



Australian Government
**Department of Immigration
and Border Protection**

Detention Capability Review: Final Report

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Introduction

Australia's immigration detention capability has necessarily adapted over time in response to large scale changes in the migration environment, including the surge and subsequent cessation of illegal maritime arrivals, and an increase in the proportion of individuals with character concerns.

In May 2015, the Secretary and Commissioner established the Detention Capability Review to undertake a fundamental review of the immigration detention network to ensure it is strategically aligned, affordable, sustainable and supports capability needs now and in the future.

During the course of the Review, it became clear that the Department's current detention capability arrangements are more than simply the management of the physical detention facilities. Rather, it is part of a larger *system* of component parts – functions and processes – that are connected by a central aim of resolving the status of unlawful non-citizens in accordance with the *Migration Act 1958*.

This prompted the Review to propose a solution that took into account a broader span of the Department's business including compliance, status resolution, and returns and removals. The proposed solution is designed to change the way we think about immigration detention and the contribution it makes to the management and integrity of Australia's migration programme.

The new model aims to ensure the integrity of the migration programme is safeguarded, ensure individuals are treated according to the risk they pose, and is designed to deliver better outcomes for individuals, the department and government. The new model will instil a systems approach to managing individuals, from the time they are identified as unlawful non-citizens until their status is resolved.

The Review proposes 43 recommendations. There are elements of the current immigration detention capability that work well, some existing procedures and policies that require repositioning, and some foundational changes that will require careful consideration and stewardship through the implementation phase.

Implementing the Review's recommendations fully will require a two to three year commitment, and require a cultural shift in the way the organisation thinks about and uses immigration detention.

August 2016

Key terms defined – as used in this Report

The terms below have been defined by the Review to provide context to the concepts discussed in the report.

System – refers to all the component parts that support our business of managing unlawful non-citizens (UNC): including compliance, status resolution, detention, granting of visas and departures, some of which are depicted in the diagram below. On occasion the term ‘holistic’ is also used to convey an approach that encompasses all elements of the *system*.



Placement model or model – refers to the four tiered placement model being proposed, complete with the risk assessment process that supports decision making on placement.

Processes – when we use this term we’re talking about the key processes – principally the end-to-end process from when a UNC comes to the Department’s attention through to granting of a substantive visa or departure (return/removal) – that run through the *system*.

Risk assessment – this term is used in the report to refer to a multi-faceted approach to assessing risk supported by a decision-making tool, encompassing:

- risk to safety and security of individuals, the community, staff and service providers (including vulnerability and needs); and
- risk to the integrity of the migration programme

Executive Summary

Immigration detention plays a key role in maintaining the integrity of the migration programme and protecting the border. Over recent years, Australia's immigration detention network has adapted to the surge and, subsequent cessation, of Illegal Maritime Arrivals (IMAs), as well as changes to the detained population as a result of an increased focus on character and/or national security.

These events have placed pressure on our immigration detention facilities and processes. A new approach is required to ensure our immigration detention capability is more strategically aligned, affordable and sustainable with the ability to support capability needs now and in the future.

The findings of the Detention Capability Review (the Review) reflect the limited utility and high cost of the long-term and widespread use of held detention as a means of managing individuals while their immigration status is being resolved. Ultimately, better outcomes and efficiencies can be achieved through improved approaches involving greater use of community placements coupled with individual risk assessments. The future model is focused on facilitating the effective and efficient resolution of an individual's immigration status while also protecting the community from potential harm.

Accommodation in immigration detention facilities is to be used based on risk and for as short a period as possible to facilitate timely status resolution. Preserving the integrity of the migration programme through well-informed risk determinations, promoting voluntary compliance through appropriate levels of individual autonomy, and the application of relevant detention options are integral to the effectiveness and sustainability of the new model.

A new approach to the management of individuals


The current approach to the management of individuals while their immigration status is being resolved is disjointed and suboptimal. Along with multiple and sometimes conflicting processes that impact on the management of an individual, there are different processes for dealing with different cohorts, particularly IMAs and non-IMAs. These arrangements have arisen for a variety of reasons including government policy, funding arrangements and in response to changes in demand.

The Department needs to adopt a more holistic approach to the management of individuals while their status is resolved. Immigration status resolution is our core business; placement in detention is one of a number of tools the Department can use to assist in achieving an immigration outcome.

In order to support a status resolution-centric, holistic approach to the management of individuals, our staff must be empowered and supported to make effective decisions, including when and how to use immigration detention. 'Empowered officers' must be able to consider how to manage individuals effectively including where they are placed, the conditions imposed upon them and the services they receive. All of these considerations must support effective and timely status resolution. 'Empowered officers' must also be able to assess and balance any risks that individuals may pose to the community or to themselves.

While the *Migration Act 1958* (Migration Act) provides for the mandatory detention of unlawful non-citizens, the legal and policy framework also provides for the ability to manage the majority of individuals in the community through the grant of bridging visas. Detention facilities are finite and expensive resources that should be used judiciously.

There must also be a move away from regarding the detention network as appropriate for the most extreme cases requiring special care or intervention. The Department should not be managing, within its network, those who pose an extreme safety and security risk or those who are extremely vulnerable. The Department needs to make better use of partnership arrangements with specialists to manage those extreme cases and focus on providing an efficient and effective, fit for purpose detention network.



One of the most vulnerable groups that the Department regularly deals with is unlawful non-citizen children. A core principle is that children should not be held in detention centres. The Department possesses a number of alternatives to holding children in detention centres and for the vast majority placement in the community is appropriate.

A status resolution focused placement model

To support the status resolution-focused, risk-based approach to the management of individuals the Review proposes a new placement model. While the placement model adopts much of the current legislative and policy framework, it will result in a number of significant changes to the way in which individuals are managed while their immigration status is resolved.

The placement model is a four-tiered structure comprised of community placement (tier 1), transit accommodation (tier 2), high security detention (tier 3), and specialised detention (tier 4).

Tier 1 - community placement will see the majority of individuals made lawful through the grant of a bridging visa or for the small number who cannot be given lawful status for policy or legal reasons, a residence determination. Placement in the community will be accompanied by a suite of conditions and services that can be flexibly applied and adjusted according to changes in the individual's risk profile and needs. Monitoring of progress towards status resolution, compliance with conditions and suitability and effectiveness of services will occur throughout an individual's community placement. The frequency and intensity of monitoring compliance with conditions will be informed by the individual's risk profile.

Tier 2 - transit accommodation will be used for individuals who require a short period of immigration detention to resolve their status (e.g. to facilitate removal) or to manage transition into the community (e.g. while identity or health checks are undertaken). Services provided will only support short-term detention. Individuals will be detained for a determined period of time. Any extension of transit accommodation placement will require approval by a senior departmental officer.

Tier 3 - high security detention will only be used for individuals who pose a high risk to safety and security and cannot be managed in the community, even with the imposition of maximum conditions to restrict autonomy. Individuals will be held in fit-for-purpose detention facilities.

Tier 4 - specialised detention will be a discrete and formalised immigration detention capability for those small number of individuals who would normally be accommodated in tier 3 but due to the extreme risk they pose to themselves or to others require care from expert providers. Specialised facilities could include prisons, specialist health facilities and juvenile facilities.

A new risk framework

The placement model's key support is a framework and supporting tools which will assist decision-makers to determine the risk an individual poses to the community and to the status resolution process itself, and will guide the management of those who are vulnerable. While placement informed by risk has been a long-standing approach, what has been lacking is a robust framework supported by a multi-faceted and rigorous decision-support tool.

The risk framework and associated tools will support the Department moving away from a cohort-centric view of individuals, where groups are distinguished as IMA, non-IMA, character cancellation, over-stayers etc. Decision-makers will be empowered and supported to make placement decisions which optimise resolution of immigration status and at the same time support community protection. This will include determining the conditions and services that attach to the placement.

The risk profile will be monitored and updated as circumstances change, acknowledging that an individual's risk and needs rarely remain static over time.

More tailored and appropriate services

There are a range of services currently provided to those who are in the process of resolving their immigration status. Access to services is often determined by the nature of the cohort, in particular whether an individual is an IMA or a non-IMA. Consistent with the new placement model, the services an individual receives must support the resolution of their immigration status and be matched to their risk. This will require the Department to revisit its current service arrangements, subject to contractual obligations, to ensure they effectively support the new model.

In addition to reviewing the range of services required, the Review recommends that the Department assess, through the Government's contestability framework, who is best placed to deliver services and the optimal method of delivery. The Department should deliver services that reflect its core business. Services which are not the Department's core business should be reviewed to determine whether they should be provided by a third party, which could include another government agency. Those that are delivered by third parties must also support status resolution.


A fit-for-purpose detention estate

Due to fluctuations in demand and in particular the difficulty in accurately predicting the numbers in tier 2 and tier 3 detention, an effective way to manage the detention estate would be through the development of precinct style facilities. Segmented precincts will allow the separation of individuals who pose a high risk, from those who are transiting through. A modular design will allow for an adjustable configuration to meet changing requirements.

The fit-for-purpose detention estate would be supplemented by the continued use of alternative places of detention (APODs) where this is a more appropriate way to manage an individual. The detention estate should also be supplemented by the Department continuing to explore opportunities to establish additional short-term transit capacity (tier 2) in or near major airports.

A key principle is that detention centres will not accommodate children, the Department needs to provision for families with children some of whom may wish to remain close to a family member in a detention centre. Community placement (tier 1) accommodation close to a detention facility would allow this access to occur.

While the detention estate will allow for a moderate surge capacity, it is not equipped to deal with an unexpected major shock to the system, such as the resumption of large scale arrivals of IMAs or significant changes to the risk profile of individuals. Contingency planning is needed and should be informed by ongoing



strategic intelligence to ensure that, should the Department have to stand-up additional detention arrangements quickly, a shock to the system does not undermine the integrity of the model.

The right people, in the right positions with the right skills

The Department needs to have a professional workforce capability centred on status resolution as an integrated process. This will include formalising and operationalising the ‘empowered officer’ role. The creation of the ‘empowered officer’ is likely to have consequences for the job design of other roles that impact on an individual while their status is resolved. This may include roles such as field compliance, case management and removals officers. Such roles will need to be reviewed with an eye to supporting streamlined processes, ensuring clear accountability and avoiding duplication or redundant processes.

Changes in roles and responsibilities will necessitate a thorough review of training requirements. The new risk-based placement assessment tool, the management of greater numbers in the community and the changing nature of those in immigration detention facilities will need to be supported by revised training.

Improved governance, assurance and accountability

The Department does not currently have a mature systems view of all the business functions and processes involved when managing an unlawful non-citizen until they either depart or are granted a substantive visa. As a result, the Department has difficulty fully appreciating the impact that changes to one part of the system have on other aspects, including capacity within detention facilities. The placement model and associated processes require coordinated oversight to ensure the full implementation and ongoing success of the new approach.

The most logical body to provide this oversight is the current Community Protection Committee (CPC), although the CPC would require a review of its membership, terms of reference and possibly a name change to better reflect its full responsibilities. The name ‘Status Resolution Committee’, for example, would more accurately describe the committee’s role and purpose.

To support the CPC, the Review recommends the Department establish an evaluation framework with clearly defined metrics for evaluating and monitoring the placement model. This should include metrics to monitor the impact of the model on immigration status resolution.

The CPC and the placement model more specifically will need to be supported by clearly articulated and understood accountability for all components of the system.

The Department could also consider recommending to the Minister, that the terms of reference and membership of the *Minister’s Council on Asylum Seekers and Detention* (MCASD) be reviewed to reflect the status resolution focused, risk-based approach to the management of individuals. A repurposed MCASD would provide additional rigour and depth of understanding that the CPC could utilise to guide and mature the placement model.

In relation to decision-making around individuals placed in the model, a clear escalation process should be established to support the ‘empowered officer’ role. A senior responsible officer with accountability for placement decisions should have the authority as arbiter when the complexity of a placement decision warrants its escalation. The senior responsible officer should be supported by specialist expertise. Currently, the escalation process for difficult cases is unclear and varies regionally. The implementation of a new escalation process will necessitate the review of the current internal bodies, including those in the regions, which support the integrity of detention and status resolution decision-making.

The Department’s detention assurance function, audit and other relevant assurance functions should not be dismantled as they support good governance and assurance practices.

Robust information, knowledge and systems

Information about individuals who interact with the Department is currently held in multiple systems both within and outside the Department. Much of this information will be relevant to support the integrity of the risk-based placement decisions made by 'empowered officers'. While a single view of an individual from an IT systems perspective may not be feasible in the short to medium term, the Department will benefit from ensuring its officers have access to all relevant information needed to make sound risk-based decisions. The Department has commenced a review of how information is currently collated and accessed internally. Additionally, the Department would benefit from considering information available from external sources and how it is best provided to 'empowered officers' to support decision-making.

It is likely that there will be requirements for new or different information to support the placement assessment tool as it matures. The Department's intelligence and information areas will need to work closely with the business as the risk framework and placement assessment tool develop.

In addition to understanding the information required to support decision-making on individual cases, the Department needs to understand how the whole system operates and measure its effectiveness through a sound evaluation framework. The effectiveness of both the placement model and more broadly, the entire system need to be monitored to ensure emerging risks and sub-optimal performance are identified in a timely way, to allow for remediation action. The evaluation framework and performance measures need to be supported by authoritative and trusted data, preferably from a single reliable source of truth.

The model and its effectiveness would be further enhanced by a programme of empirical research, centred on the behavioural factors that impact on the resolution of immigration status. Such research will enable the Department to measure, in particular, the effectiveness of the placement model in supporting status resolution.

Improved financial management


The Department moved from a 'no win, no loss' funding arrangement to a Demand Driven Model (DDM) in 2013-14. For a number of reasons, including amendments to operating models used in the management of IMAs and non-IMAs and the change in the composition of the detained cohort, the DDM became increasingly unreliable for effectively estimating future funding requirements. It was agreed that moving from the DDM to a more traditional fixed appropriation would give government more certainty around expenditure.

A fixed appropriation which is able to be adjusted through conventional Budget processes means that the Department will need to live within a pre-determined budget. To support the new arrangements, financial management and literacy will need to be improved in the Department. This will include supporting the business to understand the financial implications of changes to policy, the strategic environment, risk tolerances and priorities on the entire system.

Policy and legislation that supports the new approach

A status resolution focused, risk-based approach to the management of individuals needs to be supported by appropriate policy and legislation. Much of the legislative framework required to support the new approach either already exists or may only require minimal change. However, the current policy framework will require a review to ensure that it is strategically aligned to the new approach and this may result in the need for more significant legislative change.

For the placement model to operate effectively, departmental decision-makers will require the legislative and policy support to empower them to make risk-based, status resolution focused placement decisions. Some changes proposed in the placement model, such as the ability to more flexibly apply and change conditions



for those managed in the community and the greater use of technology to ensure compliance with those conditions may require changes to policy and potentially legislation.

In addition, the Department needs to adopt a holistic approach to the policy and legislation that supports the effective resolution of immigration status, essentially the policies that result in the inflows and outflows from the placement model. The placement model does not 'resolve status'. It provides a way to manage people while their status is resolved. If policy does not support minimising the numbers who may become unlawful non-citizens and quickly resolving the status of those who do, then there will continue to be pressures on any placement model. All policies that impact upon inflows and outflows must be aligned and appropriate. Without this, the placement model will not operate as effectively as it should. For this reason, the Department will benefit from more clearly understanding and mapping its end-to-end business processes.

To support this holistic approach, clear ownership for both strategic and operational policy around status resolution, placement decisions (including detention), compliance and returns and removals by business areas within the Department, is important.

Implementation

The changes proposed in this Review represent a significant shift for the organisation and its staff in a number of ways, including how status resolution is viewed, how detention placement occurs and how the Department assesses and manages risk. The challenges associated with introducing such significant change cannot be underestimated and are likely to take some years to fully implement. Management of implementation in an already changing, complex organisation will be challenging. There is currently a fragmented and inconsistent approach to detention placement and status resolution. Placing responsibility for such a significant change into a fragmented system, without a clear owner, dedicated resources and a clear mandate to implement, will likely result in the intended benefits not being realised. Providing the CPC with a clear mandate to oversee implementation will support the success of the new approach.

Given the alignment between this review and the Status Resolution Review recently undertaken in Community Protection Division, it is logical to bring together both reviews into a single implementation plan. Dedicated resources which could coordinate the reform, potentially a dedicated branch, would support successful implementation.



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Key findings and recommendations

A new approach

The Department requires a more strategic and sustainable approach to the way in which it views and manages detention and particularly detention placement.

Detention is a tool that supports the effective and efficient resolution of immigration status. Detention should not be viewed as a business outcome nor is it an end state. Detention is not being used as effectively and strategically as it could be to support the resolution of immigration status. The Department has robust processes in place to ensure lawful detention-related decisions. What it does not have are similarly robust processes that ensure that such an expensive and finite resource is used most effectively.

Part of the problem lies in the Department's fragmented approach to the management of individuals from the time they become unlawful until they depart or are granted a substantive visa. There is insufficient understanding across the Department of the impact that a change to one part of the system has on other parts. A change in policy, priorities, risk tolerance or operational imperatives somewhere in the system can create enormous pressures on the detention network. A system view has not been clearly articulated or supported with sufficient tools to allow business owners to make what can be quite complex assessments of upstream or downstream impacts.

The absence of a system view has resulted in the detention function becoming compartmentalised and has inhibited the ability of the Department to properly consider and develop its suite of available placement options. For the majority – those who do not pose a high risk – accommodation in a detention facility may not be necessary to facilitate the resolution of their immigration status and, therefore, should be the option of last choice.

Use of detention facilities for only those who pose a high risk will pose challenges for safety and good order within the detention centre network. However, the detention powers contained in the Migration Act are administrative in nature, not punitive, and there is always a need to guard against the risk of the workforce and stakeholders operating detention facilities failing to properly distinguish between the two. Clear articulation of the use and purpose of detention should guard against this.

It is not just departmental staff and service providers who need to clearly understand how the Department intends to more strategically utilise its limited detention resources. For example, there can be an assumption from within the criminal justice system that some non-citizen subject to criminal charges will be placed in immigration detention, thereby influencing bail decisions. High level engagement with police and courts will be required to ensure that there is a clear understanding of the Department's risk-based approach to the placement of individuals.

A concerted effort will be required by the Department to reset the narrative around detention and ensure it is used sustainably and strategically.

Recommendations

1. The Department adopt the following core principles in relation to the management of individuals while their immigration status is resolved:
 - Resolution of immigration status is the primary business outcome
 - Decisions about the management of individuals must support the resolution of immigration status and be informed by a consistent understanding of risk
 - Management of individuals in the community pending status resolution is the default placement setting
 - Detention is not an outcome. Detention is a tool to support the resolution of immigration status
 - Individuals are accommodated in detention facilities for as short a period as possible
 - Children are not held in detention centres. If a short period of detention is required prior to transitioning children into the community or in order to facilitate removal, it is in an appropriate APOD not an immigration detention centre
2. The Department adopt a holistic *system view* of all the processes that support the resolution of the immigration status of an individual from the time they become an unlawful non-citizen until final resolution; either through departure or the grant of a substantive visa.
3. The Department work in a coordinated way to reset the relationship with law enforcement and the courts to ensure that there is a clear and common understanding of the use and purpose of detention.

A new placement model

The Department has a range of placement options to manage individuals while their immigration status is resolved. These placement options include making individuals lawful non-citizens through the grant of a bridging visa or detaining unlawful non-citizens in immigration detention facilities, APODs and placement in the community under the residence determination provisions in the Migration Act (commonly referred to as 'community detention').

The Department has developed discrete policy and operational processes for each of these placement options and as a result departmental decision-makers are not encouraged to view the placement alternatives as part of a suite of options. This disjointed approach has led, in some instances, to placement decisions that frustrate status resolution outcomes and/or are not commensurate with the risk posed either to the individual or by the individual.

The most obvious disconnect is between those options that make an individual a lawful non-citizen (bridging visa) and those where an individual maintains an unlawful status (those who are detained under the Migration Act and accommodated in immigration detention facilities, APODs or residence determination). The Department's policy processes and in some cases legislation can, at times, make movement between lawful and unlawful status difficult, even when such a change clearly supports resolution of immigration status.

Further complexity arises when the options are considered not through a lawful/unlawful status lens but through a community and detention lens. The Department manages both lawful and unlawful non-citizens in the community but there is little consistency in the way in which those on a bridging visa or those subject to residence determination are managed despite both groups being relatively free to move around the community and individuals in each group having, in many cases, similar risk profiles. The widespread use of the term 'community detention' to describe those subject to a residence determination adds to the confusion and disconnect. The Department has the opportunity to develop a more consistent and aligned approach to community management.

Reforms are also required to manage those who require placement in a detention facility; principally high risk individuals who cannot be managed in the community. Two key areas that require attention are the placement options for extreme risk individuals requiring specialist intervention and placement of individuals who require a short period of transit accommodation.

Immigration detention facilities were not designed to accommodate, for extended periods, individuals who pose an extreme risk to themselves or others. By an 'extreme' risk, we refer to individuals who require the input of specialist expertise – generally beyond the capabilities of the Department – to manage safely. There has not been enough focus on a coordinated and nationally consistent approach to ensuring access to specialist facilities, such as prisons, hospitals or mental health facilities. As a result the onus has been on operational areas, particularly in the regions, and the Department's service providers to provide specialist care within detention facilities or negotiate one-off arrangements with specialist providers.

There is a need for Departmental decision-makers to have the option of a short-term placement in detention to facilitate removal or while longer-term placement options are considered. There is currently insufficient guidance for decision-makers about when and how to use detention facilities to achieve these aims. Transit accommodation should be a short-term placement option. There needs to be strong policy support and sound planning to ensure that only short periods of transit accommodation are required. Some of this work has already commenced. The requirement for transit accommodation is likely to increase proportionate to rising traveller numbers. Policy and procedure must support quick and constant movement through detention facilities.

Recommendations

4. The Department adopt a holistic, system-wide approach to the placement options available for managing individuals while their immigration status is resolved by implementing a four tier risk-based placement model which comprises:
 - Tier 1: Community placement
 - Tier 2: Transit accommodation
 - Tier 3: High security detention
 - Tier 4: Specialised detention
5. The conditions and services that attach to community placement are determined by the risk assessment of an individual not whether an individual is on a bridging visa or subject to a residence determination. Conditions and services for community placement be adjusted, to the extent legally possible, to reflect this approach.
6. Bridging visas become the default for those in tier 1. Residence determination used only for those who cannot acquire lawful status for policy or legal reasons.
7. To reflect the alignment of services and conditions for those on bridging visas and those subject to residence determination the Department no longer use the term 'community detention', which is misleading, and establish a means of having it removed from all documentation, publications and briefings.
8. Placement in transit accommodation is subject to a standard maximum time limit which can only be extended on a case-by-case basis with senior approval, supported by clear guidelines.

A new risk framework

The provisions for detaining individuals under the Migration Act are generally well understood by officers. Less clear are the processes for determining how best to manage an individual while their immigration status is resolved. While there is an understanding that an assessment of risk should form the basis of decisions about the management of individuals, departmental decision-makers have not been as supported to make risk-based decisions that best support effective status resolution outcomes.

The Department has a multitude of risk-based processes, frameworks and tools that have been developed in isolation and have varying degrees of maturity. Many take a single lens view of risk. For example, while there has been a strong focus on safety and security, currently there is no singular risk-based process to determine an individual's vulnerability or to assess how a placement decision might best support status resolution.

A single, consistent way for decision-makers to assess how to manage an individual while their immigration status is resolved is lacking. This includes where they should be placed and what conditions and services should be attached to the placement. There are inconsistent processes to identify, escalate and resolve complex placement issues and clear guidance on the triggers for reassessment of placement decisions.

While there will always be a need for decision makers to exercise discretion and apply their knowledge and experience, the lack of a consistent risk-based placement assessment tool has left decision-makers unsupported and prone to risk-averse decision-making, which can result in the more frequent use of restrictive placement options, such as detention facilities. This places pressure on the immigration detention network.

The Review notes the considerable work done by the ABF and the detention service providers to develop sophisticated risk-based products to ensure the safety, security and good order of detention facilities. These products will continue to be required.

From a whole-of-system perspective, there are a range of risk tolerances and risk assessment products that determine the Department's interaction with individuals. For example, there is a risk-based approach to triaging community character cancellation cases and compliance field operations. The tolerances and assessment methods for making risk-based decisions in various parts of the system vary and can, at times, be inconsistent. This creates pressure on the placement system, particularly for detention facilities.

The Department will continue to require a variety of risk-based products as they serve different purposes in different parts of the system. While a single risk framework or tool that can be applied across all aspects of the system is unrealistic, the Department needs to mature its understanding of the impact of risk decision-making on the system and align its risk-based tools to the extent possible.



Recommendations

9. All decisions on placement, conditions and services are based on a status resolution focused, risk-based placement assessment framework and tools.
10. The work done on the Community Protection Assessment Tool (CPAT) form the basis for the development of the status resolution focused risk-based placement assessment tool. The placement assessment tool aligns to the extent possible with the existing risk tools and frameworks.
11. The risk-based placement assessment framework and tools assist in triaging cases to support quick and efficient decisions for less complex matters and to escalate complex cases for a more specialised assessment. These decisions are made by appropriately trained decision-makers with access to the full range of information available about an individual.
12. Placement assessment decisions are reviewed at appropriate points of an individual's status resolution pathway, based on the individual's risk profile, status resolution milestones, external triggers or designated legal or other requirements.

More tailored and appropriate services

More attention needs to be paid to ensuring a consistent and holistic approach to the services an individual should receive while their immigration status is resolved.

The Department's understanding of the effect that services can have on supporting an individual's engagement with immigration processes can be matured. There is, for example, some international evidence to suggest that providing services to preserve individual autonomy, thereby enabling an individual to live as normally as possible, leads some individuals to make more rational and informed choices regarding their immigration status. In other cases more restrictive conditions and limited services may encourage those who have exhausted all their options to remain in Australia to depart. What is missing is sound behavioural-based research in the Australian context.

Additionally, the lack of a systems approach has resulted in a disjointed service delivery model. Siloed business areas operating under considerable pressure have often made practical and pragmatic decisions about services with little visibility of their impact on the system and on status resolution. Business areas have not been well supported by the Department to make sound decisions about the services that individuals require.

Once the Department has established what services are required, who delivers them and how they are delivered requires consideration. The Department has built capabilities in areas which potentially may be more efficiently administered elsewhere. The Department spends large amounts of money delivering a range of services to individuals while their immigration status is resolved.

An area that needs particular focus is the delivery of services to those in the community. The services provided under the current Status Resolution Support Services (SRSS) programme, requires review due to the changing nature of the community cohort.

There remains also a question as to whether SRSS services should be considered core business for the Department. Importantly, consideration needs to be given to whether SRSS or any replacement programme effectively supports status resolution. The Department will also need to consider whether it requires any additional services to ensure that those in the community comply with the conditions of their placement.

Another area of significant concern is the services provided to those who present an extreme risk either to themselves or others. In some cases the Department has managed these individuals within detention facilities with the support of service providers. In other cases alternative placements have been organised, for example in prisons and health facilities. The approach to obtaining alternative placements has been ad hoc and largely reliant upon good will and individual relationships with third party providers both in government and the private sector. The Department requires a sustainable and nationally consistent approach to service provision for extreme risk individuals.



Recommendations

13. The Department consider, through the Government's contestability framework, services required to support the placement model and how best to deliver them. This will include ensuring that support services work as part of an integrated status resolution system and reflect the risk-based management of individuals.
14. The Department adopt a coordinated and nationally consistent approach to ensure access to the specialist facilities required to support tier 4 placement.

Fit for purpose detention estate

The immigration detention estate has necessarily responded to a range of pressures which have changed the size and risk profile of the detention population over the previous ten years. Individuals have been detained in facilities that were not originally designed to accommodate the particular risk profile of an individual or for the length of detention. For example, facilities intended as short-term low-risk immigration transit accommodation have been used to house longer-term high-risk individuals and high security detention centres have been used for extended periods for low risk individuals.

The unpredictable nature of the global migration environment, and the extent to which Australia's migration programme is influenced by factors external to government control, means that predicting the size and composition of a future detention population with any degree of accuracy is extremely difficult. The immigration detention estate will always require flexibility and adaptability built into its design to cater for fluctuations.

Despite the best efforts of the Department's operational staff and service providers, the pressure on the estate has also resulted in the placement of high risk and lower risk individuals in detention facilities from time to time, creating the potential of significant risk for individuals and the Department. The Department will continue to require the ability to manage individuals who pose a high risk to safety and security as well as a growing cohort who may require a short period of detention to facilitate their status resolution. The estate, therefore, needs to be configured to safely and separately accommodate both groups. The Department would also benefit from having additional short-term transit accommodation located as close as possible to airports.

Historically, there has been an inconsistent approach to the way in which individuals who pose an extreme risk to themselves or others are placed and managed. As a result the Department has attempted to adapt its facilities for such individuals, with the potential for creating significant risk for individuals, staff and service providers, when specialist placements may be more appropriate.

The requirement to accommodate families with children has placed pressure on the detention estate, with considerable effort made to create appropriate and segregated family friendly accommodation, particularly for the small cohort of families who have one parent who must remain in detention centre due to their risk profile.

A key principle is that detention centres, no matter how they are configured, are not appropriate places for children. The use of APODs if detention is absolutely necessary to facilitate removal or to support transition into the community should continue. Additionally, for those families where an immediate family member must remain in a detention centre, community accommodation in close proximity to the detention centre with visitor access is the preferred and recommended option.

The Department holds illegal foreign fishers (IFFs) on behalf of the Australian Fisheries Management Authority (AFMA). While it is historically a small cohort it has been subject to fluctuation and the Department does not currently factor the accommodation of IFFs adequately into its estate planning.



Recommendations

15. A flexible immigration precinct model be adopted which comprises separate and segregated tier 2 and tier 3 accommodation which can be reconfigured as required to respond to changes in numbers and proportions in each tier.
16. The Department continue to utilise alternative places of detention (APODs) where such accommodation is more appropriate to support individuals and facilitate status resolution.
17. The Department explore opportunities to establish transit accommodation at or close to all major airports to facilitate airport turnarounds and support removals.
18. The Department provide a small amount of village-style housing in close proximity to detention precincts for families with children who require access to an immediate family member who cannot be released from high security detention.
19. The detention estate not be designed to cater for the ongoing detention of extreme risk individuals. All detention facilities have the capability to safely accommodate an extreme risk individual for a very short period while a more appropriate placement is organised.



The right people with the right skills

Within the Department, from a governance perspective, it is at times unclear which officers and business areas have the authority to determine the appropriate placement, conditions and services for an individual while their immigration status is resolved. Additionally, there is no single existing role with the relevant authority to make decisions across all the current placement alternatives. The success of the placement model will rely upon decision making by officers authorised to make risk-based and status resolution-focused decisions on placement, conditions and services.

There are a large number of roles that interact with an individual during the resolution of their immigration status. Some of these roles were established as a response to the gaps and potential risks in the management of individuals identified in various reviews. While the creation of these roles responded to specific needs and risks at the time, the lack of a holistic approach to role development has resulted in fragmented and overlapping responsibility and processes, causing multiple hand-off points and insufficient focus on the resolution of immigration status.

Realignment of workforce roles to support a new approach to the management and placement of individuals while their status is resolved will require a review of all relevant training. Training will be required for both administrative and enforcement roles and this training will need to be developed and delivered consistently to officers both within the ABF and the broader Department.



Recommendations

20. The Department include in its forward workforce strategy and planning (People 2020 and beyond) a professional workforce capability focused on the resolution of immigration status with clearly defined capabilities and competencies supported by appropriate training and support.
21. The Department introduce the concept of 'empowered officers', building on the conceptual thinking commissioned jointly by the Detention Capability Review and the Community Protection Division.

Improved governance, assurance and accountability

The Department does not have a systemic view of status resolution which has resulted in disconnected processes, with business owners not sufficiently aware of the impact their decisions can have on other parts of the system, including the Department's detention capability. Competing priorities, practices and performance targets have developed as a result, as business owners reside both in the ABF and across the wider Department.

Managing business processes that form part of a large and complex system in this environment is challenging and requires more than a reliance on personal relationships. The governance of the organisation must support a holistic approach to the system. The system may be considered too large and complex for a single business owner but there are current governance committees which, with some minor realignment, could own, provide visibility of and/or support the system. These governance bodies include the Community Protection Committee (CPC) and the Strategic Command Group (SCG).

Ideally, these governance bodies would be supported by an area that can provide high level support to the governance committee, business areas and government to ensure there is a system-focused view of the impact of major decisions and changes to policy, priorities, risk tolerance and operational imperatives.

The fragmented approach has also led to a lack of clarity in the roles and responsibilities of officers who make decisions about managing individuals while their immigration status is resolved. This is particularly evident in the management of complex cases. Disagreements between business areas about the best placement options for an individual have resulted in delayed decision-making, outcomes that do not optimise status resolution outcomes and in the worst examples, cases that remain in a loop of review and escalation without any clear pathway for resolution. Regional variations in approach have also added a layer of complexity. This creates potential risk for the Department and more significantly for the individuals whose immigration status relies on our systems, processes and efficacy and appropriateness of our decision-making.

A large number of governance assurance products and processes have been developed over the years. Many of these have been developed in direct response to lessons learned from the past, particularly around ensuring the lawful exercise of the Department's detention powers. These are vitally important and any changes to governance and assurance framework must not lose sight of the significant lessons learned from past reviews and court decisions.

The Review recognises the Department's significant investment in detention assurance. By necessity, the new Detention Assurance function has, to date, been focused on remedial action in relation to specific detention related incidents. The move towards a more forward focused and strategic detention assurance capability is welcomed.

The Review notes that the *Ministerial Council on Asylum Seekers and Detention* (MCASD) has provided invaluable information and advice during the surge of IMAs since 2009. Managing greater numbers in the community, the reduction in proportion of those in detention facilities seeking protection, and the greater number of individuals with character concerns undergoing status resolution, may require some realignment of the focus and expertise of the Minister's advisory council.

Recommendations

22. High level oversight of the system (from identification to resolution) is required – both for implementation and for maintaining the integrity of the system. Oversight of implementation rest with the Community Protection Committee (CPC). The CPC be supported by a dedicated branch/team. The branch/team also provide support and advice to the business areas responsible for individual parts of the system to ensure a consistent and joined-up approach to decision making and priority setting.
23. The name, terms of reference and membership of the CPC be reviewed to reflect its ownership of the system. Specifically, to replace 'community protection' as the primary label and replace with something more reflective of the higher-order purpose of effective status resolution.
24. Strategic Reform Group retain oversight of ongoing alignment of this reform with other pieces of significant business change across the portfolio.
25. The CPC and its support branch/team provide advice to the Strategic Command Group (SCG) to ensure that operational priorities support a system-wide view. The membership of the SCG be reviewed to ensure appropriate representation from across the system.
26. Performance targets for all aspects of the business that form part of the system be reviewed to ensure performance targets for one part of the business do not adversely impact on the system as a whole.
27. The management and escalation of complex placement be reviewed to ensure 'empowered officers' are supported with clear lines of responsibility, accountability and escalation, access to appropriate expertise and national consistency to ensure timely and efficient resolution of complex cases. This includes identification of a senior responsible officer (SRO) who has ultimate responsibility for placement decisions. The SRO should be in Visa and Citizenship Services Group and have access to a group/committee/board comprised of experts which includes specialists in safety and security and vulnerability.
28. The Department recommend to the Minister of Immigration and Border Protection, that she/he consider revising the membership of the Ministerial Council on Asylum Seekers and Detention (MCASD) to reflect the holistic approach to the resolution of immigration status, the changing nature of the status resolution cohort, and the predominant management of individuals in the community.

Robust information, knowledge and systems

The Department is actively working to ensure its decision-makers have accurate, comprehensive and timely information on individuals, from the time they first have contact with the Department and throughout their status resolution pathway. A joined-up and empowered risk-based approach to decision-making will require such information.

The Review has noted the outcomes of the Intelligence Capability Review and the enhancement of intelligence capability in the immigration detention network. The Review supports this business change.

While the Department has been actively working to ensure the integrity of the data it collects, it does not currently have a clear method for measuring the success of the system outlined in this Review and the proposed changes. It is, therefore, difficult to be confident that the right data is being collected and analysed.

While some of the data to support improved performance measures would already be available, the Department does not possess an understanding of behaviour-based initiatives to maintain high levels of visa compliance, that may more accurately predict and model potential flows through the status resolution process.

The Department's current evaluation framework does not holistically monitor the health of the system. Consequently, the Department is not able to effectively monitor and evaluate the impact of policy and operational decisions on the system.

Sustainability of the proposed model is premised on the ability to predict and prepare for both minor and major 'shocks' to the system – such as unexpected and significant increases in the arrival of certain unlawful cohorts. Intelligence and information analysis will be required to provide, to the extent possible, advanced notice of potential shocks to the system.

The Review also noted the lack of broad-based empirical research that would assist the Department to understand the strategic environment, including research that assesses the interaction between placement decisions and status resolution outcomes.

As the implementation of the new model will take some years to be finalised, it will be important to have intelligence and information that is designed to provide feedback on the impact of the changes and whether these changes are having the desired – as opposed to unintended – impact.



Recommendations

29. The intelligence requirements needed to support the new model is incorporated into future intelligence capability investment planning.
30. Any changes that are made to information systems continue to support the joined-up approach to the management of individuals while their immigration status is resolved.
31. The Department invest in a forecasting capability to predict the impact of changes in policy, operations and/or the strategic environment on the entire system. The forecasting tool be owned and administered by the programme office/team that supports the CPC.
32. The Department ensure it has a well-developed and scenario tested contingency plan to manage serious shocks to the system. Contingency planning must be informed by ongoing strategic intelligence and draw on the lessons learned from previous shocks to the system.
33. The Department develop an evaluation framework, supported by empirical research, to monitor the ongoing impact of the proposed approach to the management of individuals while their status is being resolved. The evaluation framework be subject to regular, formal reviews as part of the Department's audit programme.
34. The Department take an active evaluation approach to the implementation of the recommendations of the Review over the next two to three years. The evaluation function should inform a remedial response; the model's settings should be subject to continual review and re-casted as lessons are learned.



Improved financial management

The lack of a system-wide view of status resolution and the role of detention in that system is also evidenced by how effective financial management is achieved. Essentially, there is a limited understanding of the financial implications that a change in one part of the system will have on other parts of the system, and a lack of a suitable tool to support such modelling. The Department's financial area previously used a stock and flow model to support the demand driven IMA funding. While the tool was useful it was limited by its complexity, the lack of a system view and flawed assumptions.

The move away from a Demand-Driven Funding model to a Fixed Funding Model will require the business to be able to better forecast, plan and prioritise the available places in detention facilities. The Finance Division has already made changes to its operating model so that there will be an improved system-wide focus on this fixed administered funding which will better support the business.

There are finite resources available to support our compliance, status resolution and detention functions. Lacking the ability to accurately forecast future flows through the system makes allocating resources and providing clear advice on the implications of resourcing decisions difficult.

Changes to the program structure have been made for the 2016-17 Financial Year to better align funding with activity. The Chief Financial Officer and Policy Group should consider alignment of the Department's Outcome and Program structure throughout and following implementation of the Review recommendations to ensure continued alignment between the business and the Department's funding and reporting arrangements.



Recommendations

35. The Department's Finance Division work with the programme office/team on the forecasting capability to ensure that it supports better understanding of financial implications on changes to the wider system.
36. The CFO and Policy Group incorporate the outcomes of this Review into a review of the department's outcome statements under the *Public Governance, Performance and Accountability Act 2013*, ahead of the 2017-18 budget process.

Policy and legislation that supports the new approach

The current policy framework that supports placement and status resolution contains some inconsistencies and gaps, particularly in respect of operational policy. There is, for example, clear guidance on how to determine whether an individual is an unlawful non-citizen but less guidance to support placement decisions.

Many of the policy and legislative levers that the Department needs to support a risk-based, status resolution focused approach to the management of individuals already exists. There are, however, some areas that would benefit from further development and the overall framework will need to be reviewed carefully to ascertain the extent of the legislative changes necessary for alignment with the new approach.

The Department has an existing legal and policy framework that allows effective management of individuals in the community which will need to be enhanced to better support the proposed model. For example, community management would be better supported by a bridging visa framework that allows flexibility in the way in which conditions are applied, changed and monitored. Policy and possibly legislative work will be required to better align the conditions and services that attach to bridging visas and residence determination.

The operationalisation of the 'empowered officer' concept with the focus on a risk-based approach to placement decision-making will also require policy support.

Service delivery policy is another area where greater policy guidance is required and the Review notes that this work has already commenced, led by the Immigration and Citizenship Policy Division in the Policy Group, with contribution from the Children, Community and Settlement Services Division in the ABF Support Group.

However, one of the most fundamental challenges will be the consistent alignment of policy to support a whole of system view of the management of an individual while their status is being resolved. Currently, there is insufficient appreciation for how policy changes in one area may impact on the broader system. The impact of changes to mandatory cancellation is often cited by the business as an example of this.

There remains some lack of clarity around aspects of policy ownership and responsibility. Detention is one such example. While a high-level strategic detention policy area was established, ownership of day-to-day detention policy matters was unclear. In the absence of operational policy guidance, various areas stepped in to fill the gap, including the strategic policy area and operational areas of the ABF creating a fractured approach to detention policy. While issues remain, the Review notes the significant work that has been done over the past twelve months, to provide more clarity around policy roles and responsibilities, including for detention.

The Review further notes the work already occurring in Migration and Citizenship Policy Division to bring together the strategic policy areas that support the system. This will be vital in ensuring the success of the proposed approach.



Recommendations

37. The Department ensure that strategic and operational policy ownership reflects a joined-up, status resolution approach to the management of individuals by having a single policy statement to cover the entire system, with subsidiary policies as required, for the different aspects of the system.
38. All current policies, procedures and legislation are reviewed to ensure consistency with the proposed approach to the assessment and management of individuals pending the resolution of their status.
39. The development of policy (and where necessary legislation) that supports:
 - i. Strengthening decision-making powers of Departmental officers in relation to the management and placement of individuals as their status is being resolved
 - ii. A closer alignment between the conditions imposed on those on bridging visas and those subject to residence determination
 - iii. The ability to flexibly apply and adjust conditions imposed on individuals in the community and to ensure compliance with those conditions
 - iv. The use of the risk-based decision-making tool, and
 - v. Engagement with individuals before they become unlawful to minimise the numbers entering the status resolution process



Implementation

Critical to the success of detention capability reform will be a coordinated, coherent and detailed approach to implementation. The scale of change proposed by the recommendations is significant and complex and will affect multiple areas of the organisation along with service providers, and State and Commonwealth authorities. Full implementation will take some years to achieve.

The Review notes the risk of identifying the resources and focus required to fully implement the new model and associated business changes, amid an already very busy and complex operating environment.

The Review further notes that the lack of a single owner across the broader system will make the oversight of implementation challenging. While the Community Protection Panel has grown to be an effective operational governance body, ensuring it has the visibility and capacity to also oversee a major implementation task is yet to be tested.

A separate but related finding is the importance of a shared language to guide and inform the implementation of the recommendations and maintain strong engagement across the business.

Currently, similar terms are used to describe different processes or procedures or in the alternative the same term holds different meanings for different parts of the business, dependent upon the context in which it is used. For example, terms such as 'compliance' are variously used to describe a process, a role or a part of the organisation. The risks associated with unclear language include inefficiency, miscommunications and potentially unclear accountabilities. In this sense, it is important that the meaning of common terms and concepts are clearly defined, appropriately qualified and socialised to ensure the commonality of language. This will be particularly important as new roles and processes are created. It is proposed that 'old' terminology is avoided to the extent possible when describing functions or roles that are new or significantly different, to highlight the need for change.



Recommendations

40. The high level implementation plan provided by this Review is expanded to a more detailed level as a holistic implementation plan comprising all agreed recommendations and other associated business changes.
41. Sufficient and dedicated resources allocated to oversight of the full implementation plan. This team and a dedicated Senior Responsible Officer (SRO) report regularly to the current Community Protection Committee which has overarching governance responsibility for reporting the Executive Committee and government, as required and directed.
42. While the implementation team has overarching responsibility for managing, monitoring and reporting on progress, relevant business areas maintain ownership of the component parts and must provide updates on progress to the implementation team.
43. The Strategic Reform Programme include DCR implementation in its enterprise-wide tracking and reporting, to monitor interdependencies and ensure alignment with broader strategic intent and agreed target end states.

Background to the Review

The immigration detention network has been faced with significant challenges including the 2012-13 surge of IMAs ultimately addressed through Operation Sovereign Borders (OSB) and a subsequent shift in the nature of the detained cohort due to an increased focus on character and national security concerns. The response to these pressures has been largely reactive and has highlighted deficiencies in the way in which individuals' immigration status resolution is being managed, including a high dependence on detention facilities. As a result, the current system is experiencing escalating cost and increasing risks associated with the detention of individuals and is currently not well positioned to manage the future detainee cohort.

The formal integration of the Department of Immigration and Border Protection (DIBP) and the Australian Customs and Border Protection Service (ACBPS), and the creation of the Australian Border Force (ABF), on 1 July 2015 has presented the new Department with the ideal opportunity to review the way we do our business and position ourselves to deliver effectively for government into the future. For the immigration detention system this means ensuring that it is strategically aligned, affordable, sustainable and supports capability needs now and out to 2025.

A holistic approach

As a holistic review into the Department's detention capability, it was vital to have a clear understanding of the components that were needed to deliver the capability, how they operated individually and as an inter-related system. The Review developed a detention capability model to map the key inputs to the capability, core enablers and key controls. This formed a holistic view of the capability and became the lens through which the Review undertook its analysis of the current state and developed a future state vision.

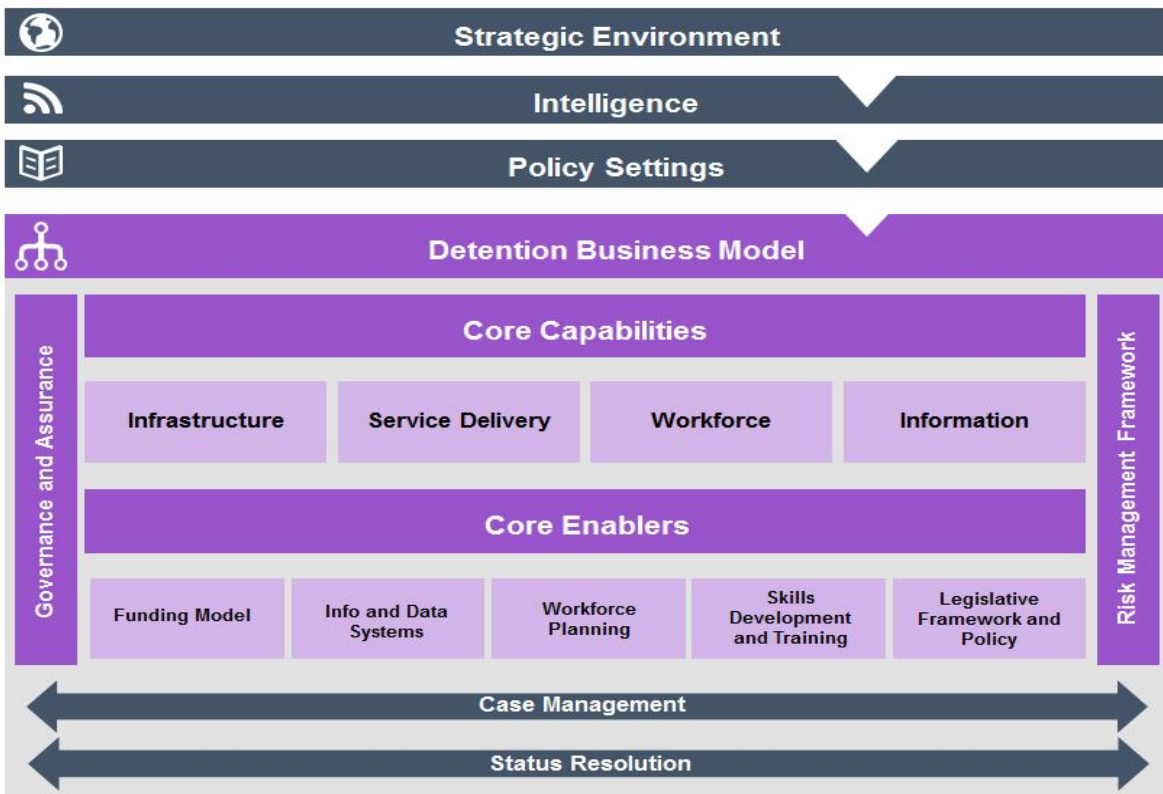


Figure 1: DCR Conceptual Framework



Adopting a systems approach

It became clear very early in the Review that a holistic approach could not view the detention capability in isolation. It needed to be considered as a functional sub-component of a broader system that supports compliance with Australia's migration law. This broader system includes: compliance, status resolution, placement (including detention), returns and removals.

Immigration detention plays an important role in supporting the status resolution process, rather than existing as a stand-alone business function. By drawing the boundaries more widely, the linkages to other business functions that may impact on the sustainability of the system could be properly considered.

It is because of the adoption of this holistic approach that the report deliberately focuses on the primacy of the resolution of immigration status and placement (including in but not limited to detention) and management of individuals while their status is resolved.

The future

The outcomes of the Detention Capability Review (the Review) represent a change to the way the Department manages non-citizens whilst resolving their immigration status. In the long term, the implementation of these changes will have a positive impact on all stakeholders involved in this process, including the Department.

How the future will look

To those who need their immigration status resolved

Those who are in the process of having their immigration status resolved understand that if they cooperate with us and abide by Australia's laws they will be able to remain in the community until their case is finalised. They know that if they do not comply with the conditions of their placement in the community or engage in behaviour that involves high-risk to safety or security, a consequence could include placement in a detention facility.

Those in a detention facility know they will be treated with respect by us and by our service providers. Their accommodation will be safe and fit for purpose and that they will receive appropriate services. They understand why they are in a detention facility and what is required to resolve their immigration status.

To our staff

Our staff are focused on resolving immigration status. They are empowered and supported to make decisions about the management and placement of individuals while their immigration status is resolved. Our staff have the tools, information, policy guidance and training to do their jobs. They are supported by strong leadership and encouraged to deliver.

The majority of our staff work with those who are placed in the community. A small number of staff work in detention facilities that are safe and secure environments. They have the tools required to manage high risk detainees. Our staff work in close partnership with service providers in detention facilities, specialist facilities and in the community.

Our staff are proud of the work they do. They understand its importance for Australia's economy, social cohesion and the security of our borders.

To our service providers

Our service providers understand our vision, objectives and priorities. We work in partnership to ensure the effective and timely delivery of services that support the resolution of immigration status. Information is shared appropriately to ensure that we have a complete picture of individuals to ensure well informed, risk-based decisions.

Our service providers have contracts with us that are clear and focused on delivery of outcomes and are proactively managed. We listen to their feedback and are honest and transparent in the way we assess both their performance and ours.



To government

Government knows that we are focused on timely and effective status resolution. Government is confident we can safely resolve the status of the majority of individuals while they are in the community and that our detention facilities are only used when it is appropriate to an individual's risk.

We have demonstrated to government that we run those facilities cost-effectively and sustainably; with fit-for-purpose provisioning which allows us to respond to the changing nature of our cohorts.

Government receives accurate and timely information and reporting about individuals and about the system as a whole. Government is confident that the information we provide supports effective strategic planning.

To the Australian community

The Australian community trusts us to treat people fairly and respectfully while their immigration status is resolved. They are comfortable with community placement because we demonstrate that we can identify any risks to the Australian community while we resolve immigration status quickly and efficiently.

The Australian community knows that our detention facilities are safe, secure and well run. They trust that the individuals in our facilities are there only because they cannot be managed in the community and that we will take measures to ensure that they are there for as short a period as possible.



A new approach to the management of individuals while their immigration status is resolved

To ensure strategically aligned, affordable and sustainable use of detention, the Department needs to adopt a new approach to management of individuals while their immigration status is resolved. The Department needs to:

- acknowledge that immigration status resolution is core business and ensure that decisions about the management of individuals promotes timely status resolution
- ensure placement in the community for appropriately assessed individuals. Immigration detention facilities should be used for as short a period as possible and only when the required status resolution and risk mitigation outcomes cannot be achieved within the community
- ensure there is a consistent understanding of risk and decision-makers are empowered and supported to make sound risk-based decisions on the management and placement of individuals
- ensure the default position is no children are held in detention centres
- adopt a system-wide view of the functions and processes designed to support the management of individuals and a greater understanding of the impacts of changes to policy, demand, risk tolerance and prioritisation on the system

A new placement model

The Review recommends the Department adopt a new placement model that focuses holistically on the management of individuals while their immigration status is resolved. The placement model is comprised of four tiers that have been designed to accommodate individuals according to specific risk categories.

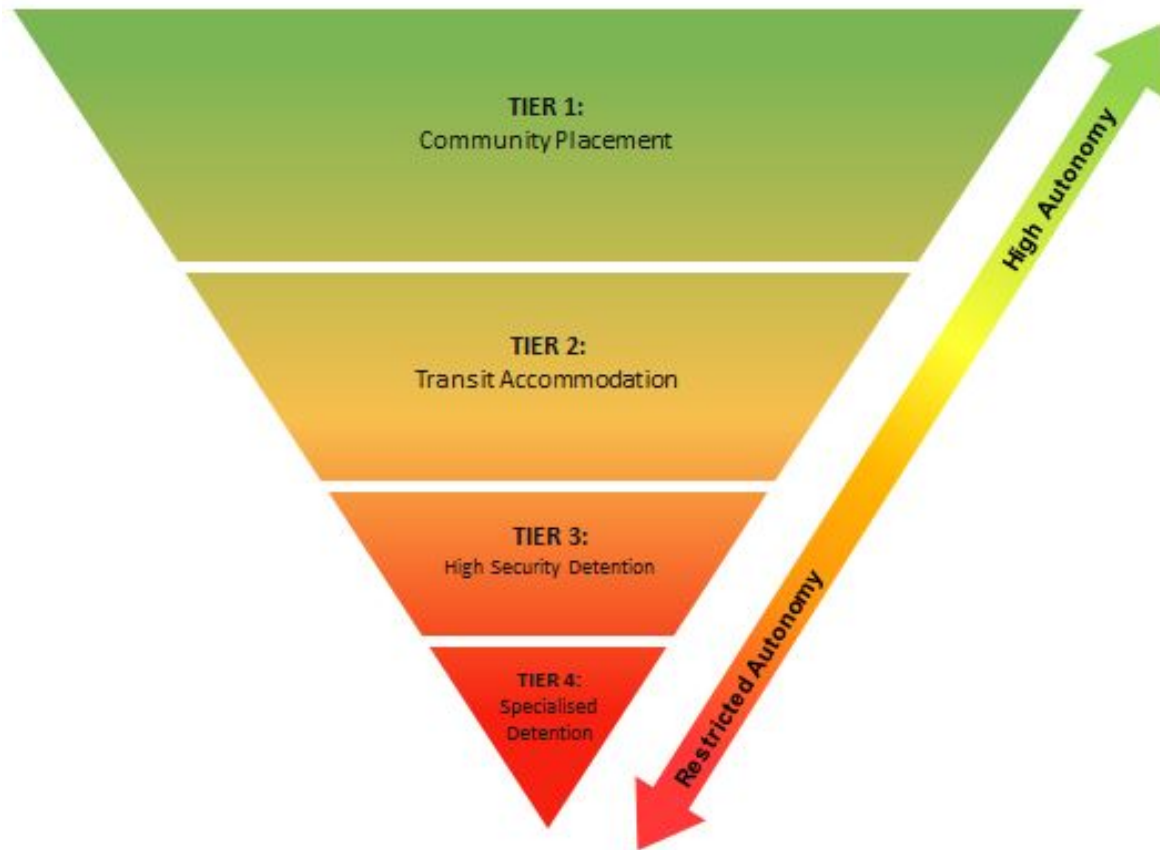
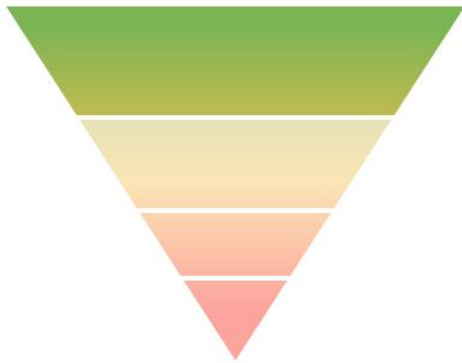


Figure 2: *The Placement Model*

At a conceptual level the model is based on the proposition that as an individual's risk increases (risk to either resolution of immigration status or safety and security, including their own) their level of individual autonomy decreases. As individual autonomy decreases, the level of services and support that are required will increase.

Assessment of individual risk is therefore fundamental to the operation of the placement model. Individual risk assessment needs to be multi-faceted and guide the placement decision. This is a fundamental shift, moving the Department from what has been at times, a cohort view of placement to a more sophisticated, individualised assessment of risk that has a clear focus on the resolution of immigration status. The risk framework is discussed in greater detail later in this Report.

Supporting the risk-based approach to placement is the creation of clearly defined roles and responsibilities for making such decisions. The model introduces the concept of an 'empowered officer' who is focused on resolution of immigration status and the management of individuals while their status is resolved. The concept of the 'empowered officer' is discussed later in the Report.



Tier 1 – Community placement

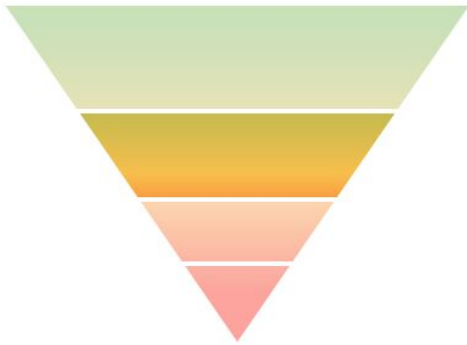
Individuals in tier 1 will have been assessed as posing a low to medium risk to both safety and security and resolution of their immigration status (i.e. with the right conditions and services the individual is likely to continue to meaningfully engage with the Department).

The vast majority of individuals in tier 1 will be on bridging visas. A small number will be subject to a residence determination because they cannot acquire lawful status through the grant of a bridging visa due to legislation or policy. The Review envisages that the number of individuals who cannot be granted a bridging visa for policy or legal reasons will remain small. This would mean that in the current environment, for example, residence determination would principally be for transitory persons.

The services an individual receives and the conditions that apply to their community placement will be determined by the individual risk assessment. What this will mean is that an individual on residence determination, subject to any legal impediments, could have exactly the same services and conditions as an individual on a bridging visa.

The conditions imposed and services received in tier 1 will be adjusted as an individual's risk profile changes. If an individual does not comply with a condition, this will not automatically result in an immediate return to a detention facility. Re-detention will be determined by ongoing risk assessment with a gradation of conditions that will encourage individuals to comply and re-engage with status resolution processes.

The Department already manages the majority of individuals in the community and, as such, possesses many of the tools needed to operationalise tier 1 effectively. Changes will however be required to support the optimal operation of this tier, including changes to the bridging visa framework to support greater flexibility for decision-makers and a review of conditions and services.



Tier 2 – Transit accommodation

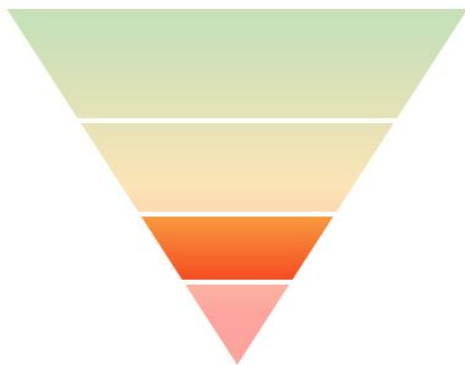
Tier 2 provides the Department with the opportunity to place individuals in held detention for a short period of time to support resolution of their immigration status. This reflects the original purpose of ITAs - short term accommodation to support the resolution of immigration status through either departure or removal or the grant of a visa. Individuals in tier 2 will not be a high or extreme risk to safety and security.

Transit accommodation will be used for individuals who are:

- subject to airport turnaround
- ready to be removed and cannot be removed directly from the community
- awaiting initial health, character and security checks before transitioning into the community
- required to be in held detention for a short period for other reasons

While the Department currently has a transit capacity, the new model will see some significant changes to how transit accommodation is utilised. The key change will be a maximum, mandated time limit for the duration of placement. Transit accommodation is not for long term detention. The purpose of tier 2 is to affect a particular outcome within a certain period of time, be that removal or initial assessment. Therefore, as individuals in this tier are not a high risk to safety and security, if the outcome cannot be achieved within the mandated period they should be managed in the community. Senior authorisation would be required to extend an individual's stay in transit accommodation.

Transit accommodation will include dedicated transit facilities within detention precincts, very short-term turnaround accommodation within airport precincts and APODs. Those who are in transit will not be held with detainees who pose a high risk to safety and security. Transit accommodation within large detention precincts will be separate to tier 3 accommodation.



Tier 3 – High security detention

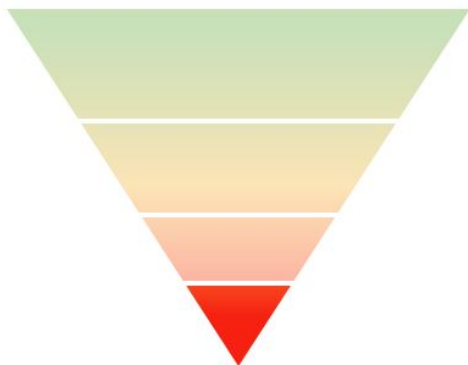
The model retains the capability to accommodate individuals who cannot be safely managed in the community during their immigration status resolution. High security detention will accommodate individuals in fit-for-purpose immigration detention facilities if a risk assessment indicates that the individual poses a high risk to the community. These will be individuals who, even with the imposition of the most stringent conditions, cannot be managed safely in the community. Individuals in tier 3 will be at various stages of status resolution.

Some will require only short term detention, while others may be in detention for longer periods while their immigration status is resolved and any review rights pursued.

High security detention most closely resembles the current network of immigration detention centres (IDCs). However, new design principles will require the detention estate and individual facilities to be modular and segmented in order to flexibly respond to changes in the size and composition of individuals requiring held detention over time.

As the Department builds its capability to manage a more diverse range of individuals in the community through the development of more sophisticated conditions and services, along with policy changes that may support timely status resolution (e.g. prison to plane for s501 cancellations) it is anticipated that smaller numbers may require detention in tier 3 (and tier 4). This assertion is not however uncontested with concern expressed by areas of the business that tier 3 and tier 4 will be growing sectors. For this reason a sound evaluation framework supported by robust research will be required.

There will be no mandated maximum timeframe for tier 3 placement. There will need to be regular review of the individual's placement.



Tier 4 – Specialised detention

Tier 4 supports the Review’s underlying premise that there are government and non-government entities that are better qualified and equipped to provide specialised services to individuals who pose an extreme risk to themselves or others. Facilities should not be configured to manage those who are more appropriately managed by specialist providers. While the Department currently has ad hoc arrangements for the management of extreme risk individuals the formalisation of tier 4 will see a more coordinated systematic approach.

Tier 4 is intended for a very small cohort of exceptional cases who would ordinarily be assessed as requiring tier 3 placement but who pose such an extreme risk that specialised placement is required. This could include individuals who present an extreme risk of violence and would be more appropriately detained in a prison, individuals who have severe mental or physical health issues requiring a specialist medical placement or juveniles who require placement in a juvenile facility.

Specialised detention is not intended for individuals who should be managed in the community with appropriate community support such as health and carer services. It is intended only for those who would otherwise be in tier 3.

Tier 4 is also not intended to replace the normal arrangements made for detainees in tiers 2 or 3 for short-term placement outside a detention centre for a specific issue – for example an operation in a hospital. Current arrangements for providing services through a detention health provider will be retained.

As individuals in this tier remain in immigration detention for the purposes of the Migration Act tier 4 facilities would be designated as APODs as required.

Harnessing the experience and expertise of specialists in the relevant field to supply accommodation and services to individuals with complex needs provides the best conditions for ensuring that the community, the workforce, providers and the individual themselves are protected from harm.

The Review does not underestimate the significant work that will be required for tier 4 to operate effectively. Historically, access to specialised facilities has proved difficult with many (e.g. prisons and mental health facilities) under considerable strain responding to the needs of the Australian community. There may also be legal issues around duty of care and ensuring appropriate departmental oversight that need to be worked through. There are also challenges in ensuring effective and timely resolution of immigration status for those in facilities not controlled by the Department. These issues, while not insurmountable will require dedicated effort to work through.

A risk-based approach to placement

In the future ... a status resolution focused, risk-based assessment will guide the placement of individuals in the model. An 'empowered officer' will decide where an individual is placed and the conditions and services required. The assessment will consider the risk posed to effective and timely immigration status resolution, the health and safety of the individual and the safety of our staff, service providers and the community. The placement decision based on this assessment will be subject to ongoing review.

To ensure that individuals undergoing status resolution are placed into the model, receive services, and have conditions applied, in order to optimise the status resolution process, the Department requires:

- a risk framework to guide placement of individuals
- initial and ongoing assessment of risk
- a multi-faceted approach to risk
- a risk framework that draws upon existing risk policy, tools and products
- a risk framework that supports adjustable risk thresholds
- a risk framework to support fair and reasonable decisions by an 'empowered officer'

A risk framework to guide the placement of individuals

Once individuals who require immigration status resolution come to the Department's attention, the decision about where they should be placed in the placement model will be determined according to the level of risk they pose. The placement assessment will support confidence in Australia's migration programme through effective management of individuals while their immigration status is resolved. This includes ensuring the safety and security of the individual and the community.

The risk framework and placement assessment tool must support placement in the community. While subtle this will represent a shift in thinking from 'can we justify releasing this individual into the community?' to 'is there any reason that this individual needs to be placed in a detention facility?'


The completion of a placement assessment, under the guidance of a new overarching risk framework, will guide a decision to place an individual into a tier of the placement model, recommend conditions associated with that placement, and the type and level of services provided so that the community and the individual is protected from harm while resolving their immigration status.

This risk-based placement assessment is distinct from decisions taken to exercise detention powers under the Migration Act. The application of the risk framework will follow a prior determination about the lawfulness of a non-citizen, although at a practical level it may be done at the same time.

Initial and ongoing assessment of risk

All individuals will require initial and ongoing risk and placement assessments. The timing and frequency will be determined by the information gleaned during the initial risk assessment, and informed by a formal control framework.

The control framework should be incorporated into the design of the risk framework and connected with the broader governance arrangements of the placement model.



There will also be individuals who, after undergoing an initial placement assessment, will require a more comprehensive and specialised risk assessment before an appropriate placement decision is made. Initial decisions about placement, services and conditions may be provisional and subject to the finalisation of the more in-depth assessment.

A multi-faceted approach to risk

A multi-faceted approach will include consideration of risk to the resolution of immigration status and safety and security of the individual and the community.

Resolution of immigration status is put at risk when individuals disengage or repeatedly fail to comply with conditions. An individual may also pose a risk to the safety and security of others. For example, based on past behaviour there may be risk of them committing violent crimes in the community, making the grant of a bridging visa inappropriate. An individual could also pose a safety and security risk to themselves or be at risk from others.

Safety and security and status resolution risks will form the two axes that determine where an individual is placed, based on a low to extreme risk scale.

A risk framework that draws upon existing risk assessment policy, tools and products

There are existing risk tools and processes that assess an individual's risk at various points during their contact with the Department. The placement model's risk framework will not replace all these risk tools although there may be opportunities for some consolidation. The information collected as part of existing risk assessments should be utilised to broaden the evidence base used to build an individual's risk profile.

The placement model's risk framework should be developed with the appropriate expertise to ensure that it endures over time, and in accordance with the Department's broader risk management approach. There should also be an eye to emerging risk products, such as the Visa Risk Assessment (VRA) framework and tools.

Ensuring that existing and new risk products are synchronised with the placement model's risk framework will strengthen connectivity between business processes.

A risk framework that supports adjustable risk thresholds

Environmental factors, community expectations, funding allocations and government policy change over time and this can result in changes to risk tolerances and thresholds. The framework should be adjustable so that the changing nature and appetite for risks can be accommodated in the placement model.

The method of setting risk thresholds should compare potential risks against broader community norms to avoid a distorted picture of human behaviour, and to understand what levels of behaviour are tolerated by the community and policing organisations. If those in the model are to be held to a different standard of behaviour than the rest of the community, the framework should explain why this is the case.

The risk framework's design will also include a formal feedback and learning loop, where risk assessments that may not have accurately reflected the actual risk posed by an individual can lead to improvement of the framework for future use. The risk framework should retain an element of flexibility in its design to remain adjustable in line with environmental changes.

A risk framework that supports fair and reasonable decisions by an ‘empowered officer’

The risk framework will support an ‘empowered officer’s’ placement assessment. To ensure the appropriate exercise of delegated authority, the placement assessment must recommend, rather than compel, a decision.

Governance arrangements will support the placement assessment to ensure consistent, fair and reasonable decisions. ‘Empowered officers’ will be supported by formal escalation and resolution process for complex cases. (see discussion further in this chapter)

Designing the risk framework and placement assessment tool

A placement assessment tool supported by a sophisticated risk framework will match an individual’s circumstances with conditions and services that optimise the timely resolution of immigration status, while ensuring that all parties are safe and secure during status resolution.

Status resolution and safety and security are the two key pillars of the risk framework that will support the placement assessment tool.

The two main objectives of the risk framework that will support the placement assessment tool are timely and effective **status resolution** and the **safety and security** of those involved in the process.

The central questions are:

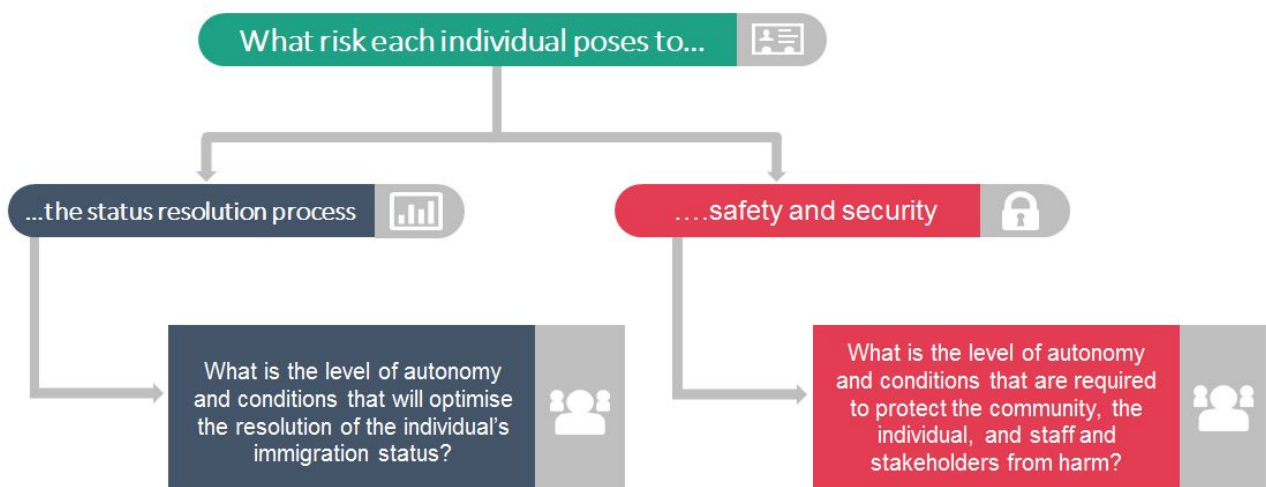


Figure 3: Central questions of the risk framework

The risk framework will require a bespoke design with input from business areas in the Department, including the ABF, partner agencies and experts in the field. Consideration will be needed of the variables that elevate or reduce an individual’s propensity to pose a risk to the status resolution process and safety and security. Information used to inform risk assessments will include the personal characteristics and immigration history of the individual, operational experience and intelligence products.

In its developed form, the tool should have the following capability:

Large scale – The tool should be able to be used for all individuals who require intervention from the Department to resolve their immigration status

Mobility – The tool should draw on the Department’s data systems and be made accessible via handheld and fixed devices

Reflexive – The information in the tool should be able to be aggregated for analysis, quality assurance and evaluation purposes

Ease of application – The tool should allow officers to make timely placement decisions, including in the field.

A further key consideration in designing a new risk framework is to ensure that it does more than just identify an individual’s level of risk. Control measures capable of mitigating identified risks require assessment so that a final risk rating can be obtained together with a recommendation on placement, conditions and services. The aim is to form a rounded picture of what will best drive the status resolution process through to an outcome in the shortest possible time, and ensure that those factors which mitigate the need for detention are considered.

Some of the potential risk factors are as follows:

Status Resolution Risk	Safety and Security Risk
Family Composition	Identity
Community Connections	Criminal History
Ability to Return/Remove	Recidivism Propensity
Health and Welfare	Observed Behaviour
Protective Factors	Detention Incidents
Assets and Finance	National Security
History of Compliance	Community Associations

Figure 4: Potential risk factors

Supporting measures

The risk framework will only support the placement model if there are a suite of options to successfully control non-compliant behaviour in tier 1 before placement in another tier is recommended.

The success of the placement model depends upon the ability to apply a sliding scale to an individual’s autonomy, with the expectation that there will be sufficient supports, conditions, oversight and intermediate points on the ‘scale’, to avoid the need for tier 2, tier 3 or tier 4 as a default ‘risk treatment’ measure. This requires consideration of more dynamic ways of utilising supports and privileges as well as new methods of effective but economical oversight/monitoring of and engagement with individuals placed in the community.

Vulnerability

There is no definitive view about what constitutes a 'vulnerable individual'. The Department uses the Vulnerability Identification and Assessment Tool (VIAT) to assist case managers to identify and assess vulnerability and identify protective factors.

Consideration of an individual's vulnerability forms part of the risk to safety and security assessment. It should include considerations such as health, sexuality, gender, age, or disability. The risk framework should assist in resolving the tension that can exist between individuals' vulnerability and the priority of minimising the risk of harm to the community, workforce, and stakeholders.

Individuals identified with high levels of vulnerability during the initial assessment, may require a further specialised vulnerability assessment to determine the conditions and services applied, and may require high levels of ongoing review and intervention. This more sophisticated assessment will require significant expert support in its development and should draw upon the VIAT.


Connecting risk assessment to the placement model

When considering which tier of the model individuals will be placed in, the Review recommends a risk category rating of low, medium, high for status resolution integrity risk, and a rating of low, medium, high and extreme for safety and security risk.

Each tier of the model contains intrinsic characteristics designed to accommodate a range of individuals according to the level of risk they pose. Following a risk assessment, individuals will be placed into the tier of the model that provides the minimum necessary level of autonomy, conditions and services required to ensure status resolution and safety and security outcomes, as illustrated by the following risk matrix.

		Status Resolution Integrity Risk		
		Low	Medium	High
Safety and Security Risk	Extreme	TIER 4	TIER 4	TIER 4
	High	TIER 3	TIER 3	TIER 3
	Medium	TIER 1	TIER 1	TIER 1 TIER 2
	Low	TIER 1	TIER 1	TIER 1 TIER 2

Figure 5: Risk matrix



Risk assessments will be undertaken at the time the individual comes to the attention of the Department, and at determined points along the status resolution pathway. The risk framework will formalise the information required to be considered by an authorised officer when making a decision.

The key task for the risk framework will be assigning placement, conditions and services proportionally to the level of risk an individual poses. Placement, conditions and services must be proportionate to risk.

The decision maker

The placement assessment tool will provide an authorised ‘empowered officer’ with the required authority and information to place an individual into any tier in the model. The role and delegated authority of the ‘empowered officer’ is a key element of the assessment of risk.

While the placement tool will guide and support the decisions of the ‘empowered officer’, the tool should not be treated as the decision-maker. A tool cannot replace the judgment, expertise and delegated authority of experienced officers. ‘Empowered officers’ need to continue to exercise judgment and have the ability to question and where necessary escalate a placement assessment that does not align with their understanding of the risk an individual presents.

Placement decisions must be fully documented and be available to the Department’s internal assurance functions, and external scrutiny bodies as required. A formal evaluation process will monitor the quality of decisions made and effect that they may have on broader status resolution outcomes.

Placement assessment timing and frequency

A placement assessment will not only occur at the first point of contact with the Department, but is intended to be a continual and ongoing process to ensure not only placement but conditions and services remain appropriate.

As a general principle the frequency of reassessment of placement would also be based on risk. The lower the level of risk the less frequent the reassessment should be unless particular status resolution milestones are reached, for example, a visa application being finally determined or there is a trigger that suggests the risk profile has altered. This will enable the Department to focus its limited resources on those individuals who represent the highest risk. The timing of placement assessments will be determined by:

Control points - A fixed, time-based schedule of decision points, e.g. within 14 days of being detained. These control points will be influenced by the initial risk assessment.

Milestones - Initiated depending on the occurrence of individual outcomes along the immigration status resolution pathway e.g. tribunal decision

Triggers - Events that occur during but are not directly linked to status resolution but may change an individual’s risk profile. Examples could include a criminal law offence or a change in family circumstances.

Information that will inform the ongoing review of placement, services and conditions could come from interaction between departmental staff and individuals or could be sourced from third-parties such as service providers or other government entities such as law enforcement bodies.

This combination of control points, milestones and triggers, will result in a ‘twin-track’ pathway for those on a status resolution pathway. The initial risk assessment should act as a ‘triaging’ process, with low risk individuals being placed on a ‘Green Line’ pathway with minimal intervention, and higher risk individuals being placed on a ‘Red Line’ pathway with high levels of review and intervention.

Placement and assessment timing (control points, milestones and triggers pathway)

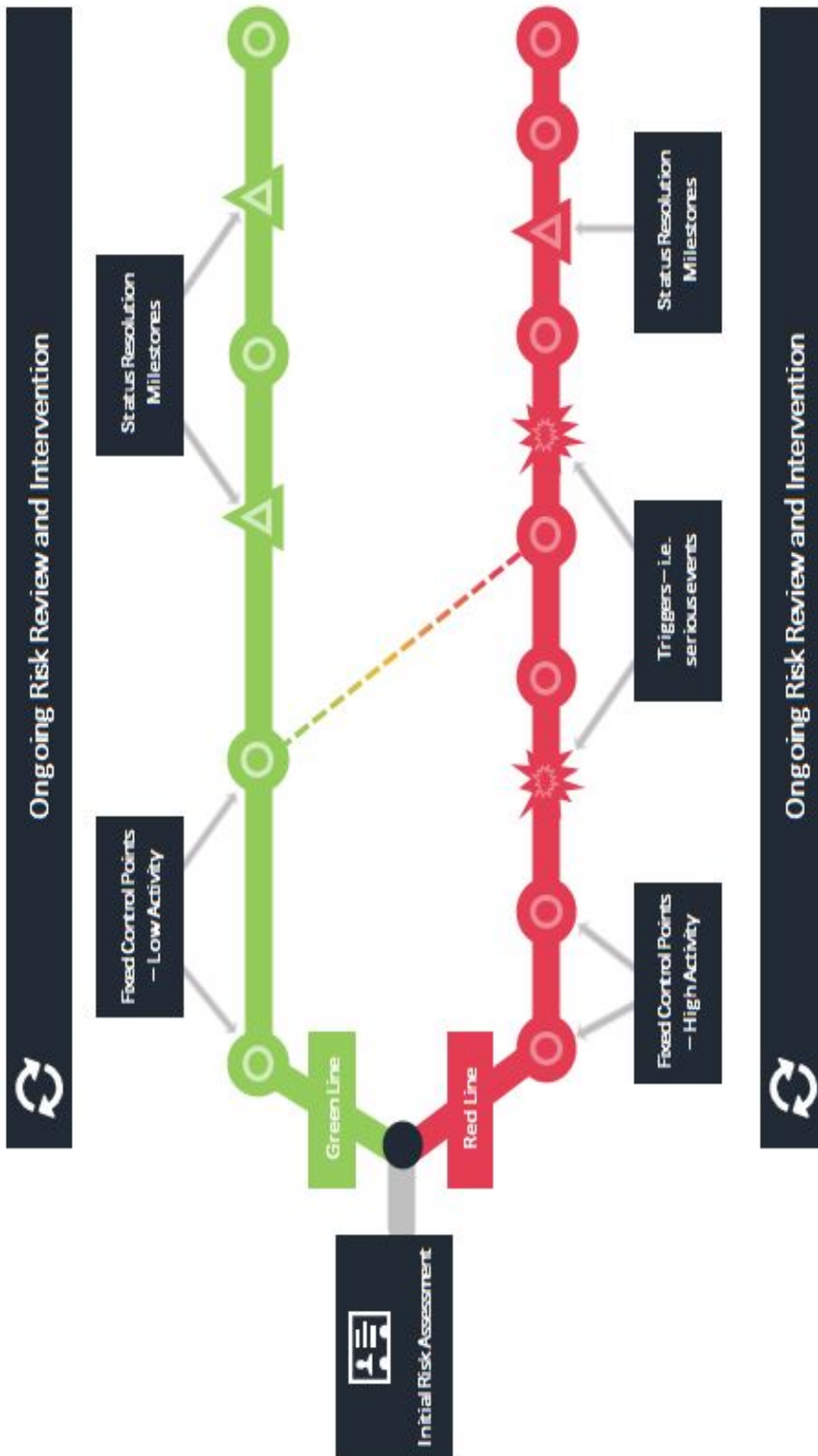


Figure 6: Risk Control points, milestones and triggers pathway

Risk thresholds and tolerance

A risk tool predicts how an individual **may** behave but does not guarantee how they **will** behave. The placement assessment tool and supporting risk framework will guide decision-making but cannot eliminate all risk. It is vital that there is appropriate planning to identify and deal with situations where placement decisions result in adverse outcomes. This could include, in addition to dealing with the actual individual, reviewing risk thresholds and decision-making processes. Without an effective way to deal with risks that manifest there may be potential for immediate and/or inappropriate reactions to adverse events that significantly change the risk tolerance. Such reactions could jeopardise the integrity of the placement model. For example re-detention of a whole cohort because of the actions of one individual.

A latter section of this report, *Decision-making informed by Robust information, knowledge and systems*, suggests the Department invest in a stock and flow tool to measure the impact of changes to policy, operational imperatives, priorities and risk tolerance. Such a tool would assist in ensuring that the implication on the system of changes to risk tolerance are fully appreciated.

It would be useful for the Minister to be engaged during the development of the risk framework, to ensure that the risk thresholds are shared and agreed by government. To this end, and to ensure the effective use of the placement assessment tool, consideration could be given to developing either a Secretary's Instruction pursuant to section 20A of the *Public Governance, Performance and Accountability Act 2013*, or a Ministerial Direction pursuant to section 499 of the *Migration Act*.

Work completed to date

The Community Protection Division has taken carriage of an initial proof of concept version of a risk-based placement tool, naming it the Community Protection Assessment Tool (CPAT). The purpose of the CPAT was to give effect to the decisions arising out of the Mid-Year Economic Fiscal Outlook (MYEFO) to reduce the size of the cohort in detention facilities. As such the CPAT has been used to make assessments regarding the suitability for release into the community of a known detained cohort.

In developing the CPAT existing departmental tools and similar approaches used for other purposes and in different contexts (e.g. correctional release and parole decision making) were studied. The design of the tool was also influenced by a corresponding process used by the United States' Immigration and Customs Enforcement Agency. The VIAT was also referenced in its development.

The tool identifies the positive and negative risk factors that can apply to an individual decision on placement, in a form that is easy to understand and can be rapidly applied. Usability has been a design principle, ensuring that it can be operationalised by avoiding too much complexity. The CPAT provides a framework guiding an officer towards an evidence-based and balanced decision. It is not currently envisaged as making or suggesting 'decisions'. The tool functions best for individuals who clearly pose either a high or low risk. The CPAT is currently being piloted and its effectiveness is being monitored by the Department's audit partner, Ernst and Young. The final report about the effectiveness of the CPAT is not yet available.

This early work on the CPAT is to be commended and should be incorporated into the development of a broader placement assessment tool. Further development should however be cognisant of the CPAT's limitations. These limitations include:

- Application to an already well known and understood cohort with a large degree of information to support decision-making
- Inability to guide decision-makers on conditions and services that support placement
- Focus on release from detention rather than placement in the community

The Review strongly suggests that the name 'community protection assessment tool' not be used to describe the future placement assessment tool. 'Community protection' suggests a single focus on safety and security whereas the proposed assessment tool is intended to take a broader view.

More tailored and appropriate services

In the future ... *the services an individual receives are determined by a risk assessment and support the resolution of immigration status. The Department has a joined-up approach to services and how they are delivered. Business areas understand how changes to services will affect the whole system. The Department is effectively and efficiently providing services either directly or through third parties. Those services that are not the Department's core business are delivered by other parts of government*

To support the new approach the Department will need to review, and in for some cases alter, the services it provides and the way in which they are delivered. Service delivery will need to support the more joined-up and risk-based approach to the management of individuals while their status is resolved.

Key to this will be the following principles, all of which are outlined in greater detail below:

- services support timely status resolution and compliance with conditions
- services based on an assessment of risk
- services that support the whole system
- a sustainable and efficient service delivery model

Services that support timely status resolution and compliance with conditions

The new approach requires that all services an individual receives be considered through a status resolution lens; that is how they support the ultimate aim of resolving status. A SRSS Policy Review already underway in the Department will seek to elaborate further on the linkages between service and status resolution.

There is research that indicates that people generally make better choices in relation to resolving their immigration status when they are provided with a degree of self-agency.¹ This could mean, in some cases, a reduction in the services provided to individuals but an increase in the ability of individuals to manage themselves, for example through the provision of work rights. This approach must however be balanced against an overriding requirement to ensure that services support the resolution of immigration status and do not encourage disengagement and/or contribute to non-compliance.


There is a tension between providing autonomy which assists individuals to live as normally as possible with dignity and encouraging disengagement or non-compliance. Very generous work rights could, for example, discourage individuals from departing Australia at the end of the status resolution process. A lack of work rights could, on the other hand, drive people to work illegally and provide a disincentive to engage with the Department for fear of being 'caught'.

The need to ensure the correct balance means that a 'one size fits all' approach is unlikely to be successful. There may, for example, be different service requirements depending on where an individual is in their status resolution process.

Increasing service provision complexity are government and community expectations about the types and level of services individuals in the status resolution process should receive. Services policy also needs to take account of any legal and international law obligations.

Services are complex and must, therefore be supported by sound policy based on a strong understanding of how services and status resolution interact and how they are influenced by other factors such as legal obligations. There are currently few behavioural based metrics and a lack of research in the Australian

¹ International Detention Coalition (2015), *There are alternatives – A handbook for preventing unnecessary immigration detention*, International Detention Coalition, (revised version)



context to help inform policy development on services in the status resolution context. Significant work will be required to build this body of knowledge.

Services based on an assessment of risk

A risk-based placement assessment will guide where an individual is placed in the model. The placement assessment will guide decisions about which services match an individual's risk profile. While the principle of services based on risk is not new, its current application is inconsistent, due in no small part to the lack of an agreed risk approach.

At a conceptual level, the higher the risk the higher the level of services required. This is primarily due to higher risk individuals having less autonomy to provide for themselves. For example an individual with full work rights may require fewer services than an individual who is in the community but whose ability to work and move around freely is restricted. At an individual level the linkage between services and autonomy is more complex and should consider issues such as vulnerability. This is where the risk assessment, which includes an assessment of vulnerabilities, will assist a decision-maker to make a sound assessment of an individual's service requirements.

Services that support the whole system

As noted elsewhere in this report, there is a limited appreciation of the system as a whole and the end-to-end processes it supports. For the placement model to be successful there must be a greater understanding of how the provision of services in one part of the system may impact on another.

Additionally with the placement model itself, there needs to be understanding of the services provided across all four tiers.

A sustainable and efficient service delivery model (the service delivery model)

The Australian Government contestability framework requires agencies to constantly improve performance and efficiency in the way they design and deliver functions, processes, programmes and services to achieve better outcomes. Services must be cost-effective. They must also be flexible and sustainable, constantly evolving and improving and able to respond quickly to changes in policy and/or demand.

The Department is required to strategically identify and define the outcomes it seeks to achieve. Services delivered through out-sourced arrangements should be subject to performance-based contracts that are built on a shared understanding of the desired outcome. Contracts must have stringent oversight processes to ensure standards, meet financial targets and meet the needs of individuals, including the need to finalise immigration status quickly.

A joined-up approach across government is required to ensure that the services an individual receives are delivered appropriately. This may be more, in some instances, than having services delivered by other agencies on the Department's behalf. It may require a fundamental rethink of what services are the core business of the Department and which should be owned by other agencies. For services that are not the Department's core business and sit with other agencies either now or in the future, considerable discipline will be required across government to ensure that services do not adversely impact on status resolution outcomes.

Effective implementation of a status resolution focused risk-based approach will require the Department to revisit existing MOUs to ensure they are aligned. Additional MOUs may also be required.

Services required to support the placement model

There are a large range of services required to support the placement model. Some services, such as health and medical, may be required across the whole model. Other services, such as facilities management, are required only for specific tiers. The services required to support the new model are broadly:

- Garrison
- Facilities management
- Security
- Transport and escort
- Health and medical
- Case co-ordination
- Community assistance
- Welfare and support

Tier 1 will require the greatest change in service provision in order to implement the new model. Where appropriate there will be a need for greater alignment of services provided to those who are on bridging visas and those who are subject to a residence determination in order to reflect the risk-based approach to management in the community.

To support compliance and maintain tension in the status resolution process, 'empowered officers' will have access to a suite of conditions that can be applied flexibly to those in the community according to the individual risk profile. The Department will need to have appropriate systems in place to ensure that individuals comply with those conditions. There may be opportunities for partnerships with other government agencies or the private sector to support monitoring of compliance with conditions. For example, the risk profile of an individual in tier 1 who is facing criminal charges may necessitate stringent bridging visa reporting conditions. The individual may also be subject to bail reporting conditions for the criminal charges. Greater liaison and information sharing between the Department and state and territory police could, subject to legal or other impediments, result in an alignment of reporting requirements so that the individual reports for both in one location.

The SRSS programme is currently subject to review in light of the changes in the Department's operating environment and status resolution framework and the recommendations of this Review. The SRSS review will be expansive and consider not only how the current programme operates but whether SRSS as a programme meets future requirements – what services are required and who should deliver them. The contestability framework and the Department's Functional Efficiency Review (FER) should be utilised to support the SRSS review.

Without pre-empting a full contestability assessment, a consideration for the management of tier 1 could be to package it as a programme for the purposes of outsourcing it in its entirety. This is a model that has been adopted in the United States.

Tier 4 is based on the presumption that specialist services should be provided by specialised providers. As tier 4 services are intended to be entirely outsourced effective implementation will present significant challenges for the Department. The Review does not underestimate the challenges this presents, particularly when prisons, juvenile facilities and health facilities, for example, are already under considerable pressure. The negotiation and implementation of robust MOUs and contracted arrangements will be required particularly with state and territory governments and/or contracts with private facilities. A national approach to this will be required.

The other key challenge with tier 4 is ensuring that, in a completely outsourced arrangement, services delivered continue to support the resolution of immigration status. This is likely to add a further layer of complexity to MOUs and contractual arrangements.

A fit for purpose detention estate

In the future ... the estate will consist of specialised facilities designed to ensure the safety and security of detainees, staff and service providers. There will be two distinct cohorts accommodated in facilities - those who pose a high risk to community safety and security, and/or those who require short-term transit placement.

Detention facilities will resemble segmented precincts, separating individuals who pose a high risk, from those who are transiting through. Facilities will be modular, with an adjustable configuration to meet any changing proportional need for high risk versus transit accommodation. A small amount of tier 1 accommodation for families will be located near the precincts, for family members seeking to remain in close proximity to an individual in tier 3. The precincts will be located near transport hubs and population centres to ensure access to community-based services at a reasonable cost. There will be no children held in detention centres.

To achieve this the Department will require:

- fit for purpose immigration detention facilities
- a network of facilities to support good order
- transit accommodation at or near airports
- housing for families with children outside detention facilities
- outsourced arrangements for extreme risk individuals
- existing facilities to be utilised and repurposed to the extent possible

Fit-for-purpose immigration detention facilities

Purpose-built immigration detention facilities will be situated within a precinct-style arrangement, and will be designed to be modular, segmented and scalable to manage a detainee cohort mix that is constantly changing. Each precinct will include accommodation that is suitable for individuals who require transit accommodation and those who require high security detention.

There is no need to distinguish between those detainees who are Illegal Maritime Arrivals (IMAs) and non-IMAs as placement decisions are based on individual risk not cohorts.

A network of facilities to support good order

The number and location of facilities will support the efficient and effective operation of the network while ensuring capability exists to manage good order and security. Precincts will be located near population centres to access community-based services, and close to transportation hubs to limit the costs of transferring individuals within the network. The number of facilities will ensure adequate capability to strategically manage higher risk cohorts.

Transit accommodation at or near airports

The Review proposed that there be capacity at or near all major airports to support airport turnarounds. The number of airport turnarounds in 2015 was approximately double that of 2010 and this trend is expected to continue. Alternative Places of Detention (APODs) may be utilised to provide accommodation in locations without specific immigration detention facilities.



Housing for families with children outside detention facilities

A small amount of community-based housing will be located in close proximity to immigration detention precincts to provide suitable community accommodation (tier 1) for families with children who have a family member in tier 3 but wish to remain in close proximity.

Outsourced arrangements for extreme risk individuals

Detention facilities will not be designed to accommodate individuals with extreme safety and security risk profiles, or individuals who have a complex vulnerability profile. The capability to accommodate individuals with these profiles will be outsourced to providers with the relevant expertise to manage these individuals.

Existing facilities to be utilised and repurposed to the greatest extent possible

Where it is feasible and cost effective to do so existing facilities will be repurposed to align with the precinct model and support the tiered placement model.

Building the estate

A small but distributed series of detention precincts is required to support compliance, detention and removal activity. A single centralised precinct is not a viable option given the high volume of detainee transfers that would be required. Transfers are costly and there are increased risks associated with transporting detainees long distances, particularly between the east and west coasts. A single facility would also limit options for separation of higher risk individuals or cohorts to what can be achieved within an individual centre (i.e. compounds). Past experience has shown that the ability to segregate cohorts at the facility level is important for security and good order.

Large precincts

This category of facility will generally provide accommodation for around 400 detainees. The large precincts will contain both tier 2 and tier 3 accommodation which will be appropriately segregated.

While the perimeter of these facilities will need to reflect the security required for tier 3, within the precinct security will be appropriate to the relevant tier. Tier 3 security will need to reflect issues of attempted escape, assault/violent behaviour, protest action and possible property damage. A high level of security infrastructure will be required with the ability to segregate areas. Behavioural Management Units and the ability to hold individuals pending transfer to tier 4 will be required. Medical capability will be provided to minimise the need to treat detainees offsite and the amenity and services provided will be geared to both long and short term stays.

Smaller precincts

The primary purpose of this category of facility is to provide accommodation for between 20 - 100 detainees in tier 2 transit accommodation. Smaller precincts will support cities that do not have a large precinct but have international arrivals and departures and require the ability to manage a tier 2 cohort.

These facilities will have robust perimeter security to prevent escape but a lower level of security internally. Those detainees that pose a risk to safety and security will only be held in these facilities for short periods until they can be moved to a more suitable location or removed from Australia. A small number of purpose built rooms will be provided for this purpose. Onsite medical capability will be limited and amenity and services will be geared to shorter term stays.

Family housing

It will be necessary to provide accommodation to house up to 80 individuals who are part of families with children who are minors in close proximity but external to immigration detention facilities. This housing would be used in circumstances where one parent is deemed to present a level of risk that requires a tier 3 placement. The accommodation will be tier 1 community based and constructed in a village style to normalise living conditions but still allow access to the relevant detention centre to enable regular contact with the detained family member. People accessing this form of accommodation will be in community placement and will not be subject to additional restrictions simply by virtue of accessing this accommodation option. Future operations and placement decisions will require discipline to ensure these facilities continued to be used for the intended purpose.

Airport turnaround facilities

At present, areas within existing facilities are used to manage airport turnarounds. In the future it would be preferable to establish a capability at major international airports to hold airport turnarounds for periods of up to 72 hours thereby negating the need to transfer individuals off airport grounds. This may be problematic due to the premium attached to space within major airports although it represents a more optimal long term objective for operations.

Capacity and contingency accommodation

Some contingency capacity is required to support safety and good order, manage minor fluctuations in the detention population and support operations in the event of a temporary loss of capacity at a particular facility.

The Construction Camp and Phosphate Hill facilities on Christmas Island will be retained to support Operation Sovereign Borders (to facilitate transfers to regional processing) and as a contingency for detention operations should there be a larger shock to the system. Once additional capability for the long term detention of high risk detainees is established on the mainland the Christmas Island detention centre at North West Point will transition to a contingency setting.

Transition

Transition to a fully operational precinct model will take some years. In the interim there will be significant transition including:

- The Christmas Island Detention Centre at North West Point will be required for high risk detainees until sufficient large precinct capacity is established on the mainland. This is likely to be available by January 2018
- The Wickham Point APOD will be closed at the end of the current lease term in November 2016
- The Perth IRH will be closed by late 2016
- The Maribyrnong IDC will be closed by late 2017 as the Yongah Hill, Villawood and Melbourne large precincts are completed
- The Blaxland compound, which is currently part of the Villawood facility, would be closed once stage 2b of the redevelopment is completed (early 2018)

The right people, in the right positions with the right skills

In the future....*our officers are experts at managing individuals both in the community and in detention facilities through to the resolution of their immigration status. They are empowered to make decisions and are supported by sound information, systems, policies and governance. Other officers have been provided with the right skills, powers and support to ensure the safe and efficient operation of detention facilities. All officers in roles that interact with individuals during status resolution have some understanding of how the decisions they make impact on the system as a whole.*

To achieve this, the Department will require:

- job design that supports a joined-up approach to the management of individuals
- new or enhanced skills to support a risk-based, status resolution focused approach

Job design that supports a joined-up approach to the management of individuals

Job roles will require adjustment to better support the joined up approach of the placement model. This is likely to impact upon a number of vocational streams and require the redesign and redefinition of a number of roles. As result, a functional analysis assessment will be required to assist the business to develop relevant role descriptions, build clear staffing structuring and accountability lines and determine the skills and training required.

To support a joined-up approach, connections between like functions will need to be made explicit and a holistic approach be taken to minimise duplication and enhance processes. The Department and its enforcement arm, the ABF will need to work together to ensure optimal workforce functionality. Officers will need to understand how their new role is connected with other parts of the business.

New or enhanced skills to support a risk-based, status resolution focused approach

Community management and a smaller held detention population will likely necessitate some adjustment to job roles.

The focus on risk will require officers to understand and, in some cases apply, new risk-based tools. For those officers making more complex risk assessments, specialist training may be required. The expanded community placement tier will see officers dealing with a larger community based cohort. This will mean greater focus on ensuring individuals comply with the conditions of community placement. The focus on community management and away from placing individuals in detention facilities may see some officers moving from detention facility focused work to community placement focused work.

Staff working in detention facilities will need to be appropriately equipped and supported to deal with a higher risk cohort in tier 3 and the short term, lower risk detainees who will be in tier 2.

Once the service delivery model is reviewed, the services that the Department delivers may change. More officers could, for example, be overseeing service delivery by third parties rather than delivering the services themselves.

The future workforce

The placement model will be most effectively supported by:

Administrative decision-makers – These are the officers responsible for working with individuals to resolve their immigration status. They are officers who make decisions about how a person is best managed, including where they are placed and the conditions and services that support that placement. These roles do not reside in the ABF. The placement model will result in a significant change in administrative roles with the creation of the ‘empowered officer’.

Enforcement officers – These are officers responsible for providing enforcement support to administrative decision-makers (the empowered officer). This support might include compliance (locating and individual who has disengaged), detention operations (managing an individual when they are placed in a detention centre) or removal (removing an individual when their immigration status is finally determined). These officers provide a service to support status resolution.

Other roles – The two categories above are not, however, the only types of officers that will be required to support the new approach and placement model. There are roles across the Department that are vital including in policy, intelligence, contract management and legal. All roles will need to understand the new environment and adjust processes accordingly.

Empowering all staff (the empowered concept)

In order to support a holistic approach to the management of individuals through to immigration outcomes, officers need to be empowered to carry out their duties with confidence. At a conceptual level, all officers who interact with individuals throughout the system – including compliance, status resolution, detention, support and removals officers – will have the necessary authority to make critical decisions. These decisions will be based on risk and focused on status resolution. For this to occur, officers need to be equipped with the requisite tools and levers to make informed decisions necessary to their respective responsibilities. They need to:

- be adequately trained
- have the appropriate delegations and understanding of their powers under the Migration Act
- have an understanding of their responsibilities and accountabilities
- have timely access to systems, information and intelligence
- have a sound understanding of the risk framework and risk thresholds
- have access to and consistently use available tools and levers
- have clear lines of escalation

Currently, many of the roles listed above operate in isolation from one another with limited understanding of their impact on the system as a whole. For example:

- Status resolution officers may make referrals for unlawful non-citizens to be placed into an immigration detention centre without always considering whether the referral is warranted according to risk and overall system capacity
- Status resolution officers may make referrals to the ABF to locate and detain unlawful non-citizens but these referrals may be inconsistent with the operational priorities of the ABF

This can result in duplication of effort and sub-optimal status resolution outcomes.

The 'empowered officer' role

The purpose of the 'empowered officer' role is to streamline status resolution. The role will sit within the Department (as opposed to the ABF), with officers supported to make decisions to resolve an individual's immigration status. This will include decisions regarding placement into the various tiers of the model and the conditions and services that support that placement.

The 'empowered officer' will be responsible for:

- making a risk-based, status resolution focused decision on placement in model, including movement between tiers
- determining the conditions and services attached to placement in the community
- working with the individual to obtain a status resolution outcome
- referring matters to the ABF for enforcement action

'Empowered officers' will also be responsible for reviewing placement decisions after particular events and triggers in their status resolution process. For example, when an individual's right to remain in Australia is finally determined and all of their administrative options have been exhausted, 'empowered officers' will be able to make a comprehensive assessment on how best to manage an individual to effect the desired status resolution outcome. To do this, they will have access to an additional suite of levers such as:

- the ability to offer return incentives
- scale up placement conditions
- scale down services
- movement to a different tier

When individuals do not comply with the conditions imposed on their community placement the 'empowered officer' will be responsible for reviewing the placement, conditions and services.


A governance framework will support 'empowered officers' to escalate complex cases and ensure they are resolved in order to avoid decision-making loops and blockages due to unclear accountabilities.

It is envisaged that the 'empowered officer' role will be situated within a reinvigorated status resolution function resulting from the *Management-Initiated Review into Status Resolution Capabilities*. Existing roles that have a similar function, such as case management and status resolution officers are likely to be integrated into the 'empowered officer' role with the aim of minimising hand-off points and ensuring a more streamlined experience for the individual in the status resolution process. Community Protection Division has already commenced this work.

Decision-making and interaction with the ABF

The 'empowered officer' will be responsible for ensuring individuals remain engaged with their status resolution process and if in the community comply with the conditions of their placement. They will be responsible for ensuring individuals have the adequate support services to remain engaged.

ABF officers, whether working at the border, in compliance, in detention operations or on removals will provide a 'service' to support the 'empowered officer'. That service may include locating an individual who has disengaged, managing a detention centre where an individual is placed or facilitating removal once there is no further option to remain. These are essentially referrals to the ABF; the ABF will have primary responsibility for determining the services required for an individual in tiers 2, 3 and 4. In turn the ABF may refer a person to an 'empowered officer' when they locate an unlawful non-citizen in the course of their operations. While ABF officers interact with individuals as part of this work and are required to be mindful of status resolution, 'empowered officers' will take the lead on resolving immigration status.



While the status resolution focused ‘empowered officer’ will have primary responsibility for decisions about how an individual is managed while their status is resolved, there will be situations where decisions have to be made by ABF officers at the front line be that in the field or at the border. These ABF officers will have the power (as empowered staff) to make risk-based decisions and will have access to the risk-based placement tool (or a simplified version of the tool). The result of applying the placement tool may be the grant of a bridging visa with a requirement to report to an ‘empowered officer’ within a set timeframe or an interim detention placement until a more comprehensive assessment is undertaken by an ‘empowered officer’.

The ‘empowered officer’ will also be required to consult the ABF and consider operational inputs, such as the capacity of the immigration detention facility network, in the course of making their decision to place individuals into the model.

Building the ‘empowered officer’ role

High level scoping of the ‘empowered officer’ concept and role has commenced. While it provides a sound conceptual basis, further development will be required to operationalise it as part of implementation.

The ‘empowered officer’ role will be a significant change for the business and its operationalisation will be complex and require engagement across the business. The ‘empowered officer’ is fundamental to the success of the placement model and its development will be a key implementation task.

The interaction with other functions, including cancellation and ministerial intervention, will need to be clarified. Ensuring compliance with conditions in the community will be another challenge. There will need to be clear delineation of responsibility between ‘empowered officers’ and the ABF for ensuring and monitoring compliance with conditions for those in the community. Some of this thinking is already occurring.

The decision-making capabilities of ‘empowered officers’ will be required at all placement decision points. Further detailed consideration is required to ensure field operations and time-critical detention decisions, particularly release, are not compromised.

Not all the tools that are required to support ‘empowered officers’ are currently available. The placement assessment tool is still being developed and significant policy work will be required to provide ‘empowered officers’ with the suite of conditions and services that support the tiered placement model. It is likely that full implementation will take some time and an iterative approach to its development will be required.

Workforce planning

Workforce design and planning is one of the four key areas identified in Department’s *People Strategy 2020* as supporting a professional workforce. Significant resources are being invested in building the Department’s people capability.

The status resolution, risk-based approach to the management of individuals will need to be factored into future design and refinement of job roles and this work has already commenced, incorporating the themes emerging from the Detention Capability Review and the Status Resolution Review

Planning will be required in particular to support the workforce changes that will flow from the closure of detention facilities and the greater emphasis on community based management. The Department will continue to be responsible for a large and growing caseload of individuals who require management while their immigration status is resolved.

While the numbers in detention facilities may be reduced, the overall caseload the Department has to manage is likely to continue to increase. What may be required are changes in the nature of roles and where those roles are located. Skills and capabilities, location and individual preferences will require careful workforce management and planning.

The long term staffing requirements may also be influenced by a contestability assessment of the Department’s services.



Training and support

Significant work will be required to ensure there is appropriate training for officers required to support the placement model. There will be training requirements which are likely to place a demand on departmental (including ABF) training resources. The design and delivery of new training courses requires lead time and may likely require a reprioritisation of resources.

It is essential that there be early engagement with the Corporate Group and ABF College as the policy to support the new model is developed, ensuring those tasked with developing and delivering training are given the maximum lead time possible.

Investment in skills development and training will enable officers to be agile, operate effectively and adapt to the challenges of the new model and develop the required competencies, qualifications, experience and skills. The ABF College, in conjunction with the learning and development area in Corporate Group, should support the development of a standardised structured curriculum that will address the skills and training needs of officers.

While training to support development of new skills and competencies will be required, it is essential that this does not come at the expense of the training that is already provided to officers in the detention network, such as those units and courses focused on the lawfulness of detention decision-making. Officers will need to continue to have an understanding of relevant legislation and policies.

Improved accountability, governance and assurance

In the future....*there are appropriate governance and assurance arrangements in place to support the new model. There are defined roles and responsibilities that ensure officers are clear on what they are responsible for and who they are accountable to. There is clear oversight of the entire system with reliable mechanisms for monitoring and evaluating the system's impacts and performance.*

Critical to the success of the risk-based approach to the management of individuals as their immigration status is resolved will be a governance and assurance framework that is fit for purpose and supports performance and accountability. Excessive layers of governance or the wrong types of governance structures will hinder effective decision making and ultimately status resolution.

For the model to perform effectively there must be accountable owners for critical aspects within the model as well as an accountable owner for the placement model as a whole. Additionally there should be oversight for the overall health and effectiveness of the broader system.

Key Definitions

Accountability is the process by which public sector entities and the individuals within them are held responsible for overall results, decisions and actions and are subject to external scrutiny. Clear lines of accountability will ensure the Department is answerable for meeting the objectives of the model or addressing risks that arise. Accountability in the model can be achieved through identifying and appointing owners of the model and its component parts as well as through audit, and measuring and monitoring performance.

Governance in this chapter refers to the arrangements, processes or practices in place to ensure the objectives of the model are achieved and exposure to risk is limited. Governance can describe a number of practices but typically is a combination of mechanisms, processes and structures. An effective governance framework for the model must capture the best practice elements of good governance, namely:

- transparency/integrity – the governance framework should be clear and well understood by users and stakeholders
- risk management – the governance framework should be built with a risk-based approach in mind where programme risks are identified, monitored and treated
- leadership – the governance framework should establish clear direction and responsibilities
- strategic alignment – the governance framework will be designed to look at the model with a strategic lens and adjust accordingly
- continuous improvement – the governance framework should be adapted and reviewed to ensure it is adding value and meeting the needs of the model

Assurance refers to the arrangements designed to provide confidence to managers at all levels that risks or problems in the model are being identified and mitigated or remediated; that agreed performance is being achieved, and reporting processes are being followed. Assurance is intrinsically linked to governance and in the Department assurance activities are undertaken to evaluate functions and internal controls to ensure they achieve desired outcomes. These activities include internal audit, management initiated review, post action reviews, deep dives and a range of other measures determined as appropriate.

Accountability and ownership of the placement model and the system

To best support the new model there needs to be accountability, ownership and oversight for:

- the integrity and effectiveness of the placement model, including the risk-based placement assessment tool and the 'empowered officer'
- each tier within the placement model
- the broader system in which the model operates (inclusive of field compliance, status resolution, detention and the eventual granting of visas or departure of unlawful non-citizens)
- placement decisions

Ownership of the placement model

There needs to be an accountable owner of the placement model in its entirety. The placement model owner would have ownership and accountability for:

- placement decision, including lawfulness of detention (where relevant) and tier allocation
- the placement model's operational framework
- the risk-based placement assessment tool
- the 'empowered officer' role
- evaluation of the effectiveness of the placement model

The placement model supports status resolution and guides the decisions about placement of individuals into a particular tier. These decisions are made by 'empowered officers' who are positioned in the broader Department. For this reason, it is recommended ownership of the placement model should reside in Visa and Citizenship Services Group.

Operational ownership of tiers

The placement model should be supported through appointing an accountable officer for the operation of *each tier*. This would create a significant business change within tier 1 where there are currently different business owners and multiple processes taking decisions about which individuals may be subject to residence determination and bridging visas, and making decisions about conditions and services. The accountable owner under the new model would be responsible for the way an individual is managed within the tier and the services and infrastructure needed to support them.

Given the vast majority of those in community placement are on bridging visas, Visa and Citizenship Services Group could own tier 1. All of those on bridging visas have at least some contact with status resolution. Equally, as the ABF currently has the primary role of safety and security in the community and the management of key contracts, ownership could reside with the ABF Support Group. Ownership of tiers 2, 3 and 4 very clearly rests with the ABF.

The anomaly in the model is the current limited use of residence determination (often referred to as *community detention*). Under the new placement model, it is proposed that residence determination be limited to those who, for legal and policy reasons, cannot be granted a bridging visa.

The diagram below illustrates the proposed oversight for the broader system (layer 1), ownership of the placement model (layer 2) and operational ownership of the tiers (layer 3).

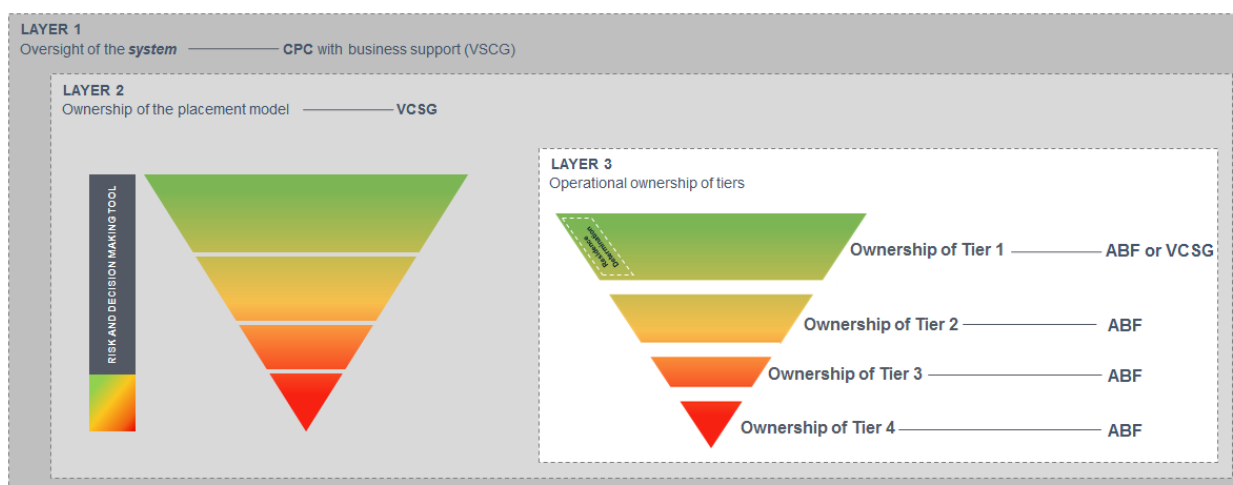


Figure 7: Placement model ownership and oversight

Governance over the broader system

Ownership of, and accountability for, the various components within the current system is already well understood. Some of these components are in the broader Department - e.g. status resolution, cancellation, ministerial intervention; while other parts of the system are the responsibility of the ABF – e.g. compliance, detention operations and removals. The ownership of these component parts does not require change to support the new model. However, there needs to be greater visibility of how these various components interact as part of a broader system and in the absence of a single owner, there should be a governance body with oversight of the health and integrity of that broader system.

Within the Department, there is a clear and deliberate diarchy in relation to the management of unlawful non-citizens with ownership of the system as defined in this Review traversing the diarchy. The diarchy model requires that visa decisions (which affect status resolution and the decision as to whether someone is placed in a detention facility) are made under the oversight of the Secretary. Detention operation decisions and compliance activities are made under the oversight of the Commissioner for the Australian Border Force.

Within this diarchy, there is a need for visibility of how the component parts, on the ABF and broader Department, work together and how a change to operational priorities, risk tolerances or policy in one part of the system impact on others. Specifically, there needs to be:

- oversight of the health and operation of the system, including ongoing evaluation
- support for the business and Minister to understand the implications of changes to policy, processes, priorities and risk tolerances across the system

The Review has identified that a renamed Community Protection Committee (CPC – potentially renamed to *Status Resolution Committee*) is best placed to assume responsibility for this oversight role, supported by a dedicated branch or team. The CPC would be tasked with identifying issues within the overall system and refer them back to the relevant component owner. For this to work effectively an appropriate set of data and products need to be developed to provide that system-wide view for the Committee. This system-wide view would necessarily include decisions taken in relation to field compliance activity through the Strategic Command Group. Additionally, inclusion of a finance representative on the CPC would support a system-wide view, albeit through a financial lens.

Operational priority setting

The ABF will continue to require the ability to set operational priorities, as currently occurs through the Strategic Command Group (SCG). In order to provide the SCG with a corresponding view of the entire system, and the implications of their decisions, there will need to be greater alignment between the SCG and the CPC. This will ensure that the system impacts of operational priorities set by the SCG are well understood – preferably before final decisions are taken. This may require a review of the membership of both SCG and CPC.

Governance over placement decisions

Accurate and efficient decision making around placement by the relevant officers will need to be supported by a governance framework that details the process for review, escalation and resolution of complex placement decisions including:

Timely, effective and efficient resolution across each of the tiers - A responsive governance framework will need to allow for timely escalation. Navigating a number of committees or having to delay decisions until the next time a committee or group sits will hinder the ability to escalate and resolve complex cases. The escalation framework, therefore needs to support the timely, effective and efficient escalation (and resolution) of complex placement decisions.

Tools and powers to make placement decisions - The design of the placement escalation framework should ensure that the right authority and decision-making capability is provided. This is to ensure that to the maximum extent possible officers remain empowered to manage and make placement decisions. The risk with poorly designed or managed escalation processes is that too many decisions are pushed upwards, officers become disempowered to make decisions and escalation bodies become overwhelmed with the volume of matters being referred to them. It is essential, therefore that the escalation framework supports the referral of the right types of matters.

The selected governance mechanism (whether it be an individual, committee, board or working group) needs to be delegated the right level and amount of authority to manage, decide or resolve the complex cases brought before it.

Expert advice - The decisions made under the complex placement escalation framework should be supported by expert advice when and as the complexity of the case requires. Expert advice can be external or internal depending on the circumstances. External expert advice may be necessary, for example, when dealing with complex mental health issues.

A decision-making control framework - The placement model will rely on individual officers assessing and making decisions about individuals who come into contact with the model. To this end, the exercise of powers associated with this requires clearly defined roles and responsibilities for consistent, lawful and evidence-based decisions. It is therefore recommended that a control framework describing mandatory control points and to support the transparent definition of roles and responsibilities for the critical processes in the model be developed.

The current control framework is the Detention Related Decision Making framework (the DRDM) which was designed to manage and mitigate the risks associated with detention related decision making. The DRDM has recently been the subject of a comprehensive review and health check. The DRDM will require some adjustment as it only supports pre-detention activities, detention related decision making, and post detention related outcomes (such as removal). Therefore, a fit for purpose control framework will need to be created for the model.

In line with the recent DRDM review, the control framework should:

- specify who is responsible and accountable for key decisions
- guide decision-making about whether an individual is a lawful or unlawful non-citizen

- specify responsibility for applying the risk-based placement assessment
- guide how placement occurs based on the outcome of the risk assessment
- articulate who is responsible for the review of placement decisions
- outline any mandatory tools, frameworks or policies that must be observed in making decisions about an individual managed in the model (including the application of a risk assessment)
- require and facilitate an effective reporting programme for compliance with the mandatory control points
- define an assurance/monitoring framework for the holistic view of the control framework

The integrity of decision making and effective governance will also be supported by:

- appropriate review of placement decisions including the lawfulness of detention, the application of the risk-based placement assessment tool and the control framework
- implementation of the ‘empowered officer’ role and ensuring staff are empowered and delegated the correct powers to make decisions
- staff that are well trained and provided with up to date legislative and policy guidance
- information systems that support staff to accurately record and document decisions
- the use of administrative powers regularly monitored and audited

Placement escalation

Noting the principles above, the following could support effective complex placement escalation:

Triaging of placement decision-making – using the placement assessment tool to identify those cases where a placement decision can be made relatively simply and those decisions that require greater scrutiny

Senior/experienced ‘empowered officer’ - to make a placement decision in more complex matters supported by a more sophisticated placement assessment tool, if required.

Senior responsible officer (SRO) – the ultimate decision-maker for complex decisions that were not able to be resolved by the empowered officers. The SRO is the owner of the placement model (referred to above)

Specialist support – this could be a specialist committee or individuals that the SRO could call upon to provide advice and support where required. This could include external experts, ‘independent’ internal officers and senior relevant business owners. This committee/board should include expertise in both safety and security, vulnerability and status resolution.

The figure below, provides a snapshot of how complex placement decisions might be escalated under the framework the Review has outlined:

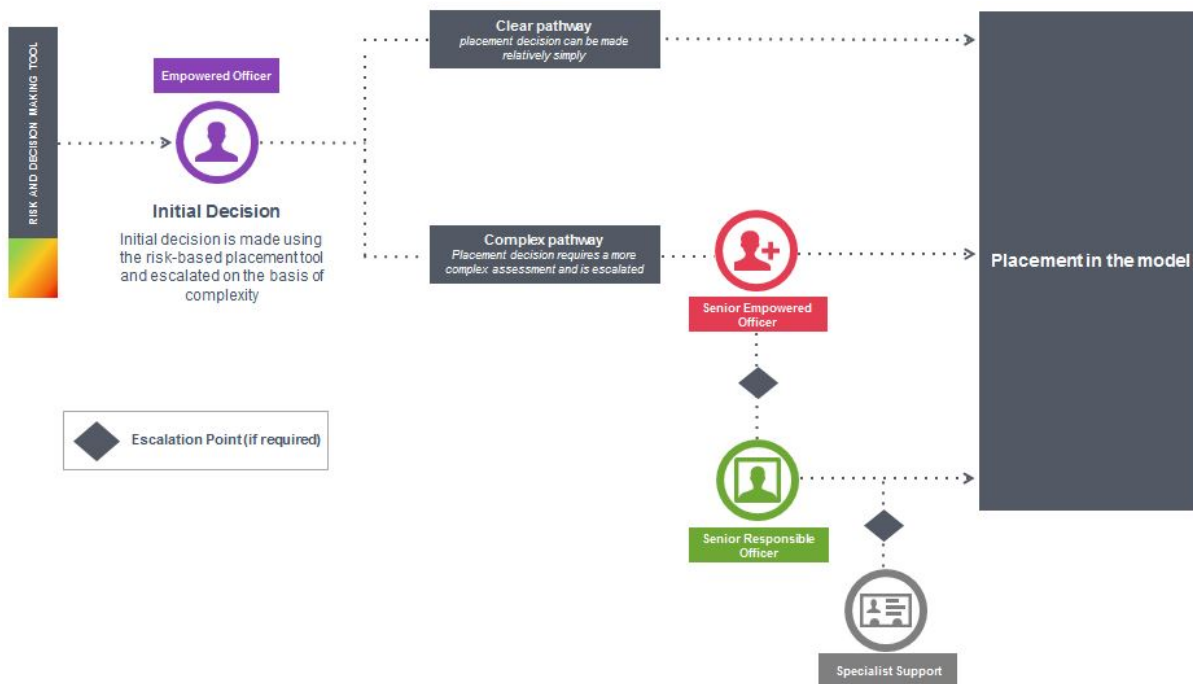


Figure 8: Placement decision escalation

Assurance

It is recommended that internal audit, external audit, scrutiny, advice and evaluation be built into the governance framework to manage risks that may emerge and allow for performance to be monitored and continuous improvement to be facilitated. The role of the Detention Assurance Branch will continue to be vital in this.


An evaluation framework should be built and established for the model to measure performance and deliver a formal feedback loop for the continued improvement of the model.

A proactive approach to internal audit and external scrutiny

Internal and external audit is well established in the Department. A realignment of the detention system into a tiered placement model with rigorous functions and processes associated with it, invites an opportunity to strengthen a culture that facilitates internal and external scrutiny.

Additionally it is critical that what the Department wants to achieve from internal audit is defined and a clear plan is developed regarding what to review and when. At minimum, regular audit of the following is required in order to effectively drive continuous improvement and assurance:

- the risk-based placement assessment framework and tools
- placement decisions
- operation of detention facilities
- delivery of services
- compliance with contracts



As discussed above, incorporating this in a revised CPC's terms of reference will assure the model's success.

While a proactive approach to internal audit is recommended, this is not to suggest that the post action review function should not be retained. This capability should be retained in order to support the remediation of issues where incidents occur.

Separate from audit, the detention assurance function should also continue to play a key role in strengthening assurance and integrity in the management of the detention function. The move to a more proactive approach is already underway and should be part of the inspectorate model of assurance which is currently being developed.

External scrutiny and advice

The review recommends that a similarly proactive approach to the recognition of external scrutiny recommendations be facilitated in building a governance framework for the model. This will effectively ensure that continuous improvement is driven in performance and risk management in the model.

The Review notes that the Ministerial Council on Asylum Seekers and Detention (MCASD) has provided invaluable information and advice to the Minister and Department on policies, processes, services and programmes necessary to achieve the timely, fair and effective resolution of immigration status. Consideration could be given to realigning the MCASD to provide a more strategic role in supporting the new risk-based, status resolution approach recommended in this Report.

A supportive culture

The success of effective accountability, ownership and governance will be reliant upon a workforce and a culture open to internal and external scrutiny, and focused on continuous improvement and ongoing evaluation.

A culture open to internal and external scrutiny and advice

A proactive approach to internal and external scrutiny, facilitating openness and transparency in its transactions will need to be promoted. Internal and external scrutiny will provide both assurance for the model and also preserve its integrity by managing risks and monitoring performance.

A culture of continuous improvement and evaluation

Facilitating a culture that is responsive to considering recommendations from external scrutiny bodies will enable a culture open to critical and continuous improvement.

To further support, enhance and drive continuous improvement, evaluation frameworks need to be embedded into the model itself. The model is composed of a number of discrete, but interrelated processes that are required to work together to make the model function as intended. Establishing an evaluation framework for these processes that defines success, monitors for unintended consequences, and includes measurable key performance indicators, will allow continuous monitoring and effective reporting to maintain the health of the entire system.

Governance over implementation

The implementation process requires a robust governance framework and should strike the right balance between providing guidance and direction and facilitating progress.

Robust information, knowledge and systems

In the future...officers have access to a comprehensive body of information about an individual in order to make sound risk-based assessments of how they are best managed. The Department's comprehensive understanding of the system means it can effectively model the impact of changes to policy, risk tolerances, priorities and operational imperatives and plan according. Due to robust metrics and sound research the Department understands how to most effectively manage a person through to resolution of their immigration status.

To operate effectively, the placement model will require:

- timely and accurate information about individuals from multiple sources
- information to support effective planning and evaluation

Timely and accurate information about individuals from multiple sources

Information about individuals being managed in the placement model may be held by multiple business areas across the Department, by stakeholders contracted to provide services on the Department's behalf and partner government agencies. 'Empowered officers' will be required to consider all relevant information in order to make a sound risk-based placement decision. Information will, therefore, need to be accessible.

Some information will not be appropriate to provide to 'empowered officers' in its 'raw' form due to sensitivity or complexity. This is likely to be the case with some intelligence information or information that relates to an analysis of the environment or broader characteristics of a group rather than an individual. Such information will require systems to be put in place to ensure it can be appropriately interpreted and used.

Information to support effective future detention planning

For the placement model to operate optimally, the Department will require the capability to map the future inflows and outflows of individuals by accurately forecasting trends in migration programme size and compliance levels. Understanding the size and composition of the cohort requiring immigration status resolution in the future, will enhance operational and strategic planning for workforce, service delivery and infrastructure needs.

Data and statistics, and qualitative information from multiple sources, including stakeholders and the workforce will be required to support evaluation of the placement model and ensure it is contributing to the Department's strategic objectives.

Future information requirements

A holistic intelligence capability covering the broad range of potential threats to the various components of the placement system, to individuals, and to the Australian community should be developed to support risk-based decision-making. Information sharing agreements with partner agencies, both domestic and international, is required to acquire the best available information and to maintain high rates of compliance with the migration programme. The Review is aware that this work has commenced and supports its continuation. This intelligence capability will be an important source of information for the risk framework that will guide placement and services decisions under the new model.

Forecasting the future placement model cohort

Understanding the broad range of variables that affect the strategic environment, including factors that affect the size and composition of the migration programme and emerging trends, will help decision makers plan and resource detention and status resolution functions to meet future challenges.

In such a complex, interdependent system it is vital to understand the impacts of major or minor changes to policy, priorities, risk tolerances and demands on the system to assist with planning, provide sound advice to government and to understand financial implications. An ability to more accurately understand the implications of changes would have arguably, for example, put the Department in a better position to manage the impact of the introduction of mandatory cancellation provisions into the Migration Act in December 2014.

Modelling to better understand changes to the system has been utilised in the Department previously. For example, in May 2013, the then Status Resolution Services Division (SRSD) introduced an interactive IMA Client Flow model to provide a high-level representation of the IMA status resolution system, from arrival to offshore transfer/removal/visa grant.

The IMA client flow model was investigated early in the Review to determine whether, with some modifications, it could be used to forecast the impact of policy, intelligence, and environmental changes on the detention population. In socialising the tool with the business it became clear that the 2013 tool no longer met operational requirements, even with modifications. The tool was too complex, did not consider the whole system and relied on a number of outdated assumptions.

While the Review did not proceed with further work on the 2013 tool, it was clear that stock and flow modelling once a new model/approach was agreed would be very useful for the Department. The model should reflect the entire system, remain relatively high level and avoid unnecessary complexity. There should be one version of the stock and flow model and an owner with a system view. That owner could support the business in modelling changes to the system and providing clear advice to government.

Information sharing

Under the placement model, more individuals will be managed in the community and given access to services provided by agencies in all levels of government. The goal of ensuring that individuals living in the community remain engaged with the Department and status resolution processes will be improved by greater information sharing by other agencies that individuals interact with.

Co-operation through information sharing agreements and Memoranda of Understanding (MoU), with agencies in Commonwealth, state and territory government agencies should be expanded to secure access to information and data holdings to ensure that individuals receive the correct entitlements, and remain engaged with immigration processes. There are likely to be legal issues that will need to be resolved.

In collecting information from a multitude of sources the Department will need to be conscious of ensuring that the volume of information available on an individual and the complexity of that information does not impede decision-making. Some information will require interpretation, some will not be relevant and the relevance of some information may not be immediately obvious. Consideration will need to be given to how information is prioritised and presented to decision-makers, particularly to 'empowered officers'.

Consolidating service provider information

It is anticipated that the successful implementation of the placement model will require the support of multiple contracted service providers. Contractual arrangements should stipulate a culture of information sharing between providers. While the Department will still retain ultimate responsibility for maintaining the integrity of information obtained by service providers, fostering a mature information sharing practice between parties will speed information collection and positively contribute to status resolution outcomes.

Improved financial management

In the future... a fixed funding allocation from government requires the Department to manage the number of individuals in held detention within an agreed population cap. Working within a population limit means supporting business functions work to resolve immigration status for individuals quickly, reduce average time spent in detention and ensure capacity for operational requirements.

Planning

Improved financial literacy coupled with improved governance and a systems view should result in a better understanding of the financial impact of detention-related policy, operational and tactical decisions and improved planning.

The *Robust information, knowledge and systems* section of the Report outlines the need for a tool, potentially a stock and flow model to assist the Department's planning. Such a model would greatly assist the Department to understand the implications of changes across the system. In turn this will assist the Finance Division to understand and anticipate the financial implications for internal budget allocations and support requests for additional funding should the Department be required to deal with a significant shock to the system. Funding responses to any future significant policy changes or major shocks to the system outside the Department's control will require the Department to seek additional funding.

The new funding model

In parallel with the transition to a fixed appropriation, KPMG was engaged to develop a new funding model to cover both immigration detention and regional processing and replace the current DDM. The major cost drivers in immigration detention and regional processing are the administered service provider costs. These costs have been updated throughout the model to reflect the current contractual obligations of the Commonwealth to deliver IMA and non-IMA associated policy.


Under the new funding model, departmental cost impacts are no longer modelled, with future changes to departmental funding to come forward as conventional new policy proposals. Administered costs are included in the funding model, and will allow for the impact of a policy change to be accurately assessed. The funding model will also serve as an internal management tool to improve cost attribution for detention related expense.

Consistent with the risk-based placement model, the funding arrangement do not distinguish between IMAs or non-IMAs. As such, the majority of cost drivers are identical for IMAs and non-IMAs and the new funding model fully integrates IMAs and non-IMAs to reflect how these cohorts are managed in the network, and is consistent with contractual arrangements.

The new funding model simplifies the approach to population flow modelling to replace the complex and increasingly inaccurate forecasting algorithm used in the DDM. The new funding model no longer incorporates population projections but includes actual population levels as a direct input.

The new funding model will require operational decision makers to ensure that the detention population remains below an approved funding, by ensuring that numbers of individuals entering the held detention system is similarly matched by resolution of cases and individuals exiting the system. This will require sophisticated planning, available in real-time, and flexibility of operations to ensure that tactical settings can be adjusted without resulting in financial liability over and above the funding level provided to the Department to achieve its outcomes.

The new funding model allows for population and costs to be determined at either an annualised level or at a monthly level. The annualised level provides for cost estimates to be created quickly and assists the Department manage annual activity and occupancy levels. The detailed costing level provides for greater



discretion to factor in how timing affects costs. The funding model has also been designed in accordance with best modelling practice and is clearly structured to improve transparency and integrity.

The most up to date contract costs have been incorporated into the new funding model to more accurately calculate the actual costs of providing detention services. The funding model has the capability to use either actual detailed contractual rates or high level averages across elements of the network to assist in urgent costing exercises.

Departmental costs will be calculated on a fixed basis and will no longer be based on demand driven calculations. However, the new funding model will keep a record of financial assumptions relating to departmental appropriation to inform future costings that have a departmental impact.

The new funding model will require operational decision makers to ensure that the detention population remains below the approved funding, by ensuring that numbers of individuals entering the held detention system is similarly matched by resolution of cases and individuals exiting the system. This will require sophisticated planning, available in real-time, and flexibility of operations to ensure that tactical settings can be adjusted without resulting in financial liability over and above the funding level provided to the Department to achieve its outcomes.



Policy and legislation to support the new approach

In the futurethe legal and policy framework supports the flexibility and adaptability inherent in the model. Legal and policy settings have been adapted to reflect the shift in thinking to detention more effectively supporting status resolution.

The placement model will require:

- a legislative framework that supports flexibility and adaptability
- policy that supports sound decision-making

A legislative framework that supports flexibility and adaptability

To ensure core elements of the model allow the efficient and effective management of individuals while their immigration status is resolved legislative change may be required.

Policy that supports sound decision-making

Supporting the legislation should be sound policy that allows ‘empowered officers’ to make status resolution focused risk-based placement decisions. Significant realignment of policy will be required to support the new approach.

Legislative change

While the core elements of the model may be able to operate within the existing legislative framework with some minor changes, the legal framework will need to be reviewed to ensure that it supports the new approach in the future.

Some areas in which legislative change may be required as a result of the model include:

- amendments to the bridging visa framework to enable conditions to be flexibly applied
- amendments, changes or additions to conditions or other mechanisms as required to give effect to status resolution outcomes and goals
- replication of some Ministerial Intervention powers to achieve greater agility
- amendments to section 5(1) of the Migration Act to incorporate or change definitions as necessary

Additionally, consideration should be given to whether any changes are required to provide definitions of facilities arising from the precinct model outlined in the new Estate Management Plan.

The areas identified above are all subject however, to further policy development and advice being sought regarding whether legislative change will be necessary, the extent of such change and the most effective framework to achieve the established aims.


Bridging visa framework amendments

In managing individuals in the community, the model contemplates a more extensive use of bridging visas, particularly Class WE - Subclass 050 Bridging (General) or Class WE - Subclass 051 Bridging (Protection Visa Applicant) (BVE) to manage individuals towards status resolution while at the same time managing risk. A way to achieve this is through the development of a suite of conditions that can be flexibly imposed, altered or removed on a bridging visa throughout the visa period to support status resolution outcomes. At present, the facility to flexibly apply and remove conditions on a single bridging visa is not available. Conditions on a BVE can only be varied, imposed or removed in the context of an application for a further BVE; meaning it is not possible to vary the conditions of an existing visa separately from a visa application. Legislative change is likely to be required to enable conditions to operate in this manner. In making these changes consideration will need to be given to a range of issues including:

- the mechanisms through which conditions can be 'flexibly' imposed; that is whether by discretion or operation of law
- the basis on which conditions can be varied
- whether the flexible imposition of conditions could be judicially challenged
- the impact of the use of the placement assessment tool on bridging visa grant
- how to minimise any challenges or blockages to the grant of a BVE for status resolution purposes

Legislative change for the purpose of enabling other mechanisms or tools necessary

The Department currently has a suite of conditions incorporated into Schedule 8 of the Migration Regulations for application and use on the grant of a visa as necessary and required. To effectively support the model and its aim to achieve balance between autonomy, compliance and status resolution outcomes it will be necessary to consider the tools and conditions currently available when granting a bridging visa and those that might be required. Depending on the type of tool or condition required to support status resolution, accompanying legislative change is not beyond the realm of possibility if it assists to achieve the policy outcomes. It is likely that additional tools will be required to support an enhanced ability to monitor an individual's compliance with the conditions imposed on their community placement.



As a matter of completeness, it is worth noting that the use of bridging visas has been contemplated to support the effective operation of the community placement tier. Ultimately, however, any system, mechanisms or tools could be built to achieve the outcomes pursued by tier 1 of the model, provided effective management in the community supports resolution of immigration status and safety and security.

Departmental decision-making

To permit greater agility and responsiveness exploration of whether efficiencies in the current operation of the ministerial powers can be achieved to enable timely status resolution outcomes, would be beneficial.

Exploration and identification of further legal issues

Two of the broader legal issues that may need to be considered are the development of the risk-based placement assessment tool and the implementation of the empowered officer role.

While the placement assessment tool is designed to assist decision-makers it does not *make* the decision. Consideration should still be given to whether the placement assessment is an administrative process and if so, subject to challenge through merits or judicial review. It also gives rise to questions regarding the administrative powers required by officers to give full effect to decisions made about an individual's placement based on the risk assessment as well as the types of policy support required to implement it. This ties in closely with the development of the empowered officer and the development of policies to support it, (discussed below) and may require consideration of further legislative changes to support it.

The ability for the Department to enforce and monitor compliance with conditions associated with management in tier 1 may require legal consideration and potentially legislative change.

This Review has not attempted to call out every legal issue that may be associated with implementing the new approach and placement model. There are likely to be other legal risks and implications of the proposed changes that will need to be explored and worked through as implementation progresses.

Policy

The new approach has been developed within existing strategic policy assumptions relating to Operation Sovereign Borders, regional processing, the universal visa system as well as safety and security remaining a focus when dealing with unlawful non-citizens. In this sense, major reform to policies directly underpinning or supporting these will not be required to implement the model.

A comprehensive review of policy will be required to support the placement model and a systems view of the management of individuals from the time they become unlawful non-citizens until they depart or are granted a substantive visa. In the short to medium term policy development should focus on the key aspects of the model that underpin its success, including:

- community placement, not held detention, for the majority based on a risk assessment
- status resolution focused, risk-based placement assessment by an 'empowered officer'
- services and conditions that support community placement
- a whole of system view

The model and more particularly community placement will operate most effectively in circumstances where tension in the system exists to encourage an individual to participate and engage with their status resolution. The policy settings need to support this.

From a policy perspective, the historical reliance on detention placement to 'solve' the issue of status or to manage risk to the community has necessitated the development of a range of policies to support the presumption of placement in a detention facility. A shift, however, to status resolution being the core

business with a presumption in favour of community placement will require a realignment of policy. This may impact on the placement of those subject to the following examples:

- breaches of the code of behaviour or Ministerial Direction 63 that may lead to cancellation of a BVE under s116 of the Migration Act
- general visa cancellation
- serious migration law non-compliance
- removal activity (and the ability to resolve intractable cases)
- management of the IMA legacy caseload who pose a risk to the community

There is scope, however, to review these to ensure that the way in which they are operationalised supports the placement model. The presumption for placement in a detention centre in each of these broad policy settings may stem from the position that individuals captured within them may present a risk to the community, without the support of a defined risk threshold or thorough consideration of the risk the individual might actually present. A key policy challenge therefore will be how to shift from using detention centres as a default in managing status and risk, while maintaining government priorities, expectations and public expectation regarding community protection without creating perverse outcomes for compliance, status resolution and removals. As discussed above, establishing a community risk threshold will be fundamental to this exercise. Articulating community protection risk clearly will allow better guidance to be produced for decision makers that will be more consistent with the model. Further, this will rely on a well-developed risk assessment tool with associated policy guidance to enhance decision makers' abilities to effectively and efficiently implement the results of the assessment, inclusive of guidance on the administrative procedures required to be followed in applying and making that assessment (including capturing and recording the decisions).

Associated with this will also be the effective development of the policy framework for the 'empowered officer' role. The administrative powers required and their effective use will need guidance to be developed.

Also important, and as discussed previously in *More tailored and appropriate services*, is the need for a services policy that assists the Department to develop a service delivery model and determine the services appropriate for individuals to support status resolution and minimise risk.

The Review notes that the Department has already started much of thinking that would be needed to support the recommendations arising from the Review. This report has not attempted to detail every current piece of policy work.

Management of complex cases

The Department expends significant resources and time on managing cases where there is difficulty in resolving status for various reasons. These cases can often result in long term detention.

The placement model is a tool that supports the management of individuals while their immigration status is resolved. The placement model can assist in the identification and management of intractable cases but the model is not designed to resolve immigration status. The 'empowered officer' role, which takes a holistic view of status resolution and placement, the enhanced and responsive governance framework that identifies and escalates such cases and the more robust assessment of risk will assist in management of complex cases. These combined will ensure that such cases do not 'slip through the cracks' and remain in prolonged detention.

It is possible for an individual with a complex case, particularly a complex removal, to be placed in detention and given the nature and circumstance; it is further possible for this period of detention to be substantial if they continue to pose a high risk. These issues arise, for example, in the Adverse Security Assessment (ASA) caseload. However, the core tenets of the model should operate to ensure that the individual's case is

regularly reviewed with their risk reassessed at regular intervals to determine whether it is possible to alter the individual's placement outside of held detention.

In the end the focus must be on policy led solutions to the permanent or temporary resolution of such cases, in the context of risk to the safety of the Australian community. The Review notes that work has commenced on policy solutions for some of the most complex cases and cohorts.

The IMA legacy caseload

The *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* (RALC Act) was introduced to address the wave of IMAs that arrived on or after 13 August 2012. The RALC Act introduced a suite of measures to progress some 30,000 IMAs who had arrived in this period, to an immigration outcome through a more robust and timely process as well as a system to prioritise and assess claims.

In this sense the legacy caseload is a discrete cohort that needs to be understood in terms of the particular and tailored status resolution solutions created through the RALC Act; when implementing the model. With applications for temporary protection visas (TPVs) and or the Safe Haven Enterprise visa (SHEV) initially slow, the Department developed a three stage engagement strategy to facilitate status resolution, namely engagement with the visa application process for the legacy caseload. Phase one involves an invitation to apply, phase two includes certain nudge strategies that are escalated to a phone call and or email where there is a nil response with phase three managing individual IMAs who have not lodged a Protection visa application through existing status resolution measures which includes consideration of not granting any further Bridging visas.

While it is necessary to manage the legacy caseload in conformance with the strategies in place, it will also be necessary to ensure they are managed consistent with the principles of the model. This includes, for example: ensuring that where the intention is to cancel a bridging visa appropriate removal procedures and processes are in place to enable placement in transit accommodation for a short period of time before removal.

While members of the legacy caseload currently on bridging visas or in detention would be subject to the placement model, the Review understands the need for a tailored approach. What will be important is ensuring that, to the extent possible, the policy solutions for the legacy caseload align with a status resolution focused risk-based approach to the management of individuals.

Mental health

As noted earlier in this report, under the current detention model, individuals who are accommodated in an immigration detention facility are provided access to specialist mental health professionals through a referral process administered by the Detention Health Service Provider (DHSP). Those with significant mental health concerns may require inpatient services at dedicated mental health facilities during their stay in immigration detention.

Current arrangements are that the DHSP will provide the referral to a facility, and the individual will be placed into that facility under an APOD arrangement. The Department currently has access to facilities, for this purpose, located in Melbourne, Brisbane and Perth but the arrangements tend to be ad hoc and dependent upon availability.

Mental health is, and will remain one of the most challenging issues facing departmental decision-makers. While the new model cannot solve these problems, there are a number of measures outlined in the report that should support more effective management of individuals suffering severe mental health issues. These include:

- creation of a new risk framework which assists decision-makers to identify individuals who may require a more detailed and specialised assessment of their management and placement options

- greater reliance upon experts to assess and manage complex cases
- more tailored and appropriate services for those with mental health issues who are being managed in the community
- improved governance including timely escalation and decision-making for complex cases
- more formalised arrangements with tier 4 providers to ensure better access to specialist providers and facilities

Under the placement model those who pose a high risk to safety and security and would under normal circumstances be in a tier 3 facility but have severe mental illness will be accommodated in tier 4.

Some business areas expressed concern that the positive outcomes achieved during treatment in a specialist facility can be compromised once an individual is placed back in detention at the end of their treatment. This could, theoretically also occur under the proposed placement model. The combination of regular assessment of risk, more formalised arrangements with treatment facilities and the greater reliance on expertise should assist in reducing this risk. For example, finalisation of treatment in a tier 4 facility may not automatically result in a return to a tier 3 facility once a new risk assessment is undertaken. A community placement option, informed by specialist advice might be more appropriate. Vigilance and ongoing monitoring of the effectiveness of the model for managing those with mental health issues will be required.

Children and families

In the legislative context, minors are primarily governed through the Migration Act and the *Immigration (Guardianship of children) Act 1946* (IGOC Act) in respect of immigration detention. Under section 4AA of the Migration Act, the principle is affirmed that minors are only to be detained as a measure of last resort. A majority of minors who arrive in Australia without an adult guardian are supported through the IGOC Act which gives the Minister guardianship responsibilities over an unaccompanied minor (UAM). It also enables the Minister to delegate some of the guardianship responsibilities such as decisions regarding a minor's day to day care and welfare.


The 'best interests of the child' are treated as a primary consideration in all decisions about children's placement or the placement of an adult that affects a child. Over time, the Department has taken steps to refine its policy, procedure and frameworks regarding the protection of children and their best interests. Most recently, arising from the Moss Review, the Department appointed an independent Child Protection Panel which has been charged with assessing the adequacy of departmental and service provider policy and practice around the management of children regarding incidents of abuse, neglect or exploitation.

The Department is also establishing a Child Safeguarding Framework as part of this to support it in continuing to improve on its policies, processes and systems to protect children in the delivery of its programmes.

There are a range of care, welfare and support arrangements in place to provide for the needs of children and young people residing in the community, as well as those who may be required to transit through immigration detention for the purposes of removal. In the community, services delivered to children are supported by the SRSS programme, with the Department engaging specialist service providers to ensure their health, education, recreation and cultural needs of children are met. SRSS service providers must also comply with incident reporting arrangements, operating 24/7, particularly in relation to child protection related incidents.

The Review is very supportive of the measures taken to improve the well-being and safeguarding of minors. These arrangements must be retained and incorporated into any policy and procedures that support the placement model.

The Department will not be provisioning for children in detention centres but there will be circumstances where children and families will require a short period of detention in transit accommodation in a suitable APOD to either facilitate removal or while they transition to the community. There will also be circumstances



where one parent may need to stay in a detention centre. The estate is being provisioned to allow easy access for such families to the person in detention.

Managing shocks to the system

A fundamental proposition underpinning the model is Operation Sovereign Borders remaining in place and continuing to be successful in stemming the flow of illegal maritime arrivals. The operating capacity of detention facilities allow for fluctuations but is not designed for a surge in boat arrivals similar to the surge experienced in 2012-13 or to significant changes in risk tolerance which may require the detention of significant number of individuals already in Australia. It is, therefore, crucial to establish a strategic contingency plan that accounts for a variety of scenarios that may unduly increase the numbers and capacity in detention facilities.

Contingency planning that ensures that we have the right people, facilities and services to support a significant increase in demand is essential. It should be tested through scenario planning.

Without planning the placement model could be very quickly undermined. Arguably this is what occurred with the surge of arrivals that commenced in 2012, expensive facilities were stood up to cope with demand, existing facilities were used in ways they were not designed for and discrete policies and processes were established.

Planning for significant changes in demand should not be at the expense of the current contingency and business continuity planning to deal with major incidents. This must continue as it drives continuous improvement, performance and assurance.

The knowledge and experience of officers with direct experience in detention, compliance and status resolution are invaluable in supporting contingency planning. The institutional memory of the Department plays an important role in ensuring that past mistakes are not remade. Formally capturing the collective experience of those who have dealt with past shocks, guards the Department against information-loss through staff turnover and attrition in times of change.

Implementation and next steps

Effective implementation of the Review's recommendations will be critical to the success of detention capability reform and delivery of the transformational cultural change that underpin it. This challenge should not be underestimated along with the extent to which the proposed changes impact on other business functions, processes and roles across the Department.

The Review recommendations are interrelated and interdependent. The long term change envisaged through the Review would be fundamentally undermined by selective implementation or significant modification of the recommendations in response to short term pressures or events. Rather, the strategic intent and long term benefits are best achieved through methodical, coherent and well-coordinated implementation of the recommendations as a whole.

Intentional and positive change needs both champions and long-term commitment, particularly where it involves a significant shift in organisational roles and underlying culture. Effective implementation of the Review and the consequential change will only happen with strong, clear and unified leadership from the highest level of the Department (including the Australian Border Force) cascading down to the operational level. Ongoing contributions from energetic, committed and professional teams from across the organisation will be critical to achieving success, and the preservation of appropriate levels of assurance and external scrutiny will balance change with effective accountability and transparency.²

All affected areas across the enterprise need to participate in and shape the change necessary to achieve the stated benefits. Functional owners will be also encouraged to embrace some level of risk to realise long term system-wide improvements.

The Department's operating condition are in a state of constant pressure and the path to realise a future end state at an enterprise level consistent with the organisation's strategic vision is still evolving and being tested. This has the potential to make implementation of this Review more complex.

Timely implementation is important while sufficient time is also required for the placement model to fully mature and bed down. The pace of implementation also requires iterative review and course correction throughout the process. To the extent possible, detention capability improvements and their interrelationship with other functions should be quarantined from significant additional reviews during the implementation and transition period. This will give the new placement model the best opportunity to be embedded throughout the organisation to establish a sustainable foundation.

Implementation Approach

While some reforms can be realised in the short term, the Review's recommendations touch on a broad cross section of the organisation and extend beyond to service providers, other state and territory and Commonwealth authorities and the public more generally. The scale of change is large and complex. As a result, sufficient time should be given to achieving full implementation and benefits realisation and this report anticipates this could occur within a three year time horizon.

² The Department of Defence (2014), First Principles Review, Creating One Defence

Leadership and Governance

Ultimately, implementation authority and guidance must be set by the Secretary and the Commissioner. Routine practical guidance can be provided by the relevant Deputies and an appointed Senior Responsible Officer (SRO), drawing on the existing governance and project committees. In particular, the renamed Community Protection Committee (CPC) and its subordinate groups will play a key role in guiding implementation and in maintaining integrity between strategic intent and outcomes.

Functional owners or business leads should be assigned early with the immediate task of developing more detailed implementation plans specific to individual functions or business areas. Functional leads and business owners should use existing departmental project management tools and methodology for managing and reporting on the progress of their initiatives.

The Strategic Reform Programme should also include reference to the full implementation plan, as it relates to other business reforms and changes, to ensure alignment with the agreed end state and broader strategic intent.

Cultural Change and Communication

Changes to structure and processes will provide only incremental improvement unless broader organisation attitudes, culture and behaviours also change. This is part of the implementation challenge for the Department's senior and extended leadership cohort and will require dedicated effort and careful monitoring.

This Report recognises that meaningful cultural change will require a large amount of work and sustained effort across multiple areas of the organisation. It is also essential that it be underpinned by a strong and enduring approach to communication that promotes staff awareness and commitment and a clear understanding of touchpoint and implications for other Commonwealth and state and territory authorities.

Implementation should give due regard to the development of a communications strategy that is maintained and updated throughout the change process and transition to business as usual. The communication strategy should include appropriate levels of centrally coordinated messaging while reflecting the layers of engagement that occurs at the strategic, policy and operational levels.

Evaluation

The Review is proposing that the Department develop evaluation measures that consider the entire system and how effectively and efficiently immigration status is resolved. From the perspective of the placement model, the measures should focus on how effectively status resolution is supported by the way individuals are placed and managed.

Evaluation measures and targets should be designed to promote consistent alignment between decision-making and placement model objectives and identify circumstances where divergence is manifesting. The table below describes a number of example evaluation measures linked to recommendation themes that should be further considered during implementation.

Recommendation Theme	Focussing Questions	Description of Example Measures
A new approach to the management of individuals while their immigration status is resolved	<ul style="list-style-type: none"> • Does the new model support more efficient and effective immigration status resolution (including removals)? • Does the new model, including the greater use of community placements, increase engagement with the status resolution process? 	<ul style="list-style-type: none"> • Status resolution volumes and timeframes • Rates and processing times for removals • Proportion of people whose status is resolved while they reside in the community versus being in detention facilities • Compliance rates with monitoring and reporting conditions • Consumption of health and mental health services during status resolution and post determination relative to the general public and to previous rates
A status resolution placement model	<ul style="list-style-type: none"> • Does the model sustain a predisposition to managing people in the community while their status is resolved? • Does the model impact the rates of voluntary compliance? • Is the model effective in identifying extreme risk and vulnerable people and providing them the services they require? 	<ul style="list-style-type: none"> • Total and relative size of the community placement cohort over time • Total and relative size of the community cohort made lawful • Total and relative size of the community cohort subject to reporting and monitoring • Compliance rates with conditions • Detention occurrences, durations and relative detention capacity used for tier 2 • Detention occurrences, durations and relative detention capacity used for tier 3 • Capacity of outsourced/specialist detention relative to demand
A new risk framework	<ul style="list-style-type: none"> • Do risk assessments and associated tools support more accurate and consistent decision making? • Do risk tools enable a decentralisation of routine and quality decision making? • Do risk assessments and tools enable the early identification of vulnerable people? 	<ul style="list-style-type: none"> • Number and breakdown of risk assessments/placement decisions • Number and nature of assessments/placement decisions changed • Placement decision trend over time • Security incidents involving people in community placements, relative to the general public • Number and nature of people identified as vulnerable through initial risk assessment • Qualitative input from operational areas
A fit for purpose detention estate	<ul style="list-style-type: none"> • Does the detention estate support effective operations and status resolution? • Is the detention estate more efficient and sustainable? • Does the detention estate support good order, security and safety? 	<ul style="list-style-type: none"> • Size and nature of the detention cohort • Time and reason people are held in tier 2 before being placed or removed (including turnarounds) • Rate and reasons for detainee moves throughout the detention network • Occurrence, duration and nature of IRH use • Request for IRH access not met • Occurrence, duration and location of APOD use • Size and nature of the cohort in APODs • tier 4 people in IDN
Improved financial management of detention	<ul style="list-style-type: none"> • Does the model result in reduced cost for immigration detention and support services? • Is there improved cost attribution and stability in projections? 	<ul style="list-style-type: none"> • Level of total funding for immigration detention and relative to portfolio budget • Total costs of status resolution functions and support services and relative to total funding • Total cost of detention and relative to total funding • Number and value of estimates variations and NPPs relative to fixed appropriate



Risks to success

With an initiative of the size and complexity being recommended by the Review, key risks that may undermine the success of the new approach and placement model must be identified and acknowledged at a high level for monitoring and management purposes.

Broadly, the major risks likely to affect the model include:

Lack of staff support and buy-in – the model requires engagement and buy-in from staff and stakeholders to ensure its longevity and preservation. Associated with this is potential cultural and active resistance to the model as key risks (outlined below)

Cultural resistance – the model challenges the status quo for many functional and operational lines across the Department, who may have difficulty adjusting to a new paradigm

Active resistance – as the model challenges the status quo, it is possible that some functional areas will feel disempowered or that the model is making their jobs and functions harder which risks divergence from the model. Effective and continuous coordination and oversight will be essential throughout the reform and beyond

Effective engagement of internal and external stakeholders – the model represents a complex change in environment. Consistent engagement with stakeholders and a change management focus will be critical to the success of both the model and its implementation

Reform and integration fatigue – the model represents a further wave of change across multiple business lines that are still managing or adjusting to the current change program

Lack of clear lines of policy ownership and accountability – the model requires clear and policy ownership and accountability.