's 2016 report and this implementation review was a thorough examination of reported incidents of child abuse. During its earlier work, the Panel reviewed an extensive sample of 242 incidents of child abuse, representing the most serious incidents involving allegations of child abuse, neglect or exploitation. These incident reviews formed the basis of the Panel's findings and recommendations.
- 5.2 For this implementation review, the Panel determined that it would review a smaller number of incidents that occurred between 1 July 2016 and 30 June 2017. The Panel set written criteria against which 24 community detention incidents were selected. There were no matters involving any children in held detention. The criteria included all CSIs (triggered by mandatory reporting), and a sample of other incidents involving vulnerable groups, children who had been victims on multiple occasions and recidivists.
- 5.3 Given the limited number of incidents reviewed, it is not possible to provide any detailed statistical analysis. However, it is worth observing that the responses to children were all rated as adequate or better, in all but one of the incidents (where it was unable to be assessed).
- 5.4 Two clear positive issues were observed. The first was that the number of reported incidents had dropped dramatically since the Panel's earlier work. This is likely the result of the policy decision to remove all children from held detention. The second was the absence of reported incidents involving serious sexual abuse.
- 5.5 It is evident that there have been substantial process improvements in responding to child abuse matters. Incident documentation was comprehensive from point of intake to how these matters were ultimately incorporated into Ministerial submissions. Service providers responded in a timely and thorough way, and similarly departmental officers were more responsive and proactive in matters concerning children.
- 5.6 In the incidents reviewed, it was apparent that CSIs were being kept open for a long time, in some cases, many months. This probably reflects a mix of abundant caution, and a lack of clear criteria for closure, as well as criteria for the declaration of a case as complex. It is not ideal in any event, and should be remedied both through departmental policy review processes and further training.
- 5.7 Another notable feature of the incidents reviewed was the difficulty in managing changes or reductions to services being provided. It was clear that, in some cases, IHMS and their contracted providers, and state welfare authorities to whom incidents had been reported, proposed a level of support services far beyond that which would be considered in a community setting (e.g. 24 hour in home support). Some service providers expressed the view that this was often counter-productive in their work with the family, and led to problems when the unsustainable level of servicing was scaled back once the period of crisis had passed.
- 5.8 In summary, the Panel observed a remarkable improvement in departmental responses to incidents of child abuse and neglect.

## 6. Stakeholder consultations

- 6.1 Key to the implementation review were consultations with a wide range of stakeholders who had an interest in the outcomes of the Panel's work.
- 6.2 The planning for and structure of the consultation process started early. Documents were circulated to recommendation owners within the Department, detailing the desired standards and evidence of achievements specified by the Panel. This transparent process gave maximum opportunity for each recommendation owner to prepare for the implementation review.
- 6.3 The consultations commenced on 3 October 2017 with the Secretary and Senior Executive of the Department, along with members of MCASD. Over the next two months, the Panel consulted with 145 people. The Panel also engaged extensively with service providers at the management, case coordination and service delivery levels. The service providers were selected on the basis of the number and SRSS band of the clients they were managing. A full list of the stakeholders consulted is at Appendix 3.
- 6.4 During consultations with departmental staff, it was clear that they were committed to the protection of children in immigration detention and saw it as a high departmental priority. It emerged that there were gaps in understanding the new roles and responsibilities, particularly as this related to Child Wellbeing Officers, Detention Operations Superintendents, Status Resolution Officers and the Child Wellbeing Branch. Some staff raised concerns about the structural alignment of these roles, particularly within the state offices. Further capacity building will be required. Some staff acknowledged that this was part of the 'maturity curve'.
- 6.5 The Panel was impressed with the quality of service provider staff overall who welcomed the opportunity to speak with the Panel. They were passionate, had a strong client focus and were well supported by their own organisations. The Panel's key observation is that the Department's efforts in delivering training on the Framework and associated policies have penetrated to the front-line staff of all agencies. The Child Wellbeing Branch and the Community Programmes and Reporting Branch and service providers should be given credit for this very positive outcome.
- 6.6 A recurring theme expressed by service providers was that the Department had become more responsive over the last 12 months and there was a noticeable improvement in communication, engagement and follow up. The SRSS Incident Management Hotline received regular mention in this context. Some service provider staff reported, however, that at times this communication was uncoordinated. There was broad support for the Framework, although minor adjustments were suggested (e.g. greater use of flow charts in the Framework with roles and responsibilities better defined). There was a high degree of understanding of the current and emerging risks to children and concerns about transition arrangements featured prominently. Lastly, as outlined more fully in

response to Recommendation 15, there was universally strong agreement on the need to improve the sharing of personal and health information, the lack of which was seen as impeding child protection outcomes.

- 6.7 There was agreement amongst stakeholders that the improvements made to date, would require ongoing sustained focus and reinforcement.

## 7. Conclusions

- 7.1 The Department's implementation of the Panel's 2016 report "*Making Children Safer: The wellbeing and protection of children in immigration detention and regional processing centres*", has been largely successful. In the Panel's opinion this success has been due to strong leadership from the Secretary and departmental Executive, proactive implementation action undertaken by the Child Wellbeing Branch and Community Programmes and Reporting Branch, effective oversight and monitoring, the implementation of the Framework, and effective work with engaged and professional service providers.
- 7.2 There has been a fundamental shift in awareness, understanding of, and responsiveness to child wellbeing and protection across the Department. The performance of the Department's service providers has strengthened considerably.
- 7.3 The Department needs to do more work on those recommendations that relate to the sharing of information, the fragmentation of data holdings, the development of an intelligence capability in relation to child safety and the building of strong relationships with state and territory authorities. In other areas, focus is required to mature and embed changes especially in relation to the roles of Detention Operations Superintendents and their support staff.
- 7.4 Since the Panel commenced its work in 2015, there have been fundamental changes to the numbers and locations of children in immigration detention. There are now effectively no children in held detention and comparatively few children in community detention. It is likely that this number will further reduce over time.
- 7.5 Government policy and Ministerial direction have driven these changes. The incidents reviewed by the Panel in 2017 were far fewer in number than in 2015/16 and of a much less serious nature. The Panel reviewed no incidents that involved the sexual assault of a child.
- 7.6 However, this is not the time for the Department to reduce its level of vigilance or capability. The risks facing children are changing and the Department will have less visibility of vulnerable children as they move to a range of visas. Similarly, the Department must not lose the capability it has developed to handle child wellbeing and protection issues and must maintain its operational readiness.
- 7.7 The recommendation relating to intelligence (Recommendation 16) has been partially implemented. The Panel remains of the view that this work is required. The Panel encourages the Department to redirect some intelligence capability to address the concerns that the Panel has identified.

## 8. Future challenges

- 8.1 The challenge for the Department is to complete the implementation of the Panel's recommendations from 2016, having regard to the changing environment.
- 8.2 There is also a need to further embed some of the changes that have already been made. This applies to the roles and responsibilities of Detention Operations Superintendents, Child Wellbeing Officers and Status Resolution Officers. The clarification of these roles will enable the Child Wellbeing Branch to focus on its policy development and quality assurance roles.
- 8.3 The renegotiation of SRSS contracts in 2018 will provide further opportunity to embed some of the improvements in performance that the Department has achieved over the last eighteen months. Specifically, there is the opportunity to embed the Framework as the foundation policy document for the Department and its service providers, specify the capability (staff and organisational e.g. OOHC accreditation) the Department requires from service providers, ensure effective risk management approaches and set performance standards and indicators. Any contract negotiations should fully reflect the requirements set out in the Department's policy document *Incorporating child safeguarding into contract management and service delivery*.
- 8.4 As the SRSS program continues to change in terms of the number of people supported and the services they receive, the Department will have to re-examine how it preserves its child wellbeing and protection capability and expertise to ensure it has the operational readiness to respond as and when demands change or new risks emerge.
- 8.5 Staff and service providers alerted the Panel to cohorts of children at risk such as children left in Australia when parents return overseas and foreign fishers who are children.
- 8.6 The implementation of the new Department of Home Affairs will provide the opportunity to address some structural uncertainties that affect child wellbeing and protection programs in the Department. Under existing arrangements, the operational and policy elements of child wellbeing and protection programs are located primarily in the Australian Border Force. However, departmental staff who work on status resolution have very significant interaction with children and families and are involved in child wellbeing and protection responses. The implementation of the new Department will require a review of these structural arrangements. The Panel understands that the Department is taking advice on the best structural arrangement for the new Department and its portfolio agencies and recommends that the structural questions around the policy, program and operation elements of child wellbeing and protection be included in these considerations.

# Appendix I      Terms of Reference

## Child Protection Panel – 2017 Final Terms of Reference

### Purpose

The Department will reconvene the Child Protection Panel (the Panel) to examine the Department's progress in implementing the report *Making Children Safer: the wellbeing and protection of children in immigration detention and regional processing centres* ('Making Children Safer'). This review will also enable the Department to draw upon the Panel's expertise around further enhancing the wellbeing of children in immigration detention.

### Background

The Department established the Panel in March 2015 to provide independent advice on issues relating to the wellbeing and protection of children in immigration detention and in regional processing centres, and assurance that a comprehensive and contemporary child safeguarding and protection framework for the Department was in place.

During this review, the Panel will not examine any matters relating to incidents occurring at the Regional Processing Centre Nauru.

### Terms of Reference

In undertaking this review the Panel will:

1. review the Department's implementation of the recommendations of the Child Protection Panel's 'Making Children Safer' Report which was delivered to the Department in May 2016, with a particular emphasis on:
  - the Child Safeguarding Framework and the underlying policies and procedures that ensure the wellbeing of children in immigration detention;
  - evaluating the Department's application of the "triple track" approach to child protection through a critical review of the management of a sample of incidents of neglect, abuse or exploitation of children in immigration detention;
  - vulnerable populations (including minors and families) in immigration detention (including unaccompanied minors, individuals with special needs) and recidivists;
  - the effective exercise of control and accountability by Detention Operations Superintendents and the quality assurance and policy roles of the Child Wellbeing Branch;
2. provide a report to the Secretary on the findings of the review including how any systemic issues that are obstructing the implementation of the recommendations of the 'Making Children Safer' Report can be addressed and on any improvements required to departmental policies and procedures; and
3. provide advice to the Secretary on any other issues encountered that could place children in held and community detention at risk of abuse.

### Timing

The Panel will provide its report to the Secretary by 8 December 2017.

## **Appendix 2      Policy related documents reviewed**

### **Policy statements**

- Education Policy
- Employment screening for child-related positions
- Reporting child-related incidents

### **Procedural Instruction**

- Employment screening for child-related positions

### **Supporting Material**

- Appropriate interaction with children
- Business and process review
- Child safe behaviours
- Child safe environments that enhance wellbeing
- Data collection and compliance
- Disclosure of children's information
- Filming and photographing children
- Including children in decision making
- Incorporating child safeguarding into contract management and service delivery
- Internet and social media use for children
- Managing cases involving children
- Recognising signs of child abuse
- Responding to disclosures of child abuse
- Self-care in child related roles
- Triple track approach to incident management

### **Standard Operating Procedures**

- Detention SOP 3 Assessment and Placement of Detainees in IDFs in Australia
- Detention SOP 6 Management of Minors in Detention
- Detention SOP 27 Unaccompanied Minors and Guardianship
- Detention SOP 29 Protection of Families and Minors
- Detention SOP 56A Transporting Detainees by Aircraft
- Detention SOP 57 Managing Detainees in APODs
- Detention SOP 93 Incident Response and Management
- Detention SOP 102 Transport and Escort Management
- SRSS SOP Responding to child-related incidents and child welfare concerns

### **Memorandum of Understanding** (between the Department and state/territory child welfare agencies)

- Head MOUs on child protection matters for minors in detention – for New South Wales, Victoria, Tasmania, South Australia and the Australian Capital Territory

## Appendix 3 Consultation schedule

<b>Date</b>	<b>Meeting attendees</b>	<b>Panel member/s</b>
3 October 2017	Minister's Council on Asylum Seekers and Detention (MCASD)	John Lawler Margaret Allison Dominic Downie
3 October 2017	Deputy Commissioner Support Group; Assistant Secretary, Community Programmes & Reporting Branch; Assistant Secretary, Child Wellbeing Branch, Australian Border Force (ABF)	John Lawler Margaret Allison Dominic Downie
4 October 2017	Acting Assistant Commissioner, Detention and Offshore Operations Command Division, ABF	John Lawler Margaret Allison Dominic Downie
4 October 2017	Acting Deputy Secretary, Intelligence and Capability Group, DIBP	John Lawler Margaret Allison Dominic Downie
4 October 2017	Deputy Secretary, Visa and Citizenship Services Group, DIBP	John Lawler Margaret Allison Dominic Downie
5 October 2017	Acting Detention Operations Superintendents (NSW, Vic/Tas, WA, Qld) and Detention Operations Superintendent (Christmas Island); Acting Commander, Detention Operations Branch; Acting Superintendent, Detention Operations National; Acting Superintendent, Detention Placements; Acting Superintendent, Detention Future Operations, ABF	John Lawler Margaret Allison Dominic Downie
6 October 2017	Assistant Secretary, Community Programmes & Reporting Branch; Assistant Secretary, Child Wellbeing Branch, ABF	John Lawler Margaret Allison Dominic Downie
10 October 2017	Secretary, DIBP; Deputy Commissioner Support Group; ABF First Assistant Secretary, Integrity, Security and Assurance Division, DIBP	John Lawler Margaret Allison Dominic Downie
11 October 2017	Assistant Secretary, Community Programmes & Reporting Branch; Director, SRSS Contracts & Finance; Staff from SRSS Contracts & Finance and; Staff from Community Programmes & Reporting Branch, ABF	John Lawler Margaret Allison Dominic Downie
11 October 2017	Director, Community Programme Delivery; Assistant Directors, Community Programme Delivery; ABF	John Lawler Margaret Allison Dominic Downie
17 October 2017	Australian Red Cross representatives	John Lawler Margaret Allison Dominic Downie

<b>Date</b>	<b>Meeting attendees</b>	<b>Panel member/s</b>
17 October 2017	Life Without Barriers representatives	John Lawler Margaret Allison Dominic Downie
17 October 2017	MCASD	John Lawler Margaret Allison Dominic Downie
18 October 2017	AMES Australia representatives	John Lawler Margaret Allison Dominic Downie
18 October 2017	Detention Operations Superintendent, Detention Operations Vic/Tas; Service Delivery Manager, Detention Operations Vic/Tas, ABF	John Lawler Margaret Allison Dominic Downie
18 October 2017	IHMS contracted service provider	John Lawler Margaret Allison Dominic Downie
19 October 2017	Detention Operations Superintendent, Detention Operations Vic/Tas; Senior Child Wellbeing Officer, Child Welfare Support Officer, ABF	John Lawler Margaret Allison Dominic Downie
19 October 2017	Director, Case Management and Community Status Resolution Services (Vic/Tas); Assistant Director, Community Case Management, DIBP	John Lawler Margaret Allison Dominic Downie
19 October 2017	Victoria DIBP Case Management staff, DIBP	John Lawler Margaret Allison Dominic Downie
24 October 2017	Marist Youth Care representatives	John Lawler Margaret Allison Dominic Downie
24 October 2017	IHMS representatives	John Lawler Margaret Allison Dominic Downie
25 October 2017	Detention Operations Superintendent, Detention Operations NSW, ABF	John Lawler Margaret Allison Dominic Downie
25 October 2017	Acting Director, NSW Case Management; Acting Director, NSW Community Status Resolution, DIBP	John Lawler Margaret Allison Dominic Downie
25 October 2017	DIBP Case Management staff, DIBP	John Lawler Margaret Allison Dominic Downie
26 October 2017	Life Without Barriers representatives	John Lawler Margaret Allison Dominic Downie
26 October 2017	Australian Red Cross representatives	John Lawler Margaret Allison Dominic Downie

<b>Date</b>	<b>Meeting attendees</b>	<b>Panel member/s</b>
31 October 2017	Acting Chair, Operational Requirements Group, ABF	John Lawler Margaret Allison Dominic Downie
31 October 2017	SRSS Senior Community Case Coordinator; Assistant Secretary, Community Programmes & Reporting Branch; Assistant Secretary, Child Wellbeing Branch; Director, Community Programme Delivery; Assistant Director, Community Programme Delivery; Acting Director, Child Welfare Support, ABF	John Lawler Margaret Allison Dominic Downie
31 October 2017	Assistant Secretary, Child Wellbeing Branch; Assistant Secretary, Community Programmes & Reporting Branch, ABF	John Lawler Margaret Allison Dominic Downie
31 October 2017	Acting Detention Operations Superintendent, WA, ABF	John Lawler Margaret Allison Dominic Downie
31 October 2017	Acting Detention Operations Superintendent, Christmas Island, ABF	John Lawler Margaret Allison Dominic Downie
1 November 2017	First Assistant Secretary, Legal Division, DIBP	John Lawler Margaret Allison Dominic Downie
1 November 2017	Acting Deputy Secretary, Policy Group, DIBP	John Lawler Margaret Allison Dominic Downie
1 November 2017	Deputy Secretary, Corporate Group; First Assistant Secretary, Integrity, Security and Assurance Division, DIBP	John Lawler Margaret Allison Dominic Downie
1 November 2017	First Assistant Secretary, Children, Community and Settlement Services Division; Assistant Secretary, Child Wellbeing Branch, ABF	John Lawler Margaret Allison Dominic Downie
1 November 2017	First Assistant Secretary, Intelligence Division; Assistant Secretary, National Intelligence Branch, DIBP	John Lawler Dominic Downie
2 November 2017	First Assistant Secretary, Community Protection Division, DIBP	John Lawler Margaret Allison Dominic Downie
6 November 2017	Acting Assistant Commissioner, Detention and Offshore Operations Command Division, ABF	John Lawler
7 November 2017	Access Community Services representatives	John Lawler Margaret Allison Dominic Downie
8 November 2017	Detention Operations Superintendent, Qld, NT & SA, ABF	John Lawler Margaret Allison Dominic Downie
8 November 2017	Acting Director, Status Resolution; Acting Assistant Director, Status Resolution Manager; Director, Qld Status Resolution, DIBP	John Lawler Margaret Allison Dominic Downie

<b>Date</b>	<b>Meeting attendees</b>	<b>Panel member/s</b>
8 November 2017	DIBP Case Management staff, DIBP	John Lawler Margaret Allison Dominic Downie
9 November 2017	Australian Red Cross representatives	John Lawler Margaret Allison Dominic Downie
13 November 2017	Commander, Detention Operations Branch, ABF	John Lawler Dominic Downie
16 November 2017	Director, SRSS Contracts & Finance; Assistant Director, SRSS Contracts & Finance; SRSS Contracts & Finance staff, ABF	Dominic Downie
22 November 2017	NSW Family and Community Services representatives	John Lawler Margaret Allison
23 November 2017	Acting Commissioner, ABF	John Lawler Margaret Allison Dominic Downie
30 November 2017	MCASD	John Lawler Margaret Allison Dominic Downie
30 November 2017	Acting Deputy Commissioner Support Group, ABF; First Assistant Secretary, Integrity, Security and Assurance Division, DIBP	Margaret Allison Dominic Downie
30 November 2017	Assistant Secretary, Child Wellbeing Branch; Assistant Secretary, Community Programmes & Reporting Branch, ABF	Margaret Allison Dominic Downie
1 December 2017	Secretary, DIBP; Acting Commissioner, ABF; Acting Deputy Commissioner, Support Group, ABF; First Assistant Secretary, Integrity, Security and Assurance Division, DIBP	John Lawler Margaret Allison Dominic Downie

## Appendix 4      Implementation status of the Panel's recommendations

Rec. No	Fully implemented	Partially implemented	Not implemented	Comments	Status
1	X				
2	X				
3	X				
4	X				
5			X	Credible plan exists	
6		X		No credible plan exists	
7			X	Credible plan exists	
8	X				
9		X		No credible plan exists	
10	X				
11	X				
12		X		No credible plan exists	
13	X				
14			X	Credible plan exists	
15		X		Credible plan exists	
16		X		No credible plan exists	
17	X				

## **Appendix 5 Panel members**

### **John Lawler AM, APM, MAICD**

Mr John Lawler AM APM is a 34-year career law enforcement officer who served from 2009 to 2013 as the Chief Executive Officer of the Australian Crime Commission (ACC) before retiring in October 2013.

He previously served for 29 years with the Australian Federal Police (AFP), 4 years as the Deputy Commissioner.

Mr Lawler has extensive experience in a wide range of law enforcement disciplines performing roles at the local, national and international levels, including community policing, investigations, protection, intelligence, internal security and audit, international operations and executive services.

As Chief Executive Officer of the ACC and a member of the ACC Board, Mr Lawler had strong relationships with State and Territory police commissioners, state police ministers and key State and Territory Departments, including the Commissioners of Corrections.

Since retiring, Mr Lawler has established a consultancy conducting investigations, reviews, assessments and assurance for government and the private sector. In addition, he provides mentoring to senior law enforcement executives.

### **Margaret Allison BSocWk, MPubAd, FIPAA**

Margaret Allison was previously the Director-General of the Department of Communities, Child Safety and Disability Services in Queensland, and the Chief Executive of the Public Service Commission in Queensland. She currently sits on the Queensland Police Service Board of Management, and holds other Board positions. She has had a diverse career spanning more than 35 years in the public sector in Queensland and New South Wales, and in local and state government. With a professional background in human services, she has led services and reforms in areas including youth justice, child protection, disability, legal aid, domestic and family violence, child care and customer services.

Since retiring from the public service, Ms Allison has established a consultancy specialising in organisational strategy and leadership of change, strategic organisational reviews, executive team performance, and performance management.

Ms Allison is a Fellow of the Institute of Public Administration Australia, and has been appointed as an adjunct Professor in the School of Business and International Relations, Griffith University.

### **Dominic Downie BA, GAICD**

Dominic Downie had a 35-year career in the Australian Public Service (APS) and associated authorities, and has had significant roles, including leading the design of the APS capability framework.

During his career, he has worked in both service delivery and central policy agencies. Key roles included Assistant Commissioner in the Australian Public Service Commission and Head of the Corporate Development Division of the Health Insurance Commission.

Mr Downie now specialises in the development of capability frameworks, business planning, evaluations and performance audits, functional reviews, the development of governance structures and workforce planning, development and innovation.

He has been a Director and Board Chair of a not-for-profit organisation working in the Disability Services Sector, and is a Graduate of the Australian Institute of Company Directors.