

# Chapter 12

## Education for Children in Immigration Detention

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## 12. Education for Children in Immigration Detention

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Just send my children to school, and let them be in freedom. They should live in a human good atmosphere, they should learn something good, and not the things they are learning here.<sup>1</sup>

A child's experience of detention is fundamentally affected by the level of education with which they are provided. This chapter assesses the provision of education to children in detention, compares it to the provision of education to similar children living in the Australian community, and determines whether the education that has been provided to children in detention meets Australia's international human rights obligations.

The provision of education to children in detention has changed considerably over time. At the announcement of the Inquiry in November 2001, most of the approximately 700 children in detention were being educated in internal detention centre schools. By the end of 2002, approximately half of the children in detention were accessing external education, with approximately 80 per cent in external schools by mid-2003.

Documents from the Department of Immigration and Multicultural and Indigenous Affairs (the Department or DIMIA) and its services provider, Australasian Correctional Management Pty Limited (ACM), as well as evidence from former detention centre teachers and detainees all suggest that there were serious barriers to the provision of an adequate education inside detention centres.

However, external education significantly improves the education received by detainee children. It is unfortunate it took until late 2002 before it was available to the majority of children.

This chapter addresses the following general questions:

- 12.1 What are children's rights regarding the provision of education in immigration detention?
- 12.2 What policies were in place regarding education for children in detention?
- 12.3 What education is provided to similar children in Australian schools?
- 12.4 What education was provided in internal detention centre schools?
- 12.5 What external education was provided to children in detention?

## A last resort?

There is a summary of the Inquiry's findings and three case studies at the end of the chapter.

### 12.1 What are children's rights regarding the provision of education in immigration detention?

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available and free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

*Convention on the Rights of the Child, article 28*

Article 28 of the *Convention on the Rights of the Child* (CRC) applies equally to all children within Australia, whether or not they are in immigration detention. It sets out that the core minimum obligation is to ensure that primary education should be 'compulsory and available free to all'. Secondary education should be made 'available and accessible to every child'. Furthermore, 'educational and vocational information and guidance' should be made available and accessible to all children and measures should be taken 'to encourage regular attendance at schools and the reduction of drop-out rates'.

Article 29 sets out the broad goals of education, including 'the development of the child's personality, talents and mental and physical abilities to their fullest potential'.

The Department argues that the CRC does not establish a standard of education to which children are entitled:

States have some flexibility in the manner in which they implement such international obligations. Moreover while the [CRC] sets out the obligation to provide education it does not establish the quantity, quality or level of that education which obviously differ widely across the international community of States.<sup>2</sup>

While the Inquiry agrees that there is no *absolute* standard required by the CRC, the CRC is quite clear about *relative* standards. The principle of non-discrimination, set out in article 2 of the CRC, means that within a country there must be no lesser provision of education for any one group of children, regardless of nationality or immigration status and regardless of how the child arrived in the country. Article

28(1) of the CRC reinforces this general principle of non-discrimination by specifically recognising the right to education for all children on the 'basis of equal opportunity'.

The principle of non-discrimination with regard to the provision of education is also reinforced by the *Convention against Discrimination in Education* to which Australia is a party. It prohibits Australia from depriving 'any person or group of persons of access to education of any type or level', limiting 'any person or group of persons to education of an inferior standard' or establishing or maintaining 'separate educational systems or institutions for persons or groups of persons'.<sup>3</sup> Specifically, the treaty requires that States Parties give 'foreign nationals resident within their territory the same access to education as that given to their own nationals'.<sup>4</sup>

The Department argues that:

the principle of non-discrimination does not require that Australia provide education to children in detention in exactly the same manner as children in the community. Australia's obligation is to provide appropriate education to all children in Australia, consistent with Article 28 of the [CRC]. Such provision must, however, also take account of the individual circumstances of a child, which in this case will include, among other things, that the child is required to be detained.<sup>5</sup>

While the manner in which education is provided to children in detention may differ from the manner in which education is provided to children in the community, the Inquiry notes that this does not permit the Department to provide a level or quality of education inferior to that provided to similar children living in the Australian community who are not detained. Rather, when Australia implements a policy that requires detention of certain children, international law requires that special measures be taken to ensure that those children enjoy their right to education on the basis of equal opportunity. In other words, while the Inquiry acknowledges the difficulties that are presented by the detention environment in providing an adequate level of education to children who are detained, articles 28 and 2 of the CRC require Australia to overcome those problems in order to ensure an appropriate level of education.

Furthermore, article 22(1) of the CRC requires Australia to give special assistance to asylum-seeking children. In the context of education this means that schooling should be tailored to address the special needs of these children. The Refugee Convention makes it clear that the provision of education for refugee children should be equal to that provided for nationals of the same age with respect to primary education and equal to other non-national children with respect to secondary education.<sup>6</sup>

The Refugee Convention also requires the provision of education to all children irrespective of whether they have been recognised as refugees. Similarly, the United Nations Committee on the Rights of the Child has held that children who have had their refugee status applications rejected are entitled to education commensurate to that available to other children resident within a country.<sup>7</sup>

Furthermore, where there are various options regarding the provision of education to children in detention, article 3(1) of the CRC requires the Department to ensure

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that the best interests of the child are a primary consideration in determining the manner in which education will be provided.

The *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* (the JDL Rules) provide some guidance on how to provide appropriate education to children who have been deprived of their liberty. First, the JDL Rules state that education for detained children should be provided in schools external to detention facilities, through 'programmes integrated with the education system of the country'.<sup>8</sup> The JDL Rules also state that:

Special attention should be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.<sup>9</sup>

Furthermore, the JDL Rules provide that children:

above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes.<sup>10</sup>

The quality of education provided to children in detention has an impact on Australia's compliance with a child's rights to enjoy the maximum possible development (article 6) and the right to be treated with humanity and respect while in detention, taking into account the age of children (article 37(c)). It may also influence an overall assessment as to whether Australia's mandatory detention laws permit the best interests of the child to be a primary consideration (article 3(1)).

In summary, Australia is obliged to provide education to detained asylum seeking children to a standard commensurate with that provided to similar children attending schools within the Australian community, keeping in mind what would be in the best interests of the child. The United Nations recommends that this education should not take place inside detention centres.

## 12.2 What policies were in place regarding education for children in detention?

The Department is responsible for ensuring that children in detention can enjoy their rights under the CRC to access education on the basis of equal opportunity with other children in Australia. Under the detention services contract, ACM was responsible for actually providing these services. The Department states that by requiring ACM to provide these services it was fulfilling its human rights obligations. However, the Department must do more than just make contractual provision for services. It must monitor the performance of the contract and ensure that any shortfall is rectified.<sup>11</sup>

The monitoring of services is the responsibility of the Department's Manager in each centre. This responsibility included 'oversighting ACM service delivery and contract performance through day to day involvement in the centre as well as ongoing monitoring and reporting'.<sup>12</sup>

The performance measure for the assessment of education is the Immigration Detention Standards (IDS). The 1998 IDS defined education programs as:

pre-school and school curriculum based programs, focusing on English as a second language and taking into account variable lengths of stay in detention of students, in line as far as possible with local education authority standards, provided by qualified teachers, either within the detention facility, or within local schools if appropriate and within requirements for continued detention.<sup>13</sup>

The only other requirement specific to the education of children (as opposed to detainees generally) was that '[s]ocial and educational programs appropriate to the child's age and abilities are available to all children in detention'.<sup>14</sup> However, the IDS also stated that '[a]ll detainees have access to education, recreation and leisure programs and facilities which provide them the opportunity to utilise their time in detention in a constructive and beneficial manner'.<sup>15</sup>

The principal ACM policy governing education was contained in a document entitled 'Education, Recreation and Leisure programs'. The stated purpose of the policy is to 'ensure the detainees of the Centre are provided with the opportunity to participate in programs to the extent that local resources and the amount of time available to the detainee allow'.<sup>16</sup>

The ACM policy included 'general pre-school and primary school classes' in its list of programs, but did not mention provision of education for secondary school students.<sup>17</sup> The ACM policy stated that consideration would be given to the 'availability of local resources' in the provision of programs but that 'program participation will be voluntary'. The policy document did not contain any specific requirements or guidelines regarding curriculum, hours of education or the qualifications of teachers.

Neither the Department nor ACM sought the assistance of State governments in developing standards or policy regarding the provision of education for children in detention. This is surprising given the pre-existing expertise of State education authorities in providing education to similar children in the Australian community.

### **12.3 What education is provided to similar children in Australian schools?**

The central question in assessing whether Australia is meeting its obligations to children in immigration detention under the CRC is whether they are provided with education of a standard comparable to that provided to similar children in the Australian community. This requires consideration of the general standards of education provided in Australia, as well as the special provisions that are made for children similar to those in detention.

There are many children with similar experiences to detainee children who are educated within the Australian community. For example, children who arrive in Australia with a visa who seek asylum and live in the community on bridging visas;

## A last resort?

children who arrive under Australia's Refugee and Humanitarian Program; and children released from detention and living in the community on temporary protection visas all attend Australian schools. These children are of culturally and linguistically diverse backgrounds and have significant educational, emotional and social needs. Collectively they are the group of children referred to in this chapter as 'similar children'.

This section therefore describes the education generally provided to similar children in the Australian community. In particular it describes the New Arrivals Program.

### 12.3.1 Curriculum

There is no national curriculum in Australia. Instead each State, through the department of education or a statutory body, determines and administers its own curriculum. Schools are responsible for ensuring that the prescribed curriculum is delivered to all students.

Each State has specialist programs to cater to the educational needs of a cohort of students similar to those in immigration detention. In particular, in each State there is either an English as a Second Language (ESL) curriculum or an established practice of using ESL documents as a guide for targeted language teaching for ESL learners within the general curriculum.

Importantly, throughout Australia, ESL instruction occurs across the curriculum. Students requiring ESL instruction, even those who have very little English, acquire language skills at the same time as they receive instruction in the mainstream curriculum. Students are often taught by specialist subject teachers who also have ESL qualifications.

National ESL documents are widely used in Australia as a guide to help teachers record and assess the progress of students learning English as a second language in reading, writing, speaking and listening.<sup>18</sup> Generally, these documents provide:

- a set of benchmarks for ESL learner achievement
- a common language for reporting student achievement
- guidance to teachers in making judgments about students' level of achievement
- help in identifying ESL learners' needs to assist program and curriculum development.

The manner in which ESL is taught differs between States. Some states have a full ESL curriculum; some have documentation supporting ESL learning in mainstream curriculum areas; and some use national documents to assist in adapting curriculum for ESL learners. For example, Victoria has developed a specific ESL curriculum for all levels of schooling, and has ESL Course Advice documents for other key learning areas.<sup>19</sup> In New South Wales, outcomes from national ESL documents have been incorporated into the English Syllabus for years 7-10 and there is a specific ESL curriculum for students in years 11-12. In South Australia, the ESL Scope and Scales document, published in July 2002, operates as a guide to the implementation of

the curriculum for ESL learners. In Western Australia, there is no specific curriculum guide for the teaching of ESL. Rather, ESL teachers in the State use the national documents as both progress maps and planning documents. Across Australia, there are clear curriculum guidelines for developing programs for ESL learners.

### 12.3.2 New Arrivals Program

Within Australia, the provision of education is the responsibility of State and Territory governments.<sup>20</sup> However, the Commonwealth provides financial support for education systems, individual schools and individual students through its funding programs.<sup>21</sup> In particular, Commonwealth funds support State education authorities in providing ESL programs under the New Arrivals Program.<sup>22</sup>

In the Australian community, children similar to those in detention usually attend Intensive English Centres (IECs) partially funded through the Commonwealth's New Arrivals Program. Children attending IECs have significant special needs. As well as their second language learning needs, they may have had little experience of schooling, and may need special support due to prior experiences of torture and trauma. Schools operating as part of the New Arrivals Program specifically work to meet the special educational and social needs of these children.

Children attending these schools are provided with an intensive English program, which in each State is taught within the context of the key learning areas of the relevant mainstream curriculum. This means that students acquire English language at the same time as they study the relevant State curriculum.

For example, in South Australia, the New Arrivals Program provides intensive English support for children newly arrived in Australia.<sup>23</sup> Students attend New Arrivals Program centres for approximately one year before they enrol in local schools, while a course for children who have had 'no schooling, or limited schooling' may take up to 'six terms, 1½ years'.<sup>24</sup>

In the South Australian Primary New Arrivals Program, classes are small, organised by age, and students are taught the full range of primary school subjects in English. In the Secondary New Arrivals Program, students follow an intensive ESL course in all subject areas. This program is conducted:

in a supportive environment where students develop the skills and knowledge to successfully participate both in secondary schooling and society in Australia.<sup>25</sup>

The South Australian Department of Education describes the New Arrivals Program as follows:

The NAP is a well resourced part of the total ESL Program in South Australia. Staffing guidelines in the NAP provide for relatively generous allocations of teachers to provide the intensive teaching and support at this initial point of schooling. Teachers in the NAP are qualified and experienced ESL teachers.<sup>26</sup>

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Schools with ESL students in South Australia are provided with additional staffing, according to an assessment of the needs of their students. Within South Australia there is also support for new arrival ESL learners in geographically isolated schools. Professional development services are offered to teachers in schools where there are ESL learners, including schools in isolated areas.

Similar programs are offered in New South Wales, Victoria, and Western Australia.<sup>27</sup> Therefore, throughout Australia qualified staff meet the needs of newly arrived students through specialist programs. An example of the way in which one such program works is provided below.

### **12.3.3 Holroyd High School – providing education to new arrival students**

Holroyd High School is in the Fairfield District of western Sydney. As well as providing mainstream schooling for Years 7-12, it is the largest of the fourteen IECs in NSW. The average monthly enrolment in the IEC in 2002 was 214 students. The majority of students are refugees. Students spend an average of three to four terms in the IEC.<sup>28</sup>

Since January 1999 the IEC has enrolled forty-eight students on temporary protection visas. As well, a small number of students with temporary protection visas have enrolled directly into the mainstream high school. All of these students were in immigration detention. None arrived with any documentation of schooling undertaken while in detention.

All students entering the IEC are assessed for English language competence and literacy when they enrol. On the basis of the initial assessment, students are allocated to regular or special needs classes. Special needs classes are small classes which cater for students with low literacy, interrupted schooling, or trauma. Currently, Holroyd IEC has nine special needs classes, one of which is for beginning literacy, and six regular classes.

Students enrolling from immigration detention typically have some spoken English 'picked up' from interactions with the detention officers in the detention centres, but have no written English, unless they have previously studied English at school in their country of origin. In the IEC, students receive English language instruction through subject areas. Classes are organised by age. Students also do sport, and take part in a program of experiential excursions.

At the conclusion of the New Arrivals Program, students exit the IEC to Holroyd and other high schools, or to TAFE. For students at Years 10, 11 and 12 levels, the high school operates a bridging course in the second semester of each year to enable successful transition into senior high school or TAFE. This is entirely school funded.

In the high school, ex-IEC students are provided with ESL support, through parallel classes, withdrawal groups and team teaching. The school has also developed a unique Board of Studies endorsed school course for Years 9 and 10 ESL students, English for Specific Purposes. This course has School Certificate accreditation.

In Years 11 and 12, students with fewer than five years of formal English instruction may undertake the Higher School Certificate ESL course. In the IEC, older students access the dual-accredited national course, the Certificate of Spoken and Written English, Levels 1 and 2, and in the high school, Level 3.

The school provides assistance to needy students through the Student Assistance Scheme (SAS) for subject contributions, school uniform, shoes, excursions, stationery and equipment, and basic sustenance. Both the high school and the IEC operate clothing pools. The IEC also uses SAS funds to subsidise excursions and to provide swimming lessons. TPV and bridging visa students have high support needs in comparison to other needy students, as they have few resources when they arrive in the school.

The Holroyd High School example clearly demonstrates that children of very similar background to detainee children have their needs expertly catered for in schools within the Australian community.

## **12.4 What education was provided in internal detention centre schools?**

The Department, ACM and former teachers at detention centres have told the Inquiry that there are several barriers to providing a full education program within detention centres. This section recognises those challenges and examines what efforts have been made by the Department and ACM to overcome those problems in order to ensure that children in detention can enjoy their right to education on the basis of equal opportunity to other similar children.

After addressing the general challenges to providing education inside detention centres, this section considers the following aspects of the education provided to children in internal detention centre schools:

- the attendance levels in internal schools
- the curriculum offered to children
- assessment and reporting of children's progress
- the number of teaching staff available to children
- the hours of tuition offered to children
- the educational infrastructure within the centres.

The Inquiry notes that by mid-2003 a significant proportion of children in detention were attending schools external to the detention centres. However, as most children detained since 1999 attended educational programs within detention, it is important to assess the quality of those programs. Furthermore, most of the children who gained access to external schools in 2003 had been detained for over two years during which time they were educated within the centres. Some children still in detention in November 2003 had never had the opportunity to go to external schools (see for example Case Study 3 at the end of this chapter). Therefore it is important to assess the programs offered within detention since 1999.

### 12.4.1 General challenges to providing an appropriate education in internal schools

Children's enjoyment of the right to education in detention centres is influenced both by the quality of the schooling offered to them and their capacity to absorb it within that environment.

The Department told the Inquiry that providing education within detention was uniquely challenging:

[T]here are a number of other factors that are rarely encountered in the wider community which complicate the provision of education to children in detention. These include:

- differing cultural beliefs about appropriate levels of schooling according to the age and gender of the child;
- disturbances within the detention facilities which result in the destruction of education facilities and/or result in an unsafe environment for both staff and children;
- socialisation and learning difficulties associated with past torture and trauma;
- a suspicion of authority arising from experiences with other governments and their agencies; and
- difficulties adapting to new environments.<sup>29</sup>

ACM also drew the Inquiry's attention to certain difficulties including:

- fluctuating and transitory nature of the school aged detainee population;
- vastly diverse cultural backgrounds and abilities of the children within a relatively small cohort of the same age group;
- infrastructure constraints, exacerbated by the destruction of facilities by detainees;
- need to ensure security and good order which ACM is contractually required to place before all other IDS;
- difficult access to resources and facilities in remote centres;
- long term detainee children's preoccupation with visa issues leading to loss of motivation to receive education.<sup>30</sup>

ACM emphasised that it did not have any control over many of these factors.

Teachers working in detention centres confirmed that there were inherent barriers to providing a good education in detention. A former Woomera teacher, who worked in the centre from May to August 2001, stated that during 2001:

a positive and meaningful education program [was] not possible in Woomera given the current political and management policies, treatment of detainees, environmental conditions, detainee's physical, mental and emotional states and extreme lack of resources, both material and human.<sup>31</sup>

This teacher further stated that 'disruptions due to disturbances/riots, continual relocation/rehousing of detainees between compounds, releases and arrivals, detainee health and psychological states' all contributed to this difficulty.<sup>32</sup>

Furthermore, another teacher formerly employed at Woomera summarised the problems as follows:

It was not possible to provide the type of educational services outlined by the Immigration Detention Standards (IDS). The lack of classrooms, the limited number of teachers and the hostile environment for teaching were the main factors. ... We made numerous overtures to the programs manager and the centre manager and through monthly reports about the shortage of teachers and classrooms (all to no avail).<sup>33</sup>

An overwhelming factor impacting on the children's ability to learn was their ever-increasing depression. Teachers and students all described how an initial excitement to learn gradually disappeared as their time in detention got longer. One former Woomera teacher told the Inquiry:

Some of the teenage children became visibly depressed the longer they stayed at the Centre [Woomera]. These children stopped coming to class or if they did attend their mood had deteriorated so they no longer showed any enthusiasm for learning.<sup>34</sup>

An unaccompanied child told the Inquiry that his increasing psychological distress during his time in detention meant that he had learnt nothing at all while he was there:

We did have an opportunity to study and as I mentioned before I was very depressed and psychologically I was very uncomfortable. So I stopped going to English classes and after a while, I decided to go back and while I was there I remember that the teacher used to tell us as long as you are here, try to learn as much English as you can and at least when you go out you can solve your problems. But then we weren't even able to think, when you're distressed because everyone was so psychologically distressed and no-one could concentrate. Now when I go back and I think about that I realise that there was lots of good books for us to study in there but unfortunately since psychologically I was not ready for that, I couldn't concentrate and when I got out of the detention centre, I had learnt nothing at all.<sup>35</sup>

A teenage girl detained at Woomera in June 2002 also said that her detention affected her ability to concentrate:

... we want freedom. We cannot learn properly, we need a lot of things and when we are depressed here we cannot at all study properly.<sup>36</sup>

The Department has stressed that the circumstances surrounding the detention of children during 2001, namely a large influx of detainees, should be taken into account in assessing the education with which they were provided. For example, the Department has suggested that:

With regard to the circumstances facing the department and services provider in later 1999 through 2001, the focus was on meeting basic needs,

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such as ensuring detainees were provided with accommodation, food and other essentials.<sup>37</sup>

Thus it appears that there are several aspects of the detention of asylum seeker children which make it difficult to provide a good education in detention. These factors include the changing numbers of students; the infrastructure available to teachers and students, especially in remote centres; the need to maintain security within detention centres; the occurrence of violent disturbances within the centres; the mental health problems caused by past torture and trauma and the detention environment; differing cultural backgrounds; and differing educational levels.

The fact that the Department and ACM were aware of these issues makes it all the more surprising that children were not immediately sent to mainstream Australian schools, which remove many of these barriers (see further section 12.5 on external education). In any event, it is clear that the Department and ACM were aware of the issues they needed to overcome in order to provide an adequate education. It is therefore important to examine what measures they took to address these challenges within the context of the internal schools.

### 12.4.2 Curriculum offered to children in internal schools

It was not a proper school, not like this, nothing like this, this is heaven.<sup>38</sup>

*Unaccompanied child comparing the education provided at Curtin to education at an Intensive Language Centre in Perth*

#### (a) Challenges to providing an appropriate curriculum to children in detention

The Department and ACM highlight three difficulties in providing a full curriculum to children in immigration detention. First they argue that the special needs of detainee children mean that the standard Australian curriculum is inappropriate. Second, they state that it was difficult to develop a specific curriculum for detainee children because of the transitory nature of the detention centre population. Third, they highlight the barriers to ensuring an appropriate level of curriculum resources.

With respect to the issue of applying the standard Australian curriculum the Department stated the following:

a number of factors need to be taken into account in determining whether it is appropriate for detainee children to receive an education directly comparable with children of the same age in the relevant State, including the child's:

- capacities and abilities;
- numeracy levels;
- literacy levels in English and in their own language; and
- degree of socialisation into any school system.<sup>39</sup>

The Department then draws the conclusion that:

It is not therefore always practicable to stream detainee children into the full Australia-based curricula – indeed in many cases it could be counter-productive and unfair on the children to do so. Just as in the general

community for non-English speaking children of newly arrived migrants and humanitarian entrants, adjustments to the curricula are needed to make English language tuition the priority.<sup>40</sup>

The ACM Education Coordinator from Woomera during 2001 also stated that the South Australian general curriculum was not used in Woomera as it was 'just impossible to use that kind of document with children that have no English at all'.<sup>41</sup>

In the Inquiry's view, these arguments ignore that throughout Australia there is either an ESL curriculum or an established practice of using national ESL documents to adapt the mainstream curriculum for ESL students. Furthermore, it fails to recognise that the New Arrivals Program delivers this curriculum to children with very similar needs to detainee children. In this program, English language tuition is a priority, but it is delivered across a range of curriculum areas. It is disappointing that these models were not adopted at the outset.

Regarding the difficulty of developing a specific curriculum for children in detention the Department informed the Inquiry that 'it is entirely appropriate that schooling has a focus on English and socialisation skill, and this is consistent with community standards for a similar cohort'.<sup>42</sup>

Furthermore, the Department informed the Inquiry that:

Despite the efforts to tailor curricula to the needs of detainee children, on occasion service provision within detention centres was affected by the available infrastructure and destruction of buildings during protests. These circumstances, however, are not directly comparable to other children in the community and it is therefore inappropriate to draw such links without acknowledging the distinctly different circumstances facing such children.<sup>43</sup>

ACM further informed the Inquiry that:

Setting guidelines and developing curricula in the detention environment is a dynamic process which must keep pace with the changing circumstances of the particular detention centre. For example, there was a huge transitory population in Woomera in 2001 during which the children typically stayed in the centre 6 weeks to 3 months. During that time, the focus of education was to teach these children English and socialisation skills vital to assisting them with adjusting to life in Australia. It was not appropriate to try to use the standard curriculum with these children because the majority of them had no English. It was not until it became clear that some of the children were staying longer and until they had developed some proficiency in English that ACM was able to consider setting up a curriculum and undertaking conceptual development for the children.<sup>44</sup>

ACM suggests that this statement 'argues against the feasibility or even desirability of a centralised, standardised curriculum in the times of rapidly changing circumstances in the detention centres'.<sup>45</sup>

## A last resort?

While the Inquiry acknowledges that the transitory nature and differing education levels pose challenges to providing a full curriculum these are barriers that automatically come with the creation of a mandatory detention system. It is the Department's obligation to address those challenges in a manner that ensures that children in detention receive an education of a standard commensurate with similar children living in the Australian community. It is therefore entirely appropriate to compare the education provided to children in detention with that provided to similar children in the Australian community. This is especially the case when models like the New Arrivals Program already exist to address many of these needs.

Regarding the third challenge of providing appropriate curriculum resources, the Department informed the Inquiry that from late 1999 until 2001, their focus was on meeting basic needs and that it was 'unrealistic to expect that a school environment could be ideally created in such a context'.<sup>46</sup>

ACM also informed the Inquiry that it faced significant difficulties in providing sufficient educational resources:

It was difficult to correctly allocate educational resources in advance due to the uncertainty of the number of detainee children in the centre at any given time. For example, there were 14 children in Woomera in December 2002 but 18 months prior to that, there were 400. Where there was a sudden influx of children in the centres, additional education material had to be ordered in. In remote centres like Woomera, supplies may take 4 to 6 weeks to arrive.<sup>47</sup>

However, once again, these are issues that arise with a mandatory detention policy that detains children in remote locations. Those issues do not excuse poor resourcing of educational programs; rather they highlight the heightened need for contingency planning.

It is therefore important to examine what efforts were made to address these challenges.

### **(b) Curriculum used in internal schools**

Meaningful education must be based upon a carefully developed and appropriate curriculum. The Inquiry received a range of evidence regarding the quality of the curriculum taught in detention centres.

#### **(i) Port Hedland**

The Port Hedland Department Manager noted the following problems in the March 2001 quarterly report:

The lack of adequate education programs is a major issue. More often than not no trained teacher [is] available, classes are irregular at best, no curriculum, no subject programs or timetables and no learning outcomes identified. This also has a negative impact on the behaviour of the children as they don't have enough to occupy their time constructively.<sup>48</sup>

Reports for the following two quarters made general statements that the standard of education had improved at Port Hedland. However, the Inquiry also heard from a teacher formerly employed at Port Hedland who worked in the centre from August 2001 to March 2002, that learning programs were developed locally and entirely at the discretion of the teachers employed at the time. She reported that:

There was no programme, no curriculum or syllabus in Port Hedland IRPC.  
 ... I wasn't instructed on what I was to teach, only that English was a priority.  
 The actual content of my classes were completely left up to me.<sup>49</sup>

On the other hand, the Programs Manager at the time reported that he instructed teachers in the centre to spend a third of their time on each of English, Maths and another subject from the standard curriculum.<sup>50</sup> He also said that the teachers in Port Hedland at the time were very capable and did not need more detailed instructions. He stated that the teacher quoted above said that she did not want more detailed instruction.

While the Inquiry accepts that the Programs Manager may have provided some instruction to teachers, curriculum planning should involve detailed consideration and coordinated implementation of the appropriate State curriculum documents. It does not appear that this occurred in any coordinated manner.

## (ii) Curtin

When the Inquiry visited Curtin in June 2002, ACM education staff and Department Managers reported that teachers did not use the formal Western Australian curriculum within the centre's educational facility. Instead, instruction was focussed on numeracy, literacy and social skills.

ACM education staff reported that the emphasis on these basic skills was a result of the time available, the attention span of the children and the importance of life skills and recreation.<sup>51</sup> They also stated that they used this type of program because the detention centre school operated as a transitional education experience, preparing students for attending the Derby District High School.<sup>52</sup> This evidence contradicts the Department's claim in its submission that educational programs in detention were based on the State curriculum.

The Inquiry does not agree that preparing students to attend the local school is justification for the provision of a limited program. Indeed, if integration was its purpose, that program should have been as close as possible to what was being taught in the local school. The ESL curriculum taught in the New Arrivals Program adopts this approach and would have provided an appropriate model.

One parent described the education offered in Curtin in June 2002 as follows:

Unfortunately the education is pretty poor there because what they did they giving one room for study ... Two three hours, showing them video and then say okay go to park and play in the park. Even my children until now they cannot really use their ABC unless we are just sitting together and trying to teach each other better than the school.<sup>53</sup>

## A last resort?

A young person, who was by June 2002 attending Derby District High School, said of the internal program:

when I was attending school here the hours were very limited and ... due to the limited hours we had to do sport and reading and so we never had any time to learn really, no substance in the program.<sup>54</sup>

### (iii) Woomera

Teachers who worked at Woomera in mid-2001 also reported that there was no coordination of the curriculum. One former ACM teacher stated that:

[i]t was ad hoc in terms of the curriculum. There was no curriculum set or advised by ACM or DIMIA in respect of teaching. What was expected of us – we were certainly given some classrooms to teach [in] and some materials in terms of white boards and so on for the teaching process, but nothing in terms of what type of syllabus for any subject so we made that up ourselves.<sup>55</sup>

Another teacher employed in 2001 made similar comments:

We were not ever given any instructions that we specifically had to teach any curriculum subjects. It was basically left, I think, to the discretion of the teaching staff as to what was specifically given as an education program.<sup>56</sup>

In response to this evidence, the Department argues that:

It is reasonable to expect that qualified teaching staff will be able to determine an appropriate school program, which is consistent as far as possible with State curricula while being responsive to the needs of children in his or her classroom.<sup>57</sup>

While a teacher clearly should respond to a child's needs it must be on the basis of an established curriculum with appropriate goals. In Australian schools, individual teachers do not set the curriculum. Within each school learning programs consistent with State curricula are coordinated within the school, with appropriate resources and teacher development. Where the school is teaching ESL students, then it should apply the appropriate curriculum to the children. It is this coordination of curriculum that was absent within the detention centre educational facilities for some time.

### (iv) Villawood

ChilOut, an organisation that has significant contact with children detained at Villawood also reported that there was a limited primary school curriculum at Villawood:

Children interviewed at VDC of primary school age reported that they receive English, maths and art lessons. When asked about other key learning areas of the primary curriculum such as science, they answered in the negative. No classes are offered in their culture or language.<sup>58</sup>

ChilOut reported that a more limited curriculum was offered to secondary school-aged children. For example, '[f]or young people of high school age, only English at

a very basic level and art were offered'.<sup>59</sup> Furthermore, '[o]ne 16 year old girl said that only English had been offered to her. She is articulate and obviously very capable, but had been in detention for over 18 months with no immediate hope of release'.<sup>60</sup> Department officers participating in the Villawood Community Reference Committee confirmed that '[t]he curriculum for high school students needs to be broadened and evaluated'.<sup>61</sup>

Documentary evidence provided by the Department suggests that in January 2002 classes were offered in English, Maths, Science, Human Society and Environment and Art at Villawood.<sup>62</sup>

### **(c) Introduction of a State based curriculum in internal schools**

The Department's submission states that '[e]ducational services for detainee children are provided, as far as possible, consistent with State/Territory curricula'.<sup>63</sup> However, the Department acknowledges that it has taken some time to apply a full curriculum:

When we had large numbers of children for relatively short periods of time there was a focus on trying to do the basics, education, English language, numeracy those sorts of things and over time as the numbers of children have reduced but their period in detention has increased we've shifted the focus of the provision of education.<sup>64</sup>

The ACM Education Coordinator from Woomera also reported that ACM considered developing a more extensive curriculum when it became clear that some children would be detained for long periods of time:

[I]t was then clear that these children were going to be staying longer, they've obviously developed some English skills by then, that we really needed to look at setting up the curriculum and ESL type curriculum and doing conceptual development for these children.<sup>65</sup>

ACM planning documents from November 2001 provide the first indication that the education staff planned to develop a curriculum for Woomera based on ESL guidelines. The 2001 Woomera Education Coordinator suggested that guidelines had not been developed previously as at the time there was no ESL curriculum in operation in South Australia.<sup>66</sup> However, at this time there existed an ESL Curriculum Statement for South Australian Schools (1996) and the national ESL Scales (1994) assessment and planning tool was in use within South Australian schools.

By February 2002, ACM teaching staff from Woomera reported that they were attempting to use the South Australian curriculum in their classes but that their efforts were severely hampered by a lack of resources. In their February 2002 monthly report, the ACM education staff state that '[t]he curriculum taught is based on a modified South Australian curriculum, for ESL learners' but that if they 'are to work towards teaching a more comprehensive curriculum then the issue of resources will have to be addressed immediately'.<sup>67</sup>

The decision to extend the curriculum offered at the school was reported in ACM documents to have occurred as a result of the stabilisation of the detainee population.

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In May 2002, Woomera teachers reported that '[c]hildren are settled at school and this will be reflected in an extension of curriculum activities that we would not have been able to attempt in the past'. Furthermore, they stated that:

Curriculum resourcing is being added to as we extend our use of the SA curriculum for ESL learners. There is a focus on introducing more practical science activities, particularly for the older students.<sup>68</sup>

Almost identical comments were made in June 2002.<sup>69</sup>

When the Inquiry visited Woomera in September 2002, it appeared that children were offered a full school day. Teachers reported that their programs were based upon the South Australian curriculum. By this time the East Gippsland Institute of TAFE had been engaged to advise on curriculum implementation for both Woomera and Baxter.

However, parents and children detained at Baxter consistently reported during the Inquiry's visit in December 2002 that they felt that the curriculum used was not appropriate for their age and abilities, and expressed concern that it was not as extensive as that which would be available in external schools. For example, one family reported that they felt that there was no proper teacher, and was concerned that one of the classes contained students ranging in age from eight years to seventeen years. They also reported that there was very little available to the older students in the areas of maths and physics. The children of several other families reported that the education provided was below their level. Several families also reported that they were not able to obtain adequate feedback from teachers regarding their children's progress.<sup>70</sup>

The father of children detained at Baxter told the Inquiry that:

There is no specific program and there is no definite curriculum for the children and it is part of the detention centre, even going to the school within the detention centre does not alleviate the pressure on the children. Psychologically they're still suffering because they know that they're not in a proper school and that the curriculum isn't exactly the same as the one outside.<sup>71</sup>

This man was trying to teach his children himself to supplement the education that they received at Baxter.

Although the extension of the curriculum at Woomera and Baxter improved the education offered to the children detained there, the Inquiry is surprised that it did not occur sooner. By the time efforts were made to extend the curriculum at Woomera, most of the children had been detained there for over twelve months.

Furthermore, the curriculum was not applied at Curtin because staff stated that their objective was to prepare students for external schooling and therefore there was no need to implement the State curriculum. At Port Hedland all students were already attending external schooling by this time.

#### **(d) Post-compulsory curriculum in internal schools**

In all Australian States, two years of post-compulsory education are available to all young people who are generally aged between 16 and 18 years. However, the Inquiry received very little evidence that appropriate post-compulsory education was provided to students in detention.

In Curtin the centre education policy from May 2000 stated that '[a]ll detainees aged between 4 and 15 years will be admitted to Curtin's weekly education classes' and that if the child detainee 'exceed[s] the age criteria ... then the Child student is entitled to enrol in the Adult Education Program'.<sup>72</sup> It appears that this policy was still operative in March 2001, as the Inquiry received evidence that at Curtin, unaccompanied children between 14 and 17 years of age were assessed for adult education rather than encouraged to participate in the educational programs offered for children.<sup>73</sup>

The minutes of an Unaccompanied Minors Meeting at Curtin from June 2001 indicate that these children were encouraged to attend adult education. The unaccompanied children in the centre were reported as stating:

That English classes were full and that they could not understand the lesson as well as the interpreter as they speak Farsi, not Dari. ... [Psychologist] said that there were three levels of classes and that they should attend the appropriate class for their needs and level. ... Request was made to have more under 18yr classes made available.<sup>74</sup>

The Inquiry is of the view that adult English classes are not adequate for post-compulsory aged children who should have access to a full curriculum appropriate for their age, including ESL tuition if necessary.

A girl of post-compulsory school age detained at Curtin reported to the Inquiry in June 2002 that:

[a]bout those classes ... we used to attend before, there was only one class and everybody like from five year old and I were put in the same class. And what they did was put a photocopy of some basic mathematics in front of us and they were trying like for example to teach me simple addition and these sort of things – basic mathematics.<sup>75</sup>

This young woman and her brother were not able to access the external schooling available to some other children detained at Curtin. By the time their English was assessed as being of a high enough level to permit attendance, they were of post-compulsory school age and excluded from going to Derby District High School. See further Case Study 3 at the end of this chapter.

Some programs were offered to children of post-compulsory school age at Port Hedland during 2001 and at Woomera in early 2002. However, these programs were significantly lesser than those which would have been offered to similar children attending schools in the Australian community.

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The minutes of an Unaccompanied Minors Meeting at Port Hedland on 29 November 2001 indicate that some classes were offered to older children but do not specify whether they were targeted to their needs, or whether they were the general adult English classes. In any event, most of the unaccompanied children were reported as not attending. Meeting minutes state:

When asked for the reasons why the other UAMs were not attending classes, again it was stated that they were not comfortable attending classes because they could only think about their visa applications and their families.<sup>76</sup>

At Woomera, in a memo of 2 February 2002, the ACM Education Coordinator reported that:

All 13-17 year olds can receive a minimum of 2 hours of schooling per day, 4 days a week, although attendance is not compulsory. ... As with the younger children, basic socialisation, English literacy and numeracy are addressed as a priority.<sup>77</sup>

Thus, although there is evidence that children aged 15 and over were able to access some education, it is clear that a full curriculum appropriate to their age was not offered.

### **(e) Curriculum offered in separation detention**

The Inquiry has received evidence that in Port Hedland an appropriate curriculum was not provided to children when they were in separation detention.<sup>78</sup> A teacher who worked there in 2001 reported that:

When I first arrived in Port Hedland in August [2001] this ... boat had just come in at the same time as me and there were around 330 people on that boat and they were all placed in isolation and I taught in isolation or separation, or whatever term was given to it, children were receiving on average one hour of education per day.<sup>79</sup>

The teacher reported that the children from this boat were released from separation detention within 2-3 months.<sup>80</sup> She explained that it was extremely difficult to provide education for children while they were held in separation detention:

They were absolutely chaotic, because the classes were held in the common room, which is a small room ... [I]t is a room that everybody uses and because the teacher was coming in without wearing any ACM uniform, we really were an attraction ... [W]hile we tried to separate children from adults, it just didn't work because they wanted some human interaction.

So you would have people coming in and talking, you had little tiny tots, two year olds pulling at you and saying, "A, B, C" and then you had full grown up men, walking around and saying, "Hello, hello" and you had women and it was just really, I could compare it to the circus. So, the numbers could vary from 20 to 40 people. Sometimes I took classes outside because I would arrive and the officer on duty had decided, "I am going to let these people out now for their hour". So I would arrive and say – and they would say, "Oh we will bring them back in now".

And I would say, “No, no, no, I don’t want them to be brought back in, you know, this is their time outside, so we will go”, I would go outside with them and for that time usually we play games, sing, dance, run around and I would just try to do light hearted things with the children at that point.<sup>81</sup>

It appears that at Woomera, education was provided in each separate compound until late 2001, and although the amount of education offered in different compounds varied, children in separation detention generally received a similar level of education to that provided to the rest of the children detained in the centre. The Inquiry has received no evidence about education in separation detention at any other centre.

#### **(f) Curriculum resources available to teachers in detention centres**

As mentioned above, one of the challenges faced by teachers in detention centre schools was the difficulty they had in accessing appropriate and sufficient resources to implement their curriculum.

A teenage girl described the educational resources available in detention as follows:

There was no education, just learn English lessons with one teacher for thirty students and different age groups, 5 to 20 years ... We had no computers. We had pens and exercise books. We just copied from difficult books, some books like dictionaries, just copying, then put in the rubbish bin. No easy story books, just dictionaries. Not learning English, just copying and copying. We were like a printer! [Teenage girl]<sup>82</sup>

A teacher who worked at Port Hedland from August 2001 to March 2002 reported that:

Books were available in the school. Most were unsuitable as they had been donated by local schools. They were outdated and not aimed at ESL students. Requests for the purchase of new educational materials were continually turned down until January 2002 when a new Programs Manager was appointed.<sup>83</sup>

The lack of appropriate books was particularly problematic as ‘[t]he school [has not had] a photocopier since last October [2001] ... working without text books and without a photocopier to hand, is a very difficult task for any teacher’.<sup>84</sup>

A teacher working at Woomera in 2001 also described a curriculum resource problem:

Resources were a huge problem. We had a small amount of basically primary school text books and resources in the staff room. ... I spent a great deal of time after work photocopying planning and programming profiles, all the ESL materials that I could find at the Woomera library and putting those in as masters for the staff to look at so that they had a little bit more idea. So resources, particularly in the early years ESL category area were almost non-existent.<sup>85</sup>

This teacher reported that there was a budget for purchasing curriculum resources and that while ‘they never actually knocked you back, but very rarely did [the

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curriculum resources] appear, let us put it that way'.<sup>86</sup> She explained that ACM's rationale for the poor provision of teaching material was that:

[w]e can't provide much more material because the next time they riot it will all get burnt and then we will just have to replace it. ... logic would then say to you, you know, then move the teaching area somewhere else that they can't have access to so that you don't lose all of the resources.<sup>87</sup>

The ACM Education Coordinator said that it was difficult to ensure appropriate resources during an influx of detainees, particularly in July and August of 2001.<sup>88</sup> More generally, ACM told the Inquiry that:

It was difficult to correctly allocate education resources in advance due to the uncertainty of the number of detainee children in the centre at any given time. For example, there were 14 children in Woomera in December 2002 but 18 months prior to that, there were 400. Where there was a sudden influx of children in the centres, additional education material had to be ordered in. In remote centres like Woomera, supplies may take 4 to 6 weeks to arrive.<sup>89</sup>

The Department suggested to the Inquiry that ACM's Woomera monthly education reports indicate an improvement in curriculum resourcing, over time, especially in the latter half of 2001. However, these reports generally indicate a focus on resources for the teaching of adults.

Although the September 2001 ACM report states that 'A well-known new programme is being implemented for the early years children, which will facilitate their move into mainstream schools',<sup>90</sup> the December report notes a deficit in resources for children:

We have been running very low on exercise books and have run out of pens as there was a delay in the ordering process. We have also not received any glue sticks to stick work in children's books for several weeks and this is proving a hindrance to the presentation of children's work.<sup>91</sup>

However, the December 2001 report also comments on the improvement of library resources, again without comment as to whether these resources were targeted at adults or children.

A former teacher and the ACM Education Coordinator who worked at Woomera from April 2001 to June 2002 reported that there were adequate resources in the centre for the limited ESL curriculum that was offered in the centre but not for running a full curriculum.

For doing ESL work there was adequate resources. For running a full curriculum; we hadn't been required that we – well, it wouldn't have been appropriate to have been running a full curriculum, as I said, when it was a transitory population. So it wasn't resourced for running a full curriculum, because it had never been the case that we'd have been able to run that. Now that it is the case that we need to run a curriculum, it is better resourced.

But I guess back in 2001 we just – the infrastructure wouldn't have necessarily been there to be running in terms of buildings to be running a full curriculum.<sup>92</sup>

The ACM Education Coordinator also reported that at Woomera during 2002 there was a budget for purchasing resources and that consequently:

there are a huge amount of reading books and reading schemes available for the children, so we put a lot of money into that, and we put money into constructive play things for the younger children. Yes, and just – yes, and we're generally building on our resources all the time.<sup>93</sup>

Therefore, evidence from teachers who formerly worked in centres, ACM staff and documents received by the Inquiry all indicate some problems with the provision of curriculum resources, although there were improvements at Woomera by the end of 2002.

The Inquiry acknowledges that the uncertainty about the population of the centre may have provided challenges in ensuring that there were appropriate curriculum resources. However, in the Inquiry's view, 'expecting the unexpected' is an inherent part of good detention centre management. There should therefore have been some element of contingency planning in order to ensure that children were offered an appropriate education, irrespective of influxes.

#### **(g) Findings regarding the curriculum offered in internal schools**

The Inquiry acknowledges that providing an appropriate curriculum in internal detention centre schools was challenging. There were particular challenges in the period of 1999-2001 when there was a large and transitory population of children in detention and curriculum resources were stretched. However the Inquiry finds that the Department failed to place sufficient priority on addressing those challenges as soon as possible in order to ensure that children were offered an appropriate curriculum.

Furthermore, the Inquiry rejects the Department's view that the curriculum applied in Australian schools is inappropriate for children in detention. This assertion ignores the fact that a similar cohort of children are well catered for in Australian schools where they have access to a full curriculum delivered through an ESL teaching methodology. The most relevant comparison and model is the curriculum administered by the New Arrivals Program.

In late 2002, there were efforts to introduce a full State-based curriculum in Woomera and Baxter, although they were initially poorly resourced. However, the Inquiry heard consistent evidence across several centres that, prior to that time, there was no coordination of curriculum design or implementation. The curriculum taught in detention centres fell far short of that provided in Australian schools attended by similar children. In particular, there were no attempts to apply or adapt existing State curricula within an ESL framework to children in detention.

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Furthermore, there were inadequate curriculum resources to support adequate educational programs within detention. This was especially the case for children in separation detention at Port Hedland, at least during some periods in 2001.

Even after late 2002, there is no evidence of an appropriate curriculum being provided to children of post-compulsory age (and until 2003, these children did not have the opportunity to attend external schools).

The Inquiry notes that despite the improvements in late 2002, detainee parents and children still did not feel that they were receiving an education equivalent to that available in the Australian community.

### 12.4.3 Teachers available to children in internal schools

There was one little school in the camp and there were two teachers. One teacher was expelled, so there was one teacher for the whole lot and there were lots of children. So [the eldest girl] left the class because the school wasn't good.<sup>94</sup>

This section explores issues surrounding staffing of educational programs within detention. Most of the evidence received by the Inquiry concerns the staffing of educational programs at Woomera and Port Hedland.

#### (a) Challenges in providing sufficient teachers for internal schools

The Department and ACM both note that there were challenges in providing sufficient teachers for detention centre schools.

The Department suggested that the problems in ensuring sufficient staff at detention centres is 'not surprising ... as in the community, there might be difficulties in attracting and retaining suitably qualified staff in more remote locations'.

ACM also reported that it was difficult to ensure that there were enough teachers for a fluctuating population of children in detention:

At times of unforeseen shortages, extra teachers had to be recruited. The harsh conditions in the more remote centres made recruitment of appropriate personnel even more difficult and sometimes caused delays.<sup>95</sup>

While acknowledging these difficulties, two points must be noted. Firstly, the location of detention centres has exacerbated the problem of finding adequate numbers of teachers. Secondly, the Department has the responsibility to ensure an adequate education irrespective of the location of the children.

#### (b) Qualifications and training of teachers in detention centres

There are two issues to consider with regard to appropriate teacher qualifications in detention centre schools: first, whether they are fully qualified teachers; second, whether they have special ESL training.

In the Australian community there are clear standards regarding the qualifications of teaching staff. Teacher registration is required in Queensland, South Australia and Victoria.<sup>96</sup> There is no requirement for teachers to be registered in New South Wales, or Western Australia. Teachers working in intensive English centres in all States are required to be qualified teachers trained in the teaching of ESL.

The IDS required that education programs for children be provided by 'qualified teachers'.<sup>97</sup> However, ACM education policy did not include any specific requirements about the types of qualifications.

No evidence suggests that any teacher was without general State teaching qualifications. Department records of teacher qualifications in all the centres from April to September 2002 indicate that some, but not all teachers had ESL training. For example, records of teacher qualifications from Port Hedland from 31 January 2002 indicate that one of four teachers did not have ESL training.<sup>98</sup>

There is no evidence of teachers at Villawood having ESL qualifications prior to July 2002. From July until September 2002 only one of three teachers had ESL training.<sup>99</sup>

At Woomera, records indicate that from April to June 2002 all teachers had ESL training; however, none of the teachers employed in July 2002 were ESL trained. In August and September 2002 only one of five teachers had ESL training.<sup>100</sup>

### **(c) Numbers of teachers in detention centres**

The capacity to provide an adequate curriculum and adequate hours of tuition is determined in large part by the numbers and capacity of the teaching staff employed.

The Inquiry has received information suggesting that there were an insufficient number of teachers at both Woomera and Port Hedland during 2001. The Department suggested that this was a consequence of 'the extenuating circumstances facing the department and the detention services provider in 2001', namely an influx of detainees.<sup>101</sup> However, as noted earlier, it is the Department's responsibility to ensure the provision of an adequate standard of education in the light of these circumstances.

The Inquiry has received extensive evidence about the staffing problems at Woomera during 2001. One teacher who had worked there reported that during 2001 they needed three times the number of teachers actually employed.<sup>102</sup> Another teacher said that between May and August 2001, there were only four teachers available to work, and that 'we should have had to have at least, at least, ten teachers just for the children'.<sup>103</sup>

The ACM monthly education report states that in August 2001 at Woomera:

[w]ith the addition of India Compound to the education scope this has meant a decrease in delivery of education, particularly to the school aged children. ... With a teaching staff of 3.5 we are not able to run as effective a programme as we would like. Teachers have to spread themselves more thinly once again. ... Contact time for children remains minimal varying between 1 and

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2 hours per day. This is restrained by both accommodation and lack of teaching staff. There is currently no contact time for children in Mike Compound ...<sup>104</sup>

On 1 August 2001, there were 282 children at Woomera, and on 1 September 2001 there were 456 children detained at Woomera. During these months, there were between five and 3.5 teachers available. This means that the best possible staff to student ratio during this time was one teacher to 56 students. By comparison, the Australia Bureau of Statistics reports that in 2001, the average staff to student ratio for all schools in Australia was one teacher to 14.7 students.<sup>105</sup>

The average class size for Australian primary schools is between 25 and 30 students. Due to the large numbers of children detained at Woomera, the teachers simply had to reduce the number of hours of education delivered to children to 1-2 per day in order to maintain this class size.

There were similar problems over 2001 in Port Hedland. During part of the March quarter of 2001 there was no teacher at all at Port Hedland, when the population of children in the centre was at least 53.<sup>106</sup> The Department Manager at Port Hedland reported to Central Office that:

Educational facilities are below standard. For much of the quarter there were no teachers. Detainees occasionally took classes. A Programs Manager was appointed but he does not take classes although he is a qualified teacher.<sup>107</sup>

The makeshift arrangements over this period were as follows:

During the period concerned for two weeks only, programs were reduced to 2 hours a week. Normal hours of teaching were maintained for the rest of the period. A detention officer with teaching background assisted by a detainee conducted teaching during this period.<sup>108</sup>

Six months later, in October 2001, the Department Manager was still noting concerns regarding the low numbers of teachers at Port Hedland:

Three teachers for 133 children with a wide range of English ability, age and background education, means of necessity that the standard of education and time spent in school is barely adequate. ACM reluctant to pursue the option of mainstream schooling for any children due to cost.<sup>109</sup>

There were still problems in February 2002:

... the appointment of a new Programs Manager continues to show positive results, with a visible increase in external activities, especially for children. This improvement is somewhat negated by the reduction in the number of teachers this month to two. In addition a teacher was sacked due to professional/boundary issues with a specific male resident, leaving the Centre with only one teacher for a short period. A temp teacher was employed for three weeks. While the number of residents is fewer, the number of classes is the same and two teachers and a Program Manager/teacher cannot adequately cover four daily school classes as well as separate male and

female adult classes. As a result children are not receiving enough education and with more hours of idleness their behaviour has worsened.<sup>110</sup>

Thus the Department Manager at Port Hedland was clearly aware of the impact that the teacher shortage was having on the education of children. She also noted the connection between the low number of face-to-face hours and children's general behaviour.

The Inquiry observed a much higher staff to student ratio during visits to Woomera and Baxter in late 2002.

#### **(d) Turnover of teachers in detention centres**

The educational facilities within detention centres were largely staffed with teachers on short-term contracts, many of them being of six weeks duration.<sup>111</sup> While this may have been an appropriate measure to deal with large and short-term influxes, it appears to have had a negative impact on the quality of education. Furthermore, it appears that the changing population was not the only, or primary, reason for the short-term contracts.

The ACM 2001 Education Coordinator at Woomera told a hearing of the Inquiry that the six-week contracts were provided as the 'detention environment is not suitable for everybody and some people found ... that it was not the right place for them'. The Coordinator reported that if staff 'found it a suitable environment ... they would go on to a three month contract'.<sup>112</sup>

The Inquiry also heard that there is an incentive for staff to take six-week contracts due to the temporary recruitment agency rules that employment for a period longer than six weeks was seen as permanent work and therefore attracted a lesser rate of actual pay.<sup>113</sup>

A former Port Hedland teacher told the Inquiry of the impact of short-term contracts:

The education provided by the Centre lacked continuity, a factor essential to effective teaching. It takes time for a teacher to plan and implement a program suitable for their particular class. The nature of the contract system at Port Hedland did not allow for that time.<sup>114</sup>

A former Woomera teacher reported that during mid-2001, most teachers were on either six-week or three-month contracts, leading to a high rotation of teaching staff.<sup>115</sup> However, since there was a serious teacher shortage during this same time, it appears that the short-term nature of the contracts did not result in a corresponding increase in the number of teachers.

Since September 2001, there appears to have been a much greater consistency of teachers. The teachers working in the centre at the end of 2002 were reported to have been there for over a year.<sup>116</sup> The October 2001 ACM monthly education report from Woomera stated that:

due to the introduction of 3 month contracts for new Education Officers, a continuity and stability within the Education team has been established. This

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is notably beneficial for both the routine and the security of the residents and to ensure a more effective service is being delivered.<sup>117</sup>

In some centres there was greater stability in education staff. For example, Curtin had a relatively stable teaching staff, with two teachers employed for a period of two years, and two for more than one year since January 2000.

### (e) ACM Uniforms for teachers

Teachers working in detention centres were generally expected to wear ACM uniforms.<sup>118</sup>

Several teachers who worked at Woomera in 2001 commented that it was initially difficult for children to distinguish between teachers and detention officers. For example, one teacher said:

initially we were of course viewed as an ACM employee and also either a guard or a welfare officer or whomever, there were no particular distinguishing characteristics between the guards ... [and] the education staff ... Of course, once they became accustomed to seeing us they recognised that we were, in fact, teachers and so our role became slightly different.<sup>119</sup>

This teacher reported that it would have been easier to carry out her role as a teacher without being in uniform. Another teacher reported that although there was an initial impact on students of teachers wearing uniform, they eventually became used to it:

I found that initially, there was a little bit of hesitancy amongst the children but once they knew me, then there was no problem.<sup>120</sup>

During the Inquiry's visits to Curtin in June 2002 and to Woomera in both June and September 2002, teachers were wearing ACM uniforms and security earpieces. The former Education Coordinator from Woomera informed the Inquiry that earpieces were worn in case of emergency as teachers had no other form of contact in education areas.<sup>121</sup> However, the detainee children at Curtin in 2002 told the Inquiry that they perceived the teachers to be detention officers rather than teachers, because they looked the same as detention officers.

### (f) Detainee teachers

There was significant reliance on detainee teachers in educational facilities within detention centres until mid-2002. It appears that detainee teachers were generally employed as assistant teachers. They were paid the equivalent of \$1 per hour for their work.<sup>122</sup>

The two major issues of concern with regard to detainee teachers are: first, whether they taught unsupervised by Australian qualified teachers; and second, whether they were adequately trained for the work that they undertook.

The bulk of the evidence that the Inquiry has received regarding detainee teachers is from Woomera. ACM monthly education reports from September to December

2001 indicate that there were between 19 and 27 detainee assistant teachers employed at Woomera. In February 2002 there were 25 detainee assistant teachers employed.<sup>123</sup>

It appears that detainee teachers were actively recruited:

We are always looking for resident teachers and helpers. If you are interested in teaching either adults or children, or helping a teacher especially with interpreting, please approach any education officer and they will find a suitable position for you. Payment is the standard \$1 per hour.<sup>124</sup>

Detainee teachers were in particular demand when the teacher shortage was at its most critical stage. A teacher who worked at Woomera between May and August 2001 reported that detainee teachers were vital to a continuing education program:

if it hadn't been for the detainee teachers, as we called them, assistant teachers, there would not have been a program at all ... at one stage there were two teachers, as I said, for three weeks, for 1500 people.<sup>125</sup>

While it appears that most of the time detainees were assisting qualified teachers, the Inquiry has heard of instances in both Woomera and Port Hedland where detainee teachers conducted classes without supervision. The April 2002 ACM Woomera monthly education report notes that 'the 5 and 6 year olds continue to be in a 3<sup>rd</sup> separate class taught by a resident teacher with occasional Education Officer input'.<sup>126</sup> A memo from the Education Officer in May 2002 reports that:

residents run the 5-6 year old class. There is no input from any ACM Education Officer and although the residents are very good with the children, they are not trained teachers and have limited English. Therefore I recommend that the 5-6 year old class share half of the extra teacher from the secondary class.<sup>127</sup>

In May 2002, the Department expressed some concern that ACM was not providing qualified staff for kindergarten classes at Woomera.<sup>128</sup>

There was also significant reliance on detainee teachers in Port Hedland. An ex-teacher from the centre told the Inquiry that there was no time to guide detainee teachers on what to teach:

I taught with 2 untrained assistant teachers (detainees) who did their best under the circumstances. I did not have the chance to plan lessons with these residents because they were not given the time. ... These residents also taught alone for stints when teachers were not available, something that is illegal elsewhere. One resident taught the pre-school students on a regular basis for a long period of time.<sup>129</sup>

The little training that detainee teachers received was for their personal morale rather than on how to teach the children. For example, it appears that at Woomera during 2001:

Teacher training for the residents was addressed as a motivational issue, due to the nature of the low pay and the hard work that they always put in. It

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was arranged for the resident teachers from all compounds ... [to be given] some life skills training on job applications. In addition all teachers were given their own English language book, to be their own property to work from in their own time. The session was a great success, with the psychological impact of just being outside the Centre making it worthwhile. This will be carried out fortnightly and has already proved to be a significant morale booster.<sup>130</sup>

However, an ACM teacher said that detainee teachers were instructed on child protection laws at Woomera during 2001:

Friday mornings we usually met with all of the assistant teaching staff and went through induction packages with them. If they had to be inducted, I guess, and then basically deal with the mandatory notification and conduct and practice and what you could and couldn't do.<sup>131</sup>

### **(g) Findings regarding the teaching staff in detention centre education services**

The Inquiry finds that detention centre teachers worked extremely hard to provide the best possible instruction to children in the circumstances under which they were working. However, the Inquiry also finds that those conditions severely compromised their capacity to provide an appropriate standard of education.

First, the Inquiry finds that there was a serious shortage of teachers at Woomera during 2001, compromising the quality and amount of education provided to children. For example, during August and September 2001, there were approximately four times as many students to each staff member in Woomera, as compared to schools in Australia. There was also a serious shortage of teachers at Port Hedland during 2001, until the time that students were allowed to attend external schools.

While all teachers employed at the centre had general teaching qualifications, there were occasions when there were no teachers with ESL training. Furthermore, there was some concern that the high turnover of teachers impacted on the quality and continuity of the teaching.

The Inquiry acknowledges that the remote and rural location of most of the detention centres and the fluctuating population in detention centres poses challenges in ensuring the appropriate number of teachers with the necessary qualifications at all times. However, both these problems were known to the Department prior to placing children in these facilities and, in the Inquiry's view, there have been insufficient efforts to overcome these issues. In particular, the availability of short-term teacher contracts does not appear to have been used to make up for short-term increases in the population. Instead, it appears that detainee teachers, who did not have appropriate qualifications, were sometimes used to alleviate staffing shortages. At other times, there were no extra teachers at all.

The employment of detainees as assistant teachers may well have been appropriate and desirable, and it appears that most of the time this is the capacity in which they were employed. However, there were occasions when unqualified detainees were used in the place of qualified teachers. Furthermore, there were insufficient efforts to provide detainees with the appropriate teacher training.

The Inquiry is also concerned that the requirement that teachers wear an ACM uniform led to confusion in a child's mind between teachers and detention officers, although children seemed to get used to this fairly quickly.

#### **12.4.4 Hours of tuition available to children in internal schools**

In most Australian schools, students are provided with approximately 6 hours of education per day (including breaks).

##### **(a) Challenges in providing a full day of school in internal schools**

The teacher shortage clearly impacted on the ability to provide a full day of schooling for all children. However ACM emphasised to the Inquiry that the primary barrier to providing a full day of education was the inadequate infrastructure over which they had little control.<sup>132</sup> ACM's July 2001 monthly education report states that:

Despite an increase in teachers there is no more classroom space in the Main Compound to accommodate any extra hours and the currently large numbers of children.<sup>133</sup>

Furthermore, in evidence before a hearing of the Inquiry, the 2001 Education Coordinator for Woomera stated that:

[The lack of staff] was a resourcing issue but, if we'd have had 25 teachers on the ground, we wouldn't have had the buildings to put them in. So not much point getting a lot of teachers if we can't actually go into a room and teach.<sup>134</sup>

The Department has also stated that in its view between one to three hours of tuition was adequate for detainee children:

I think what I'm saying is that, given all of the factors relating to these children's detention, the length of time they were expected to be in the centre, the throughput at the centre at the time, the previous socialisation and school history for those children, the literacy in their own language, the degree to which they knew English language, the facilities and resources and capacities physically available in one day at the centre – all of those factors taken into account – I think that the circumstances were, at that particular time, probably adequate for the kind of detainee child population that we had.<sup>135</sup>

ACM was also of the view that:

The children's inability to concentrate for a lengthy period of time each day made it inappropriate for the hours of tuition to be longer than what they were.<sup>136</sup>

The educational infrastructure available to teachers is discussed in section 12.4.5. The Inquiry does not agree a full day's curriculum tailored to these needs is inappropriate. Similar children in the community attend a full day in the New Arrivals Program. Furthermore, as demonstrated later in this chapter, when children were offered the opportunity to attend schools outside the centre, they did not have any difficulty in adapting to a full day of school. In any event, evidence to the Inquiry

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suggests that detainee children's inability to concentrate is a consequence of the impact of the detention environment.

### **(b) Hours offered to children in internal schools**

The Department's submission reports the hours of tuition available to students as at 31 January 2002 as follows:

- Curtin, primary and secondary 5 hours 40 minutes
- Port Hedland, primary and secondary 5 hours
- Woomera, primary and secondary 3 hours
- Villawood, primary and secondary 7 hours
- Maribyrnong, no school age children detained on that date.<sup>137</sup>

It is important to note that these figures represent availability at one point in time. It does not necessarily reflect what was available in the centres in the preceding or following months or years.

For example, the Inquiry has heard differing reports on the number of hours of tuition available at Villawood throughout 2002. The Department's submission states that there were seven hours of tuition per day available to both primary and secondary students in January 2002. In response to a question on notice in May 2002, the Minister for Immigration and Multicultural and Indigenous Affairs (the Minister) stated that both primary and secondary classes were conducted for five hours each weekday, 48 weeks a year.<sup>138</sup> During the Inquiry's visit to Villawood in August 2002, staff observed that three hours of education was provided to both primary and secondary-aged children. Although these figures are from different periods of time, they demonstrate significant variation in hours of education which does not occur in Australian schools.

The Inquiry is concerned that the hours reported at Curtin are not reflective of what was actually provided. A January 2002 memo from the Curtin Education Department, states that primary and secondary children at Curtin at this time received 30 hours per week tuition. However, the timetable attached to the memo indicates that in the afternoon, children undertook only recreational activities or reading. In terms of core curriculum children were only offered computing, language and maths, in the morning of each school day, for a period of approximately three hours.<sup>139</sup>

At Curtin after the April 2002 riots, education was limited to three hours per day. As described in section 12.4.3 above, regarding the number of teachers in internal schools, in Port Hedland there was almost no provision of education during the March quarter of 2001.

There is much more detailed evidence regarding hours of education from Woomera. ACM documents regarding Woomera indicate that over 2001 'contact hours have fluctuated between 3 hours daily to 1 hour daily depending on the numbers in the centre'.<sup>140</sup> From November 2001 onwards, classes were conducted four days per week.<sup>141</sup> From July to October 2001, education staff consistently reported that they were only able to provide between one and two hours of tuition daily.<sup>142</sup>

A teacher who worked in the centre at the end of 2000 and between March and September 2001 confirmed that at the end of 2000, children received between four and six contact hours per day, but that by the middle of 2001 the number of children at Woomera necessitated the splitting of classes and that children received between one and two contact hours per day.<sup>143</sup> Another teacher who taught there between May and August 2001 reported that, '[t]he minimal or proposed contact hours a teacher had with any one particular class during the week was between four to five hours per week'.<sup>144</sup>

In December 2001, students aged between eight and twelve years commenced attending school at St Michael's, a disused Catholic school in Woomera town. Children at St Michael's were offered three hours of education per day, four days a week. ACM documents indicate that the number of classrooms at St Michael's impacted upon the provision of education: 'due to [there] only being 4 classrooms at the school we are taking the children down in two shifts every day'.<sup>145</sup>

The Inquiry heard from detainee children that they were not receiving even three hours education at St Michael's:

What kind of 3 hours? Just that's correct that we start from nine hours going from outside of our compound but as you know there are many gates that they should check the numbers, so it takes nearly one hour until we can go outside of the Woomera Detention, and one hour we spend in the bus (sitting, waiting for others, not moving). Until we can go outside, just we spend nearly one hour in Michael's school.<sup>146</sup>

A father said that:

School consists of taking the children from the Compound, making them stand in line for one hour, and go through them one by one (name and number) and when they get to school, the same thing happens, one by one, name and number. So then they only get half an hour or one hour of actual class. ACM guards go with them to school and are at the school all the time. So the time passes just like this.<sup>147</sup>

ACM education staff confirmed that travel time seriously encroached on the hours of education offered to the children attending St Michael's. Their January 2002 report states that:

[c]ontact hours for children aged 5-12 are now a steady 3 hours per day including some significant travel time. ... Programmes staff therefore have longer contact time with the children but less teaching time with them as the logistics of getting them out of the Centre from four compounds are time consuming.<sup>148</sup>

Providing education at St Michael's for younger children put additional pressure on the capacity to maintain education services to older children and other detainees remaining in the centre.<sup>149</sup> At this time ACM education staff reported that '[a]ll teenagers have the opportunity to attend 1 hour of English per day. Teenagers from the Main and November [compounds] also have access to one hour of computer time per day'.<sup>150</sup> In February 2002, ACM education staff reported that '[c]lasses for

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13-17 year olds have been running in Charlie Compound from 9.00am to 12.00pm Monday to Thursday'.<sup>151</sup> Children aged between 13-17 years were offered access to the program at St Michael's in early March 2002.<sup>152</sup>

By April 2002 the numbers of children detained at Woomera had significantly decreased, which should have increased capacity to provide educational services. However, according to the Department, the number of hours of education remained at three per day:

As at 20 April 2002, there were 47 children resident in Woomera IRPC. Prior to April 2002, when the number of children was significantly higher, the program for primary school children operated in two sessions, from 9am-12pm and 1.30pm-4.30pm, four days a week. Given the reduced numbers of children in the detention facility, the program hours are now Monday to Friday, from 9am-12pm. All children, including children over the age of 12 years, now have access to the program. All but one child in the detention facility were accessing the educational program as at 20 April 2002.<sup>153</sup>

Only in September 2002, by which time education was again being provided within Woomera (rather than St Michael's), was the school day lengthened to one that approximates a school day in the Australian community. During its visit to Baxter in December 2002, the Inquiry found that the hours of tuition also approximated a normal school day.

### **(c) Findings regarding hours of tuition**

Children within Australian schools generally have access to approximately six hours of education per day (including breaks). There has been a significantly lower number of hours offered to some children in immigration detention, particularly those detained at Woomera.

The hours of education reported by the Department in its submission, as at 31 January 2002, are generally appropriate. However at Woomera, until late 2002, and in some instances in other centres, considerably fewer hours of tuition were offered to children educated in detention facilities, than to children in mainstream Australian schools. One of the worst examples was in the middle of 2001 when children at Woomera received between one and two contact hours per day.

The low number of tuition hours available to children is linked to the shortage of teachers and classrooms in detention centres (see further sections 12.4.3 and 12.4.5). The low number of hours made it very difficult to provide a full curriculum.

The Department rejects any suggestion that 'it was "unwilling" to address issues related to hours of tuition, and notes instead that the capacity of the department and services provider was appropriately focussed on meeting basic needs and ensuring people were processed as speedily as possible' during periods when there were large increases in the number of arrivals.<sup>154</sup>

It is important to remember that it is incumbent on the Department to have systems in place that are designed to ensure that such external events do not affect the

quality of education provided to children. Thus while acknowledging that this influx posed challenges within the constraints of detention centre management at that time, it is the Inquiry's view that the Department failed to place sufficient priority on ensuring that children would be unaffected by these events. For example, if children were going to external schools, an influx of children should not affect their ability to enjoy a full school day. A similar result would arise if children were in alternative places of detention in the community or if the detention legislation permitted the speedy release of children.

### **12.4.5 Educational infrastructure available in internal schools**

As suggested above, the provision of adequate education also requires appropriate educational infrastructure, including classrooms, playgrounds and facilities for teachers. This includes providing an environment where children can feel safe and secure.

#### **(a) Challenges in providing sufficient educational infrastructure**

The Department states that:

the educational infrastructure in detention facilities provides a safe and secure environment with equipment and resources available for both educational and recreational use. The capacity to provide a range of educational services is affected by the buildings and areas available.<sup>155</sup>

However, at the same time, the Department accounts for some of the difficulties in the provision of education through 'disturbances within the detention facilities which result in the destruction of education facilities and/or result in an unsafe environment for both staff and children'.<sup>156</sup>

For example, the Department informed the Inquiry that the destruction of educational facilities by fire at Woomera affected the capacity to provide education. Fires destroyed these facilities in August 2000 and then again in November and December 2001, when '[f]ive educational facilities were lost, being two kindergarten buildings in Main Compound, and one education building each in Oscar, November and Mike Compounds'.<sup>157</sup> The Department further stated that:

Notwithstanding the difficult circumstances facing the department and the services provider in 2001 in Woomera IRPC, the maximum available infrastructure was being utilised to provide services and programs to detainees, including detainee children. That this service provision was challenged by the destruction of buildings and the unprecedented arrival of large numbers of people are factors that the Inquiry should take into account in determining the provision of education to detainee children, who at that time were primarily in detention for short periods of time.<sup>158</sup>

ACM acknowledges that it had concerns regarding insufficient educational infrastructure within immigration detention centres but emphasises that infrastructure is beyond its control.<sup>159</sup> In January 2002, ACM education officers at Woomera reported that:

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Accommodation in the Main Compound is more than adequate with current numbers, but due to fires over the Christmas period there are no educational or activities buildings to use in Mike, November or Oscar compounds.

ACM also reported that:

The small libraries in Mike and November compounds were very popular. Unfortunately all of these were destroyed during the Christmas fires and there are no plans to replace these at this stage.<sup>160</sup>

The impact of violence in detention centres on the educational facilities available to children is of concern to the Inquiry. It demonstrates some of the inherent problems of detaining children in such an environment.

Nevertheless, even when not impacted by violence the infrastructure was inadequate, and this affected the education provided to children. The ACM Education Coordinator at Woomera in 2001 reported that: 'when you've got 400 children and four classrooms, it's actually not possible to get them in there for five hours a day and teach them all for five hours a day'.<sup>161</sup>

### **(b) Facilities available for education purposes**

A teacher formerly employed at Woomera stated that during 2001 there were five classrooms (three in the Main Compound, one in November Compound, one in Mike Compound and none in India and Oscar compounds), but that '[w]e needed at least 15 classrooms for the centre overall to facilitate an effective teaching program'.<sup>162</sup> The lack of appropriate classroom space in compounds Mike and November led to classes being conducted in the mess.<sup>163</sup> These reports are confirmed by the evidence of the 2001 Woomera Education Coordinator who stated that during 2001 'the infrastructure wouldn't have necessarily been there ... in terms of buildings to be running a full curriculum'.<sup>164</sup>

ACM documents regarding Woomera indicate that during mid-late 2001 there was discussion about the lack of suitable accommodation for educational programs. The July 2001 report states that 'there is no more classroom space in the Main Compound to accommodate any extra hours and the currently large numbers of children'.<sup>165</sup> The August 2001 report states that '[w]e continue to work at full capacity in the Main Compound. In India Compound we are using both the mess and a spare unfurnished room'.<sup>166</sup> The September 2001 report states that '[w]e continue to work at near full capacity in Main, Mike and November compounds'.<sup>167</sup> In October 2001 the report indicates that there was sufficient accommodation: '[a]s the numbers are decreasing, accommodation is adequate'.<sup>168</sup>

Although most evidence regarding educational infrastructure was regarding Woomera, the Inquiry also heard that there were problems with infrastructure at Port Hedland and Curtin. A teacher who had worked at Port Hedland said:

The school lacked the usual facilities at most schools e.g. library, gym, proper outdoors play area. There was an unshaded outside area for games which the climate rendered useless for sustained play. ... I taught in a small,

enclosed room under fluorescent lights. Not much light filtered into the room because of the way it was constructed. Bars on the windows added to a feeling of confinement.<sup>169</sup>

When the Inquiry visited Curtin during June 2002, educational programs were being offered in two small dongas (demountable buildings) in the accommodation area, as the purpose-built school had been damaged in riots of April 2002. During the visit ACM staff reported that they hoped to relocate the school to the Main Compound.



School education buildings and recreation area at Curtin soon to be reopened, June 2002.

During visits to Woomera and Baxter in late 2002, the Inquiry found that there was adequate educational infrastructure for the number of students receiving education within the centre schools.

### **(c) Findings regarding educational infrastructure**

The Inquiry finds that until late 2002 the educational infrastructure at Woomera was inadequate, compromising the provision of education. The Inquiry also received evidence suggesting that infrastructure at Port Hedland and Curtin was at times inadequate for the needs of the internal education program.

The large detainee populations at certain times and the destruction of education facilities during disturbances certainly contributed to the difficulty of ensuring adequate facilities. Both these factors highlight the inherent difficulties in trying to provide education within a detention environment. In particular, the fact that the

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facilities became the subject of violence in detention calls into question the Department's assertion that education facilities offer a safe and secure environment for children.

However, as stated earlier, the Department has an obligation to ensure that the detention of children does not affect the quality of a child's education. Had there been a system in place to send all children to external schools, for example, these issues would not have presented such serious problems.

### 12.4.6 Assessment and reporting offered to children in internal schools

It is necessary to assess a child's pre-existing abilities in order to adequately provide for their educational needs.<sup>170</sup> As outlined by the NSW Department of Education, this can be a complex process:

Initial educational assessment of a child is essential but can be difficult, particularly for children with little or disrupted education and the resulting difficulties of literacy in a student's first language. Assessors need to have appropriate experience in assessing English language competence as well as experience in identifying the impact of previous torture and trauma and the settlement process on psychological development and educational progress. The use of bilingual support to conduct such educational assessments is necessary.<sup>171</sup>

The ACM policy regarding education required that '[e]ducational counselling will be provided in order to appropriately place detainees in available educational programs'.<sup>172</sup> Furthermore, the Curtin Education Department Child Detainee Student Policy states:

Enrolments ...

3. Child detainees will be further assessed on academic, behavioural and attendance performance. This process will vary between 2-3 weeks for a newly enrolled detainee child.

4. Once this process is complete, a detainee student will be allocated to the appropriate class.<sup>173</sup>

However, the Inquiry has not received any documentary evidence suggesting that this policy was routinely implemented. Furthermore, evidence from teachers suggests that the assessments did not routinely occur. For example, a former Port Hedland teacher told the Inquiry that '[t]here wasn't any profiling system. There wasn't anything done. It is supposed to be done when the kids first come into a school'.<sup>174</sup>

Similarly, the Inquiry heard from a former Woomera teacher that she:

was not aware of any formal educational assessments conducted by either ACM/DIMIA or the teachers of children when they arrived at the Centre. The only assessments that teachers were able to make, were whether a child could read/write in his/her own language and/or English.<sup>175</sup>

Meaningful education should also include reporting on achievement. All Australian schools have a method of reporting and these results are usually used to assist in

constructing appropriate learning programs for students and to inform parents of their child's progress.

ACM policy on education states that: '[s]ome type of formal recognition of the detainee's accomplishment shall accompany specific course completions'.<sup>176</sup> However, the same teacher cited above, who worked at Woomera during 2001, stated that reporting was very difficult due to 'the constantly fluctuating number of students, the contact time per class and the constant movement of children between compounds'.<sup>177</sup> This teacher reported that 'there is no continuity of learning or an established formal classroom teaching ... so that you could establish records'.<sup>178</sup> Furthermore, she reported that it was very difficult for teachers to provide students departing the centre with records of their achievement because they were not informed when children were leaving the centre.<sup>179</sup>

The principal of the Adelaide Secondary School of English, which many children attended upon their release from Woomera, stated that children arrived at her school with no documentation whatsoever.<sup>180</sup>

The 2001 Woomera ACM Education Coordinator confirmed that there was no reporting on student achievement at Woomera during 2001. She asserted, however, that some reporting to parents was undertaken, commencing in early 2002.<sup>181</sup> She stated that:

From the time when I was Education Coordinator, we did do progress reports on their file and we gave a copy to the parents, and our idea [was] that if we gave a copy to the parents that maybe the parents would take that to the school that their child is going to, and maybe that would be some help to the parents. We have no idea where these people go when they leave; I don't know if they end up – where they end up, so we are not able to follow through or send anything through because we don't know where they are. ACM are not privy to that information.<sup>182</sup>

ACM further emphasised that:

Any education report prepared by ACM staff would be sent to DIMIA along with the child's case management file. ACM has no control over the forwarding of information to the child's parents or school.<sup>183</sup>

The Woomera monthly education report from April 2002 confirms that some reports were provided to parents at Woomera in early 2002:

School reports were issued to parents for all children but there was no feedback from parents at all. Some of the older children were pleased to have had a school report and read the comments.<sup>184</sup>

The Inquiry also received a school report pro-forma from Woomera, used in late 2001 when the students commenced attending the St Michael's facility external to the centre.

The Inquiry heard that at Port Hedland, no assessment files were kept on a child's standard of education;<sup>185</sup> however it appears that in early 2002 'appraisal forms' were provided to students to assist in their transition to external schooling.<sup>186</sup>

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### (a) Findings regarding assessment and reporting

The Inquiry finds that there has been inadequate educational assessment and reporting for children in immigration detention.

The Inquiry did not receive any evidence that initial assessments of a child's educational level were conducted. Furthermore, there is very little evidence of reporting on student achievement. This lack of educational assessment and reporting on achievement has compromised the provision of appropriate education to children in detention.

The constantly fluctuating number of students and their sudden release may make it difficult to provide reports on student achievement when the children are released. However, there is no reason why student progress cannot be recorded on an individual basis and a report provided to students and parents at regular intervals during their time in detention. This is especially important for children who have been detained for lengthy periods of time.

### 12.4.7 Attendance levels in internal schools

Throughout Australia, State education legislation requires that all children attend school between the ages of six and fifteen.<sup>187</sup> Two years of post-compulsory education are also provided to Australian children. These laws apply equally to children from culturally and linguistically diverse backgrounds and all other children. However, neither the Department nor ACM are of the view that school attendances can be enforced in detention centres.

### (a) Challenges in ensuring attendance in internal schools

There are two related challenges in ensuring attendance at internal schools. Firstly, some children are reluctant to attend internal education programs because of mental health concerns or disinterest in the curriculum being offered. Secondly, the Department and ACM both note that they are of the view that attendance cannot, or should not, be enforced.

Regarding enforcement, the Department stated that:

[p]arents are ultimately responsible for ensuring the school attendance of their children. The Department has very limited powers to compel detainee parents to ensure that their children attend school programs that are offered or to compel children themselves to attend and there are no readily available sanctions for non-attendance.<sup>188</sup>

ACM documents provided to the Inquiry indicate that they were also of the view that attendance was optional. The ACM Education Induction Talk informed detainees that:

[s]chooling in the Woomera IRPC is not compulsory. However, attendance at school is expected and strongly advised for all children from 5 to 16 years old. This is for your child's benefit and to help them in their transition to an

English speaking Australian school. School hours are limited so maximum participation in the classes available is recommended.<sup>189</sup>

Furthermore, a memo from the Education Coordinator of 6 February 2002 states that '[e]ducational opportunities are provided to all school aged children. However, attendance is optional and not all children take up this facility every time it is available'.<sup>190</sup>

As mentioned above, the declining mental health of children in detention also impacted upon the ability of staff to encourage children to go to school. A boy at Curtin told the Inquiry how his diminishing hope affected his enthusiasm to learn:

When I came, first here, we were very hopeful to get out, we thought that our stay here was very short, in a few months and we get out. And after that I became very upset and depressed and because of my mental condition I couldn't bring myself to go to the school.<sup>191</sup>

A former Woomera teacher made similar observations:

All children, I think, drifted away from a learning type of environment experience. They were very enthusiastic, especially some of the girls, to start off with and then they started to gradually weaken in terms of the resolve to learn and take part in classes so in that sense a long term type situation is hopeless in terms of providing adequate – any type of adequate services for them.<sup>192</sup>

The mental health of the children's parents also affects attendance:

As the children's parents psychological condition deteriorated, I observed that their children would also go downhill and stop attending classes.<sup>193</sup>

Even if I had to educate them myself, if I were in a better state of mind I would be able to do so, but in this condition I can't. The schooling that they are provided with is not adequate, if it weren't for my teaching them maths, reading, they wouldn't have learnt anything.<sup>194</sup>

ACM also suggested that cultural beliefs affected the level of attendance:

differing cultural beliefs about appropriate levels of schooling according to the age and gender of the child also act as a disincentive for adolescent children to attend school. For example, adolescent boys from middle eastern backgrounds are regarded in their cultures as adults rather than children. This explains their reluctance to attend school which is perceived as an activity for children.<sup>195</sup>

However, it must be noted that many children who had no interest in attending the classes provided onsite, had a great deal of enthusiasm for learning when they were offered the opportunity to attend schools outside the centre. It appears, therefore, that the children's eagerness to go to class may also have been connected to the quality of the education offered to them and the fact that it was conducted within the detention environment which is one of the causes of their mental decline (see further Chapter 9 on Mental Health).

### **(b) Difficulties in determining the actual attendance in internal schools**

The level of attendance at education programs in detention is difficult to determine. The figures in the Department's submission to the Inquiry are based on ACM internal monthly reports and the Inquiry is concerned that the figures contained in these reports are unreliable. Firstly, analysis of the figures in the reports indicates inconsistencies. Secondly, there are two instances where the Inquiry has received differing reports on the hours of education provided within detention centres.

ACM monthly reports regarding education at both Curtin and Port Hedland indicate significant inaccuracies. For example, with regard to Curtin, exactly the same figures for hours of attendance and the numbers of students attending are given for every month of 2002, even though the number of children in the centre decreased significantly over the year. The reports consistently state that there were 45 children receiving education at Curtin, although from April 2002 onwards there were fewer than 45 children detained in the centre. ACM acknowledge that these reports are sometimes incorrect, stating that 'it would appear that in some instances the amenities table was copied from one monthly report to the next'.<sup>196</sup>

Similar discrepancies can be found in the records for Port Hedland. For example, the ACM monthly report of February 2002 states that educational programs were provided for 62 children, a month during which they report that there were only 49 children detained in the centre. In March 2002 the report states that ACM was providing education programs for 38 children at a time when they report that there were only 33 children detained in the centre.

ACM explain that the discrepancy between the figure regarding educational programs and the number of children in the centre may be because the number of children reported detained in a month was occasionally not an average but the 'actual number on a sample day':

For example, the number of children in Port Hedland for February 2002 was erroneously reported as 49.<sup>197</sup> In fact, the number of children in Port Hedland decreased from 78 to 52 during the month. Had the correct method of aggregating the actual numbers each day and then dividing the aggregate by the number of days in the month been used, the average number of children for the month should have been 65. The average attendance figure of 62 for that month is therefore not inconsistent with the number of children in the centre for the month.<sup>198</sup>

Furthermore, the ACM education coordinator responsible for providing statistics at Port Hedland at the time gave evidence that in early 2002 he approximated figures for attendance at education as the method of calculation was very complicated and difficult.<sup>199</sup>

While these explanations account for some of the discrepancies, they also demonstrate the difficulty of relying upon these records for an accurate impression of educational programs provided to children. As the Department's submission appears to be based on these numbers, its reliability is also in question.

### (c) **Apparent attendance levels in internal schools**

Documents available to the Inquiry suggest that children's attendance at education programs inside detention centres decreased with the length of time that the children had been in detention.

A January 2002 report from Port Hedland states that 89 per cent of children who had been detained in the centre between 25-52 weeks attended school regularly but that only 70 per cent of those who had been detained in the centre for over 52 weeks attended school regularly.<sup>200</sup> At Curtin, children who had been in the centre for up to three months had a 95 per cent attendance rate, children who had been in the centre for up to nine months a 90 per cent attendance rate and children who had been in the centre for 12 months or longer an 85 per cent attendance rate.<sup>201</sup>

In some instances, attendance also appears to decrease with the increasing age of the children. In a memo of March 2002, the Woomera Programs Manager reports that approximately 85 per cent of children aged between 5-12 years attended education classes daily, while approximately 70 per cent of children aged between 13-16 years attended education classes daily.<sup>202</sup>

At Villawood, there has been very low attendance at internal education programs by secondary school-aged children. ACM documents indicate that for the years 1999-2000 and 2000-2001 approximately 20 per cent of secondary school-age children attended school in the centre, while for 2001-2002 approximately 50 per cent of secondary school-age children attended school in the centre.<sup>203</sup>

The Inquiry also received evidence that attendance at educational programs of particular groups of students was low. For example, an ACM document indicates that the attendance of adolescent girls at Woomera education programs in early 2002 was very low:

The 13-17 year old girls are a very small group, currently only 8 in the whole centre and with some lengths of stay 12 months plus. These girls have been contacted individually to inform them of new class times and the excursions within the RHP. It has been extremely difficult to motivate this group of girls. A few months ago some of the girls turned up daily for classes but in recent months they rarely turn up for either classes or their allocated times in the computer room. ... It would be unfair to say that the girls can only attend excursions if they attend classes as they are long term detainees and the benefits of getting them out of the Centre once a week outweigh the need to get them into classes.<sup>204</sup>

An ACM officer reported the reasons for which teenage girls were not attending class:

There were six girls and each had their own reason for not attending class. Three of them have been here for over a year and their enthusiasm for school has waned, two more go to a Resident teacher to learn English and one goes to work.<sup>205</sup>

## A last resort?

Department and ACM records from mid-2001 and early 2002 indicate that detention centre staff tried to encourage attendance at education programs, particularly for unaccompanied children. Minutes of meetings regarding unaccompanied children from June and July 2001 demonstrate that ACM officers were investigating the reasons for low attendance at school and that there were specific strategies in place to encourage unaccompanied children to attend education. However, these records also indicate that detention affects the unaccompanied children's desire to attend school.

For example, the minutes of 12 June 2001 note:

The UAMs appear to have the attitude:

- 'they will learn when they get out to Australia'
- 'they will work when they get out to Australia'

None of them appear to want to commit themselves while they are in the camp.<sup>206</sup>

In another meeting at Woomera regarding unaccompanied children on 3 July 2001, it is reported that:

Detainee students have been asked to attend class. It has been explained to them that 'when they hit the outside' they will have to go to school, it's not a matter of choosing ... Education Officer Three has had several detainee children tell her straight out 'that they are not interested in coming' to classes.<sup>207</sup>

General concern about low attendance was also recorded in the minutes of the teleconference regarding unaccompanied children on 17 January 2002:

All mainland centres agreed that it is becoming difficult to encourage UAM's to attend education. Many of the Afghani's are refusing to go to school and advise they have no inclination to do so until their protection claims are granted. The meeting discussed strategies for increasing attendance, including testimonials from former detainees as to the merits of taking English classes, linking school attendance to certain privileges.<sup>208</sup>

The Department informed the Inquiry that 'unaccompanied minors over compulsory school age may choose to leave their schooling'<sup>209</sup> and that although efforts were made, there were 'difficulties in encouraging attendance' for post-compulsory aged children.

### **(d) Findings regarding attendance**

Although there is some evidence that staff actively encouraged children to attend school, in most cases these efforts do not appear to have been effective. While unreliable record-keeping makes it difficult to determine the exact attendance levels, it appears that it has generally been low, particularly with long-term detainee and older children. The primary reasons for non-attendance by children appear to be increasing depression and the absence of a stimulating curriculum suited to the various ages and levels of children.

There is no evidence that the Department sought to enforce school attendance for children between 6 and 15-years-old, as required in the Australian community.

#### **12.4.8 Summary of the provision of education in internal schools**

The preceding sections explain that education within detention facilities was inadequate, and certainly nowhere near the level of education offered to similar children in the community primarily for the following reasons:

- The standard State and ESL curricula were not offered to children in detention until late 2002; this was especially problematic for children of post-compulsory school age.
- There were severe teacher shortages and infrastructure restrictions resulting in an extremely short teaching day.
- There was inadequate assessment and reporting.
- The poor curriculum and mental health issues facing children in detention meant there was very little enthusiasm for attending the classes that were on offer.

The Inquiry recognises that many of these problems arise from challenges inherent in running a school within the detention environment. Many of those problems disappeared when children started going to Australian schools.

The next section outlines when children started attending community schools and why it took so long for access to these schools to be organised.

### **12.5 What external education was provided to children in detention?**

In Port Hedland there is a school outside. It is a public school. It was a primary school I think. I used to stand on a chair and look out at them. I like to see what they looked like in their school uniform. There was an officer, she pulled my shoulder down and put me on the ground and said, you are not allowed to look at those people because they are different to you. And I was like "Why are they different to me – because they know English and they are Australian, does that make them better?"<sup>210</sup>

Many of the problems encountered with the internal education program disappeared when detainee children attended the local schools in the communities surrounding the various detention facilities. Children were immediately enthusiastic about attending school. The primary reason for this was that children had the opportunity to leave the detention centre every day and interact with Australian children. However, children also reported a radical difference in the quality of the education that they were receiving.

## A last resort?

In evidence to the Inquiry, the Department stated that it 'acknowledges that access to [external] schooling is likely to be appropriate and beneficial for most children':

Attending a school in the community provides children with much more than a formal education. It allows them to experience a normal day in the life of any school aged child, offers them opportunities to socialise and make friends outside the detention environment and importantly has a very positive effect on the emotional and social wellbeing of the whole family.<sup>211</sup>

This section discusses the following issues regarding external education:

- when and where children have attended external schools
- progress of negotiations for routine access to external education
- impact of remote locations on access to external schools
- payment for access to external education
- participation in external education
- impact of external education on detainee children
- education in alternative detention.

The section concludes with a summary of findings regarding external education.

### 12.5.1 When and where children attended external schools

Access to external education has varied considerably across centres and over time. In evidence before the Inquiry the Department stated that '[o]ver the years at various times children from Maribyrnong, Villawood, Curtin, Port Hedland and Christmas Island have attended local schools outside the detention facilities'.<sup>212</sup> The Inquiry is not aware, however, of the existence of regular access to external schooling prior to 2002 except in the cases of Curtin and Maribyrnong. Following is a brief synopsis of what has been available to detainee children.

#### Maribyrnong

1998 Children had access to education at St Margaret Mary's Catholic primary school from the beginning of 1998. Approximately 12 children participated in this arrangement.

2002 In October children commenced attending the local State schools.

#### Port Hedland

1998 Two children enrolled at St Cecilia's Catholic School.

2002 In April two children began attending St Cecilia's. All of the children attended the school from May onwards.<sup>213</sup>

#### Curtin

2001 Children commenced at Derby District High School in March 2001. Five children attended during 2001.

2002 Approximately 16 children attended Derby District High School. This was a small proportion of the children detained at the centre at the time.

**Villawood**

2002 In August 2002 some children commenced attending local State schools. More children in the centre commenced at external schools in October; however, not all children could participate.

**Woomera**

2002 In December, primary school-aged children commenced attending St Barbara's Catholic Parish School in Roxby Downs two days a week.

2003 By mid-2003 children detained at the Woomera Residential Housing Project were attending the Woomera Area School.

**Baxter**

2003 In March 2003 secondary school-aged children commenced attending local State schools and in April 2003 primary school-aged children commenced attending local State schools. Some children were excluded from these arrangements.

**12.5.2 Early ad hoc arrangements for access to external education**

Although the Department has stated that the main impediments to organising access to external schooling were barriers such as the requirements of State authorities or local communities, evidence provided to the Inquiry reveals that the Department did not begin to coordinate its efforts to organise access to external schooling until mid-2002.<sup>214</sup> This is particularly concerning, given that external education was first recommended in the 1994 report of the Joint Standing Committee on Migration.<sup>215</sup>

The Inquiry heard that initial access to external schools was organised locally and in an ad hoc fashion. For example, the Inquiry heard that the arrangement for child detainees from Curtin to attend Derby District High School was initiated after an approach was made to the Principal of the school by the ACM Manager from Curtin. There was no general approach from the Department or ACM to the Western Australian State education authority.<sup>216</sup>

The arrangement at Port Hedland was also locally negotiated. The Principal of St Cecilia's reported to the Inquiry that in April 2002 he approached the Department's Manager to suggest that the detainee children attend his school. In Port Hedland ACM reported that prior negotiations had been conducted with State schools, but the detainee children were not accepted into the State schools as they were not Australian citizens.<sup>217</sup>

The Department suggests that access to external education was negotiated in 2002 due to the 'evolving educational needs of longer-term detainee children from 2002 (as the caseload changed in response to the numbers of unauthorised boat arrivals ceasing)'.<sup>218</sup>

## A last resort?

The Department further argues that:

Prior to the unprecedented arrivals of unauthorised boat arrivals, access to external education for detainee children was more effectively negotiated at a local level in response to the individual circumstances of the child. Such an “ad hoc” ... process was appropriate for addressing the presenting issues at the time.<sup>219</sup>

However, very few children detained between 1992 and 2001 had any access to external education, despite recommendations that this occur. For example, no child detained at Villawood was able to access external education until mid-2002. Clearly, the ad hoc arrangements did not deliver external education for many children in detention.

### 12.5.3 Negotiating routine access to external schools

The Department assumed complete responsibility for negotiation of access to education during 2002, when negotiations of Memoranda of Understanding (MOU) with State education authorities regarding placement of children in external schools commenced in New South Wales, South Australia, Victoria and Western Australia. Prior to this there was some confusion as to whether the Department or ACM was responsible for negotiating access for detainee children.

This is particularly evident in the case of Woomera, where responsibility for negotiations with the State education department alternated between the Department and ACM over 2001-2002.

ACM reports that negotiations between ACM and the Woomera Area School commenced in early 2001 when support was ‘gained at the local level for children from [Woomera] to in some way use the facilities of the Woomera Area School’. However, ACM alleges that the South Australian Department of Education refused to let any detainees attend the school.<sup>220</sup>

It seems that the negotiation process was then handed back to the Department, which states that it made contact with the South Australian Department of Education in mid-2001.<sup>221</sup>

However, in February 2002 it seems that negotiations were back in ACM's hands. The South Australian Department of Education reports that in February 2002 ‘the matter of children in detention enrolling in Woomera Area School was raised by ACM with the school directly’. The SA Department's view was that this proposal ‘put undue pressure on the school and that any request of the kind being presented should be made at government-to-government level’.<sup>222</sup>

Negotiations continued between ACM and the school and in April 2002 ACM put a proposal to the principal of the Woomera Area School for the trial integration of a maximum of 15 lower primary aged children from Woomera.<sup>223</sup>

It does not appear that this proposal made any progress and negotiations resumed between the Department and the South Australian Department of Education. In an

appearance before the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade in August 2002, the Department stated that it was 'still in discussions in South Australia where we do not yet have access to external school based education'.<sup>224</sup>

This example demonstrates the lengthy and confusing process followed by the Department and ACM prior to 2002.

The first MOU to be finalised was between the Department and the NSW Department of Education and Training, on 28 June 2002. Discussions were initiated in April 2002. In May 2002, Ken Boston, then Director-General of Education, was quoted in the media as saying that:

This is an educational, moral and ethical issue, not a political one. There are 26 young people there of school age, most of them illiterate, many who have never been to school, who I believe should be given the gift of education.<sup>225</sup>

The next MOU was finalised between the Department and the South Australian Government on 17 December 2002. However, access to external schooling for the children detained at Baxter was considerably delayed while the process of consultation with the local community in Port Augusta was concluded.

Negotiations with the Victorian Government commenced when the local Catholic primary school was unable to accommodate children detained at the centre in June 2002.<sup>226</sup> These children were educated within Maribyrnong between June and October 2002. A draft MOU between the Department and the Victorian Government had progressed to a stage where detainee children could commence school in October 2002. The MOU was signed on 5 February 2003.

According to the Department, formal negotiations of a MOU with the Western Australian Government began in November 2002.<sup>227</sup> As at September 2003, this MOU was still not finalised.

Each of the MOUs regarding external education has very similar content. In each agreement the Department acknowledges that it seeks to access public education in the local community for detainee children, provided the requirements of the *Migration Act 1958* (Cth) (Migration Act) to detain unlawful non-citizens are met.<sup>228</sup>

Under each agreement, participating schools must be approved as alternative places of detention, and the principal or teachers must be designated [or directed] persons responsible for the detention of the children. The agreements require directed persons to exercise a high level of responsibility with regard to detainee children.<sup>229</sup>

The Department has sought to explain the delay in reaching these agreements as follows:

The degree of support by the State education authority for the arrangements and negotiations may also affect the length of time in which the department may be able to agree upon access. The extent to which senior support can expedite the negotiation process is evident in the negotiations with the NSW State education authority.<sup>230</sup>

## A last resort?

The Inquiry accepts that the willingness of State authorities to accept children into their schools will impact on the speed at which agreements are reached. However, the children in detention centres are the Department's responsibility and have been so since at least 1992. It is therefore disappointing that the Department did not approach State authorities in a comprehensive manner prior to 2002.

### 12.5.4 Payment arrangements for external education

One of the issues with regard to the provision of external schooling is the question of who should be responsible for meeting the cost. Within Australia, public primary and secondary education is largely funded by State authorities, with a lesser proportion of funding provided by the Commonwealth. Private schools receive the majority of their funding from the Commonwealth, with the remainder funded by State authorities and school fees.

Despite repeated questioning at the Inquiry's public hearing for the Department, the Inquiry was not able to ascertain whether over the past few years the responsibility for payment of fees has rested with ACM or the Department.<sup>231</sup> There is some evidence that the Department considered the responsibility to be ACM's. For example, the Port Hedland Manager report in November 2001 noted that 'ACM [was] reluctant to pursue the option of mainstream schooling for any children due to cost'.<sup>232</sup>

However, the early localised arrangements for external schooling, for example in Derby (Curtin) and Port Hedland, suggest that attendance by detainee children was dependent on the generosity of the individual schools. In other words, it appears that neither ACM nor the Department met all of the costs of educating children who attended school under these arrangements.

In June 2002, the principal of the Derby District High School told the Inquiry that initially there was no funding for the students from Curtin to attend the school, and that the school absorbed the cost within its own resources. From 2002 the detainee students were counted as part of the total enrolment of the school, which meant that the Western Australian Government provided the bulk of the funding for the education of these children.

Similarly, initially there was no provision for payment of fees or other costs for children attending St Cecilia's Catholic School in Port Hedland. In October 2002, the Catholic Education Office of Western Australia requested a contribution to the costs of educating the detainee children. After a lengthy process of negotiation, in mid-2003 the Department agreed to meet the costs of the children's education (including school fees and the equivalent Commonwealth funding provided for the education of other children at the school) backdated to the commencement of the negotiations in October 2002.

The cost of external education may have affected access for children detained at Woomera. The Department's former Infrastructure Manager at Woomera told the Inquiry that when the detention centre opened, it was thought that the children could attend the local school, but that the Department decided to provide education

on-site as this would require fewer staff.<sup>233</sup> This former senior Department officer also reported that early suggestions to use the empty St Michael's school facility were initially rejected by Department management, apparently because 'additional staff resources would be required to manage school attendance out of centre'.<sup>234</sup>

The Inquiry also received evidence that reluctance to meet the costs of external education affected the access of children from Maribyrnong to external schools. Children from Maribyrnong had been placed in the local Catholic primary school from 1998 onwards. However, when three children arrived at the centre in mid-2001, the school was unable to accommodate them. ACM unsuccessfully attempted to place the children in local State schools. The Department then negotiated access to the State schools, which requested payment at the overseas student rate.

The Victorian Education Department's fees were \$5842 (or \$142.49 weekly) for primary children and \$7190 (or \$175.37 weekly) for secondary children, commensurate with the charges that apply to a fee paying student from overseas. If children required an intensive ESL course, the cost rose to \$217.80 weekly.<sup>235</sup>

Department staff at Maribyrnong reported the following in both July and August 2001:

Two children aged 13 and 6 that have been detained since March are not receiving educational programs appropriate to their age and abilities. ACM had indicated that it was unable to access suitable 'English as a second language' and secondary education. ACM advised that the Victorian education system would not enrol the detainees. DIMA resolved the obstacles to enrolment in the Victorian education system. ACM declined to enrol the children on the basis that the cost was too great.<sup>236</sup>

The Department asserted that children could access ACM education programs while negotiations were conducted. However, this does not take into account the Centre Manager's claim that they were not appropriate.<sup>237</sup>

With regard to the cost of external education, the Department noted that:

with the possible exception of the first instance where this arose, issues of cost have not affected detainee children's attendance at external schooling. The department determined that cost issues would not be an obstacle for detainee children's access to schooling.<sup>238</sup>

The recently signed MOUs do not incorporate any final agreement as to who meets the costs of external education for children in immigration detention. In each agreement, the Department acknowledges that there may be costs to the State education authority over and above any Commonwealth/State funding arrangements which may apply. Each agreement contains the statement that:

Given the fluctuating numbers and periods in the school system of such children and uncertainties over the numbers of schools which may be involved any additional costs may be difficult to identify in the short term.<sup>239</sup>

The Department will consult with each State education authority regarding costs once the agreement has been in place for six months.

## A last resort?

It appears that once the new services provider contract is in operation, Group 4 Falck will be responsible for meeting the cost of external education. The Department informed the Inquiry that 'absolute clarity has been built into the proposed new detention services contract, with the payment of fees and other costs at external schools identified as the responsibility of the services provider'.<sup>240</sup>

### 12.5.5 Impact of remote locations on access to external schools

The Department has indicated that the location of the detention centres made it difficult to arrange for detainee children to attend local schools because the child detainee population sometimes exceeded the capacity of the schools:

For example, around September 2001 there were over 450 children at the Woomera centre. The local school had a student population of around 70 children. The logistics of integrating the detainee children, many of whom moved out within a short time, would have been impossible. In these circumstances education was conducted mainly within the detention facilities and focused on English language, literacy, numeracy and socialisation skills. This enabled children to integrate into local schools effectively if they were granted a visa.<sup>241</sup>

The Inquiry also heard evidence that remote area schools had difficulty in providing sufficient ESL support to its detainee students. For example, the principal of St Cecilia's told the Inquiry that he felt that the needs of the children could not be fully met as the school did not have any extra ESL assistance. In contrast, children detained within city centres have access to Intensive English Centres with a full range of specific services. This point was emphasised by the South Australian Education Department which stated that allowing children to attend the Woomera Area School:

wouldn't be the best solution because Woomera is a fairly isolated situation and we would have to load in all of the kind of support services that we are able to do in the big metropolitan areas but there are lots of children who are new arrivals who don't live in metropolitan areas and we do a very good job in those situations.<sup>242</sup>

The Inquiry acknowledges that the limited physical and professional capacity of remote area schools poses very real challenges to the Department in arranging for detainee children to attend these schools. The Inquiry takes the view that this problem highlights the inherent inconsistency between the current mandatory detention system, and the protection of children's fundamental rights. Nevertheless, there are solutions within the current system. If children must be detained they should either be detained in city detention centres where the access to schools is much easier, or they should be transferred to places of alternative detention such that they can access appropriate schools.

The Department has told the Inquiry that operational considerations mean that not all children can be detained in the metropolitan detention centres. Once again, this highlights the barriers that the mandatory detention system raises. Furthermore, it demonstrates that the best interests of the child was not a primary factor in

determining the location of children and families as it appears that operational concerns took priority over the provision of services such as education.<sup>243</sup>

### **12.5.6 Determining which children attended external schools**

Prior to the establishment of agreements with State education authorities, the criteria for determining which children could attend external schools were established between the schools and detention centre staff.

Some children were excluded from attending external education under local arrangements. For example, the local agreement between Derby District High School and Curtin education staff stated that children would only be permitted to attend school if ACM staff assessed that the child could cope with the external school environment and their English and social skills were good enough.

In June 2002, Inquiry staff interviewed a family where one sibling attended the Derby District High School for twelve months prior to another sibling being assessed as having sufficient English to meet the selection criteria. The sibling who was excluded told the Inquiry that not being able to attend the external school was a cause of great 'sadness'. Exclusion of children from external school as a result of criteria such as these would not occur in the community where all new arrival children have access to full school programs, regardless of their level of English.

The impending closure of Curtin also prevented some children from going to Derby District High School, even though they were assessed as meeting criteria for participation. ACM education staff told the Inquiry in mid-June 2002 that seven children had reached the stage where they were ready to attend school in Derby, but that they were not going to be sent as it was not known when Curtin would close. Curtin finally closed in the third week of September. The principal of the Derby District High School told the Inquiry that he could see no reason for not enrolling students for a short period of time, such as six to eight weeks. These children were denied access to external education for a period of over three months. This is especially concerning as there was no immediate access to external education at Baxter, the centre to which the children were transferred, until March and April 2003.

The Inquiry also heard of situations where age affected opportunity to attend external school. This has occurred at both Woomera and Curtin. In Woomera, primary school-aged children commenced attending Roxby Downs Catholic Primary School in November 2002. At this time secondary school-aged children in Woomera could not go to external schools. Some of these students told the Inquiry in September 2002 that they were aware that children from other detention centres attended external education and they were extremely upset that they were not able to do the same.

At Curtin, children who were post-compulsory school age (16 to 18-years-old) were also unable to access external education. The impact of this exclusion is described in Case Study 3 at the end of this chapter.

## A last resort?

The MOUs signed by State education authorities set out standard criteria for participation in external schools. All children who are expected to be in detention for longer than three weeks will be considered for external schooling. Participation is based on the Department's assessment of: (a) the length of time a child will be in detention and (b) whether the requirements of the Migration Act can be met. The State education authority also conducts an assessment of: (a) the child's socialisation capacities; (b) the child's abilities, including literacy in English and numeracy; and (c) the capacity of a local school to meet the needs of such a child.<sup>244</sup>

Not all children are able to attend local schools under these criteria. For example, the children of one family detained at Villawood began attending an outside school soon after the NSW MOU was finalised, while the children of another remained in detention for another few months. The children in this second family were initially excluded due to security concerns; however, after some time the Department decided that the best interests of the children outweighed any security concerns and permitted the children to go to school. These children had been in detention for nearly three years by the time they were finally allowed to attend an external school. The situation of this family is described in Case Study 2 at the end of this chapter.

Children detained at Baxter have been excluded from attending external education in 2003.<sup>245</sup>

### 12.5.7 Impact of external schooling on detainee children

External education has significant benefits for detainee children. The benefits include the experience of a full curriculum, the opportunity to socialise and make new friends, and the opportunity to regularly leave the detention environment. As stated in the introduction to this section, the benefits of external education for children have been acknowledged by the Department.

The Department reported that children were doing well at external schools:

For example:

- the children from Curtin IRPC attending the local Derby school were described by the Principal of the school as being 'model students' who integrated very well, often excelled in their studies, and participated in school sporting competitions (one child was on the school soccer team and attended Country Week in Perth);
- of the children currently attending local schools at Port Hedland IRPC: one is the Head Girl at her school; one is going to Perth for Country Week for an interschool soccer carnival; another recently went to Perth for a week with a school team and participated in the Young Australia Achievement program; and
- of the children currently attending local schools at Baxter IDF: there is a high level of participation in extracurricular activities such as school excursions, including school camps and choirs, and sports (recently, some detainee boys were included in a team for a carnival of stateside representative soccer).<sup>246</sup>

An adolescent boy from Curtin graphically reported to the Inquiry the importance of external education when asked whether he liked going to school. He said: 'Yeah, I like, because if I don't go there I will destroy'. In September 2002, this child was transferred from Curtin to Baxter where there was no opportunity to attend external education until March 2003.

Parents told the Inquiry that they preferred their children to attend external school. For example, mothers at Curtin said:

So what I am saying, probably it is more formal to send them to Derby they have more curriculum, schooling and education. They have more focus on subjects and give them more study to do in Derby.

*Mother, Curtin, June 2002*

[W]e cannot compare the schooling in Derby town with the school inside the camp. Here in this camp there was no difference in ages for all students there were the same text and when the text was given to them, then they repeated it again and again.

*Mother, Curtin, June 2002*



Derby District High School attended by some of the children in Curtin, June 2002.

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Department staff also noted the positive impact of attending external schools. For example, the Department Manager from Port Hedland reported in June 2002 that the '[b]ehaviour and socialisation skills of the children [are] improving as a result of attending community schools'.<sup>247</sup>



St Cecilia's Catholic school attended by children in Port Hedland, June 2002.

Although children attending external education are given an important opportunity to leave the detention environment, the Inquiry has heard that children in detention may not be able to take full advantage of this educational experience.

For example, the Inquiry heard repeatedly about the trauma of returning to the centre each day after going to external schools. The children were acutely aware of the difference between their lives and those of Australian students attending these schools. In June 2002 a young boy attending St Cecilia's in Port Hedland stated that:

But it's really different, but it's making worse also, because when we go outside we see the children, they go out free, when they go back to home, we have to come back here, sometimes they say to each other we're going to beach or somewhere else, we can't go.<sup>248</sup>

Similarly, an adolescent boy from Curtin told the Inquiry, in June 2002, that:

We are witnessing that the other kids are going shopping any other excursion or trips with their parents whilst we are coming back toward the camp, we feel bad.<sup>249</sup>

The Inquiry also heard of limitations on the parents' ability to participate in their children's education while they are in detention. At Port Hedland some parents of detainee children reported that they were not allowed to attend St Cecilia's to meet their children's teachers.<sup>250</sup> In Curtin, however, it appears that parents from Curtin were able to attend parent teacher interviews at the Derby District High School, with visits facilitated by education staff from Curtin.<sup>251</sup>

Furthermore, while attending local schools is clearly preferable to on-site schooling, to the Inquiry's knowledge none of the schools which the children from remote centres attended are Intensive English Centres or schools running a New Arrivals Program. As set out in section 12.3, those programs offer the education best suited to the needs of most detainee children.

### **12.5.8 Education in alternative places of detention**

The 14 unaccompanied children who were transferred from Woomera to foster care detention in Adelaide in early 2002, were all enrolled in the Adelaide Secondary School of English, the secondary New Arrivals Program centre in Adelaide. The South Australian Department of Education reports that an 'agreement is currently being negotiated between the Department of Human Services and DIMIA to, among other things, seek full cost recovery for educational services provided to children in alternative detention'.<sup>252</sup>

The principal of the Adelaide Secondary School of English, which these students attend, reported that being in alternative detention does not compromise the students' participation in school activities. The students must be dropped off and collected from school, but otherwise, 'if there is an activity outside of school as long as a teacher is willing to supervise them then they can go and there's been no teacher that has said that they don't want to take them on an excursion'.<sup>253</sup>

### **12.5.9 Findings regarding external schooling**

The Inquiry is disappointed that it took more than a decade of detaining children in immigration detention facilities before there was a comprehensive approach to the provision of external schooling.

Early successes at obtaining access to external schools occurred on an ad hoc basis. However, over 2002 the Department made more widespread efforts at making arrangements with local schools.

Prior to negotiating MOUs, the Department made no proactive attempts to meet the costs of external education, instead waiting for approaches to be made from the schools or education authorities who had accepted the detainee children as students. A clearer understanding as to the responsibility for meeting the costs of education is outlined in the MOUs with State authorities and the new detention services contract.

The Inquiry is concerned by the criteria that are used to determine access by children to external schools. A child's level of socialisation, literacy or numeracy should not

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be a barrier for children in detention any more than it is for any other child in the Australian community. Children in the community are required to go to school no matter what their level of education or behaviour patterns. While the Department may legitimately take into account security concerns, this consideration should be interpreted in the light of the principle that the best interests of the child be a primary consideration.

Finally, the Inquiry is of the view that while external education is far preferable to internal education, it is less than ideal. Although many detainee children have benefited from external education, they may not be able to take full advantage of the experience due to the constraints of the detention environment. They or their parents may have poor mental health and returning to the centre each day may be traumatic. Friendships with other children from the school are restricted by the detention imperative. Furthermore, to the extent that external schools in rural and remote areas do not have the appropriate ESL capacity, those schools may not be the best suited to the special needs of these children. All of these factors indicate the difficulty of providing effective education of any kind for children held in detention centres.

## **12.6 Summary of findings regarding education for children in detention**

The Inquiry finds that there has been a breach of articles 2(1), 3(1), 22(1) and 28(1) of the CRC regarding the right to education.

The effect of articles 2(1) and 28(1) of the CRC is to require Australia to provide children in detention access to the same level of education as any other child in Australia with similar needs. Article 22(1) requires that appropriate efforts be made to cater to the special needs of asylum-seeking and refugee children. In the context of Australia's current immigration detention system, this responsibility falls primarily on the Department.

The Commonwealth-funded New Arrivals Program caters specifically to the needs of asylum-seeking and refugee children living in the Australian community. This program provides an appropriate benchmark for the assessment of education provided to children in detention.

While there have been significant variations in the amount and quality of education provided in different detention centres at different times, the Inquiry finds that, until some children began attending schools in the Australian community in 2002, the education available to children in detention fell significantly short of the level of education provided to children with similar needs in the community. The Inquiry finds that the Commonwealth breached articles 2(1), 22(1) and 28(1) of the CRC for the reasons set out below.

Prior to late 2002, the on-site detention centre schools failed to develop a curriculum suited to the needs and capacities of children in immigration detention. The evidence suggests that there were no efforts to coordinate curriculum design or implementation and until late 2002 no systematic attempt to adopt the State curricula

available and apply it within the ESL framework. Furthermore, unlike in Australian schools, there was no suitable curriculum for children above the compulsory age of education. Despite improvements in late 2002, when there were efforts to teach a State-based curriculum in Woomera and Baxter, parents and children still felt the education was inferior to that available in the Australian community.

Children were inadequately assessed as to their educational needs, and there was insufficient reporting of children's educational progress. Furthermore, there was insufficient infrastructure, curriculum resources, and teachers available to support the curriculum that was being taught.

While all teachers hired by ACM had general teaching qualifications, there were occasions when there were no teachers with ESL qualifications. Furthermore, there were times when detainees without teaching qualifications were used to make up the shortfall in qualified teachers. A high turnover of teachers also impacted on the quality of teaching.

In situations where there was a shortage of teachers and classrooms, the hours of schooling were well under the standard six-hour day in Australian schools. One of the worst examples was in Woomera in mid-2001, when children were offered between one and two contact hours a day.

While there were efforts to encourage children to attend classes, neither the Department nor ACM required children under the age of 15 to attend classes. The attendance levels were generally low, particularly with long-term detainees and older children. This was related to a combination of increasing depression in long-term detainees and the absence of a sufficiently stimulating curriculum.

Thus despite the enormous efforts of teachers to provide the best possible education within the circumstances, there were formidable barriers to providing an adequate education to children within detention centres.

The Department suggests that it did the best it could in the light of large influxes of children, destruction of classrooms during riots, difficulties in recruiting teachers to remote and rural areas and the varying needs of the children in detention centres. The Inquiry acknowledges that there were many challenges to providing an adequate level of education to children within detention centres, especially when children were there for long periods of time. However, the CRC makes it clear that the Department had an obligation to overcome those difficulties in order to ensure that children enjoyed a level of education comparable to similar children in the Australian community. In the Inquiry's view the Department made insufficient efforts to address those issues until 2002 when it commenced negotiating routine access for children to external schools in the community.

While there were ad hoc arrangements to send individual children to schools prior to 2002, the first time a large group of children attended a community school was in early 2002. At this time children from Curtin began attending Derby District High School, a local State school, and children in Port Hedland began attending St Cecilia's, a local Catholic school. At the same time the Department began to pursue comprehensive arrangements with State education authorities.

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Arrangements for external schooling are a marked improvement in the level of education provided to children in detention, although the Inquiry notes that the fact that children must return from school every day to a detention centre prevents them from taking full advantage of the external education experience.

Furthermore, there are still children in detention who are excluded from attending Australian schools and the Inquiry questions the application of some of the criteria on which they are excluded. For example, while concerns about flight risks may be a legitimate reason, this consideration must be assessed against the best interests of the child, which needs to be a primary consideration in any decision made. In addition, in the event that external schools in rural and remote areas do not have the appropriate ESL capacity, those schools may not be the best suited to the special needs of these children.

The Inquiry finds that to a certain extent the long-term detention of children inevitably leads to inadequacies in the education provided because of the difficulties presented by the detention environment. This reinforces the Inquiry's concern that Australia's mandatory detention laws, and the manner in which they are applied by the Minister and Department, fail to adequately consider the best interests of the child as required by article 3(1) of the CRC (see further Chapters 6 and 17). Furthermore, it highlights the connection between compliance with article 37(b) of the CRC, which requires detention as a last resort and for the shortest appropriate period of time, and compliance with article 28(1) of the CRC.

The Inquiry also notes that in making decisions about the location in which children are detained (the remoteness of some of Australia's detention centres presenting logistical difficulties in providing an adequate level of services), a proper consideration of the best interests of the child will include an assessment as to whether their right to education can be met in that location. In the Inquiry's view, the decision to detain children in remote locations contributed to the inadequacy of their education and suggests that their best interests may not have been a primary consideration in those decisions, contrary to article 3(1). This issue is discussed further in Chapter 17, Major Findings and Recommendations.

The right to enjoy a level of education, on the basis of equal opportunity with similar children in the Australian community, is closely linked to a child's right to achieve the highest possible level of development under article 6(2) of the CRC. It is also an important factor to take into account when assessing Australia's compliance with article 37(c), which requires that there is respect for the inherent dignity of children, taking into account the needs of their age. Since compliance with the JDL Rules is a useful guide for assessing whether or not there has been compliance with article 37(c), it is relevant to note that those rules recommend that children be sent to schools external to a detention facility and that there be an appropriate curriculum for those children beyond the compulsory age of education. As set out above, there have been periods of time during which those rules have not been complied with. However, the Inquiry makes no conclusive finding regarding articles 37(c) or 6(2) in this chapter. Rather it flags these issues for consideration in Chapter 17.

## 12.7 Case studies

### 12.7.1 Case Study 1: Inadequate on-site education for a 15-year-old girl, Woomera

There is no point in us going on living like this. I used to be able to read. I can't read or concentrate. I wished I could go back to school, but now I can't. What is the point in my life?<sup>254</sup>

These are the words of a 15-year-old girl first detained at Woomera on 5 January 2001. They were recorded in an interview with a psychiatrist in July 2002, when she had been in detention for over 18 months.

For most of 2001 there was only between one and three hours of tuition available to students at Woomera, four days a week.<sup>255</sup> In December 2001, some children from Woomera began attending classes at St Michael's, a disused school building in Woomera town where ACM teachers taught children from the detention centre. When the first children started going to St Michael's, she remained behind in the centre as she was too old. She could have attended St Michael's from April 2002 onwards, but by May 2002 she had lost interest in attending school due to her depression.

ACM medical records from 15 May 2002 state that she 'still feels upset and depressed. She has no interest in activities and doesn't wish to go to school. Has nightmares, poor energy. Would be interested in going to a normal school'.<sup>256</sup>

Although some of the primary school-aged children from Woomera finally had an opportunity to attend the Roxby Downs Catholic School two days a week in late 2002, she and her sister were not able to attend due to their age.

She finally commenced classes at an external secondary school, the Woomera Area School, on 28 April 2003, over two years after she was first detained at Woomera. She was released from detention on a temporary protection visa in August 2003.

### 12.7.2 Case Study 2: Impact of restricted access to external education, Curtin, Port Hedland and Villawood

This family arrived in Australia in December 1999, when their children were aged 4, 9, 13, and 15. The family was initially detained at Curtin and then transferred to Port Hedland in May 2000. In July 2001, the family was relocated to Villawood. They were detained for over three years prior to leaving Australia in early February 2003.

This family had a volatile time in detention, with both parents and the two older sons charged with involvement in riots at Port Hedland. For a period of time during 2001 the parents and older sons were kept in State correctional facilities, with the two younger children cared for by other detainees. The family came to be considered a security risk.

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This had a serious impact on the younger children of the family. When external schooling was finally arranged for children detained at Villawood in mid-2002, the children from this family were denied access due to security concerns, even though they had been in detention for over two and a half years.<sup>257</sup>

Frustration at being denied access to external schooling reached the stage in July 2002 where the two youngest children from the family then refused to attend the internal school at Villawood.<sup>258</sup>

On 1 August 2002, the Villawood Department Manger stated that he believed that 'placement into local school would be high risk' due to the potential for the children to 'abscond/escape', assisted by the family's strong community support group.<sup>259</sup>

An August 2002 report on the younger son states that he had made excellent progress at school, but that he is:

Currently distressed by the granting of outside schooling to the children of another family and trying to cope with being excluded. Therefore the family and [son] are angry with this and feel they are being discriminated against.<sup>260</sup>

In mid-August 2002, both of these children were certified by ACM medical staff as being medically fit to attend external school.<sup>261</sup> A report from the centre psychologist of 12 August 2002 states that:

Prior to [the parents'] decision to remove their children from [Villawood] school in mid-July 2002, [the children] were both motivated and appeared to strive to achieve academically within the educational setting at [Villawood].<sup>262</sup>

On 12 August 2002 the children stated a desire to attend external schooling:

Both [children] stated today that they would like to attend community schooling, that they felt they could manage a school program five days a week between approximately 9am and 3pm and that they would behave appropriately.<sup>263</sup>

On 22 August 2002, a senior Department officer expressed the view that the children should attend school, stating that 'given the long term nature of their detention, I think we need to balance the security concerns with the possible psychological benefits'.<sup>264</sup>

The same day the Department and the NSW Department of Education and Training agreed to initiate educational assessments for these children. The assessments were conducted on 12 September 2002. On 17 September, the NSW Department of Education and Training notified the Department that the children were suitable for external schooling, with some additional English literacy support. At this stage, only one week of Term 3 remained, so the children commenced school at the beginning of Term 4, in mid-October 2002.<sup>265</sup>

The family left Australia in February 2003. Of their three years in detention, the children of this family attended mainstream schools for less than three months.

### 12.7.3 Case Study 3: Education for older children, Curtin

The children of this family were detained at Curtin in mid-2000, when the daughter was 17-years-old and the son was 16-years-old.

These young people had been detained for over two years when the Inquiry met them at Curtin in June 2002. They were extremely distressed that they had been denied educational opportunities due to their age.

The brother reported that:

... we've been here two years. When we first arrived here I and my sister talked to the authorities and I asked them for some education opportunities. They told us at the time because we didn't know enough English there was no point in sending us to school. Now that we have been here for 2 years they tell us that we are over 16 years and they can't send us to school according to their rules. So there have always been some excuses.

The young people claimed that no efforts were made to provide external education for them, and believed that it might be in part due to the pending closure of the detention facility.

We have actually talked to the authorities in here about the possibilities of some opportunities for people over 16 years of age but they told us that because they're planning to relocate the camp at the moment anything they will do will be temporary so they can't do anything at the moment.

These young people both reported that the quality of education offered in the camp was poor. The brother told the Inquiry:

Before all these problems and complications at the camp there were some classes. Both my sister and I would participate in the classes. The quality of the education was extremely poor in the classes and there was no opportunity basically for learning anything. At the moment my sister and I are longing to learn English, your language, but at the moment in the camp there is no facilities like computers or a teacher or even books. Other children go to school outside the camp and they have the opportunity to improve their English but my sister and I were denied that right.

His sister reported that:

About those classes that my brother told you we used to attend before, there was only one class and everybody like from five year old and I were put in the same class. And what they did was put a photocopy of some basic mathematics in front of us and they were trying like for example to teach me simple addition and these sort of things – basic mathematics.

The children's mother was also distressed about the poor educational opportunities available to these children:

They even deprived my children from education. I have been talking to people in here, the authorities in here, people responsible and every time I went and complained about education of my children they said that they don't

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know enough English to be able have any education. Whereas when we first came here two years ago there were three other children who used to go to school and knew about the same amount of English that my children did.

In two years every time you talk to them they delayed and postponed my request. I have got to the point that now my children are 17 and 18 and they say that in Australia only children under 16 can go to school. Mind you even before people who are 16 years at the camp, there are some children at 16 go to school, but even they are not put in the proper age bracket because it's a mix and all ages have been put in the same class. If they really wanted to consider the education of the children and they really wanted to help them they would have separate classes for different ages. [My son] tries to speak English a little bit and [my daughter] is at the same level of English that [my son] has so you know how much English [my children] know.

This family was relocated to Baxter, where secondary school-aged children commenced attending external schools in March 2003. These children were not able to attend due to their age.

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## Endnotes

- 1 Inquiry, Interview with detainee father, Woomera, June 2002.
- 2 DIMIA, Submission 185, p77.
- 3 *Convention against Discrimination in Education*, article 1.
- 4 *Convention against Discrimination in Education*, article 3.
- 5 DIMIA, Response to Draft Report, 10 July 2003.
- 6 Refugee Convention, article 22.
- 7 Committee on the Rights of the Child, *Concluding observations of the Committee on the Rights of the Child: Belgium*, UN Doc CRC/C/15/Add.38, 20 June 1995, para 9; *Concluding observations of the Committee on the Rights of the Child: Denmark*, UN Doc CRC/C/15/Add.33, 15 February 1995, para 14.
- 8 *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* (the JDL Rules), Geneva, 1990, rule 38.
- 9 The JDL Rules, rule 38.
- 10 The JDL Rules, rule 39.
- 11 See further Chapter 5 on Mechanisms to Protect Human Rights.
- 12 DIMIA, Transcript of Evidence, Sydney, 2 December 2002, p6. See further Chapter 5 on Mechanisms to Protect Human Rights.
- 13 IDS, 1998, Definitions, [www.immi.gov.au/detention/det\\_standards.htm](http://www.immi.gov.au/detention/det_standards.htm).
- 14 IDS, 1998, para 9.4.1.
- 15 IDS, 1998, para 4.4.
- 16 ACM, Policy 13.1, Education, Recreation and Leisure Programs, Issue 5, 31 May 2002, para 3.1.
- 17 ACM, Policy 13.1, para 4.1.
- 18 For example Curriculum Corporation, *ESL Scales*, Carlton, 1994; Australian Education Council, Curriculum and Assessment Committee, *ESL Bandscales*, Australia, 1993.
- 19 Victorian Department of Education, Curriculum Standards Framework, located at <http://www.vcaa.vic.edu.au/csfcfd/home.htm>, viewed 4 April 2003.
- 20 Ministerial Council on Education, Employment, Training and Youth Affairs, *National Report on Schooling in Australia 2000*, 2000, ch 2.
- 21 Ministerial Council on Education, Employment, Training and Youth Affairs, *National Report on Schooling in Australia 2000*, 2000, ch 2.
- 22 Commonwealth Department of Education, Science and Training, English as a Second Language New Arrivals Program, <http://www.dest.gov.au/schools/literacy&numeracy/ESL/index.htm>, viewed on 4 April 2003.

- 23 There are currently six primary and two secondary New Arrivals Program schools in South Australia.
- 24 Maria Iadanza, Principal, Adelaide Secondary School of English, Transcript of Evidence, Adelaide, 1 July 2002, p41.
- 25 South Australian Department of Education, Email to Inquiry, English as a Second Language Program, 5 November 2002.
- 26 South Australian Department of Education, Training and Employment, Submission 154, pp3-4. The South Australian Department of Education, Training and Employment changed its name to the Department of Education and Children's Services on 1 July 2002.
- 27 New South Wales Department of Education and Training, <http://www.schools.nsw.edu.au/studentsupport/programs/esl.php>, viewed 3 April 2003; Western Australia, Department of Education and Training, <http://www.eddept.wa.edu.au/esl/index.htm>, viewed 3 April 2003; Sofweb, Department of Education and Training, Victoria, [www.sofweb.vic.edu.au/lem/esl/enuw.htm](http://www.sofweb.vic.edu.au/lem/esl/enuw.htm), viewed 3 April 2003.
- 28 Summary provided by Principal, Holroyd High School.
- 29 DIMIA, Submission 185, pp79-80.
- 30 ACM, Response to Draft Report, 5 September 2003.
- 31 Australian Education Union, Submission 226, p11.
- 32 Australian Education Union, Submission 226, p12.
- 33 Dr Tom Mann, Submission 254c, p1.
- 34 Dr Tom Mann, Submission 254a, para 28.
- 35 Inquiry, Focus group, Melbourne, May 2002.
- 36 Inquiry, Interview with teenage girl, Woomera, June 2002.
- 37 DIMIA, Response to Draft Report, 10 July 2003. See also DIMIA, Transcript of Evidence, Sydney, 2 December 2002, p6.
- 38 Inquiry, Focus group, Perth, June 2002.
- 39 DIMIA, Submission 185, pp77-78.
- 40 DIMIA, Submission 185, p78.
- 41 ACM, Transcript of Evidence, Sydney, 4 December 2002, p31. This is despite a claim made in the ACM Management Plan for Children at the WIRPC Centre, 15 March 2001, that the 'South Australian curriculum is available to all students', (N2, Q3, F2). The Inquiry notes that in South Australia the curriculum operates under the South Australian Curriculum, Standards and Accountability (SACSA) Framework, administered by the South Australian Department of Education and Children's Services. In July 2002 the ESL Scope and Scales document was published. This support document for the SACSA Framework operates as a guide to the implementation of the curriculum for ESL learners. Prior to the implementation of the Scope and Scales, there existed a locally written ESL curriculum statement for South Australian schools which was used in conjunction with the national ESL Scales document.
- 42 DIMIA, Response to Draft Report, 10 July 2003.
- 43 DIMIA, Response to Draft Report, 10 July 2003.
- 44 ACM, Response to Draft Report, 5 September 2003.
- 45 ACM, Response to Draft Report, 5 September 2003.
- 46 DIMIA, Response to Draft Report, 10 July 2003.
- 47 ACM, Response to Draft Report, 5 September 2003.
- 48 DIMIA Port Hedland, Manager Report, January to March 2001, (N1, Q4a, F5).
- 49 Katie Brosnan, Transcript of Evidence, Perth, 10 June, 2002, p33.
- 50 Geoffrey Howard, Statutory Declaration, 8 September 2003. ACM, Letter to Inquiry, 10 September 2003.
- 51 The Department has suggested that this curriculum focus is appropriate, quoting the submission of the NSW Department of Education and Training, Submission 257, p5. 'The development of students' literacy and numeracy skills and understanding through a broad range of subjects is a fundamental focus of the curriculum and this is supported by the provision of English as a Second Language tuition for students whose first language is not English': DIMIA, Response to the Draft Report, 10 July 2003. The Inquiry notes however, that this evidence suggests that a broad range of subjects is offered, through which literacy and numeracy are developed, rather than a more limited provision of classes only in literacy and numeracy as occurred at Curtin.
- 52 Inquiry, Notes from visit, Curtin, June 2002.
- 53 Inquiry, Interview with detainee father, Curtin, June 2002.
- 54 Inquiry, Interview with teenage boy, Curtin, June 2002.
- 55 Dr Tom Mann, Transcript of Evidence, Adelaide, 2 July 2002, p49. Dr Mann worked at Woomera school from March to September 2001.

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- 56 Inese Petersons, Transcript of Evidence, Adelaide, 2 July 2002, p31. Ms Petersons worked at Woomera school between May and July 2001.
- 57 DIMIA, Response to Draft Report, 10 July 2003.
- 58 ChilOut, Submission 120, pp5-6.
- 59 ChilOut, Submission 120, p6.
- 60 ChilOut, Submission to 120, p6.
- 61 Villawood Community Reference Committee Meeting, Minutes, 15 August 2001, (N1, Q5, F6).
- 62 ACM Villawood, VIDC Primary School Timetable, 31 January 2002, (N1, Q12, F13).
- 63 DIMIA, Submission 185, p81.
- 64 DIMIA, Transcript of Evidence, Sydney, 2 December 2002, p45.
- 65 ACM, Transcript of Evidence, Sydney, 4 December 2002, p31.
- 66 ACM, Transcript of Evidence, Sydney, 4 December 2002, pp30-31.
- 67 ACM Woomera, Monthly Education Report, February 2002, (N1, Q12, F13).
- 68 ACM Woomera, Monthly Education Report, May 2002, (this report is incorrectly dated 28 April 2002) (N1, Q12, F13).
- 69 ACM Woomera, Monthly Education Report, June 2002, (N1, Q12, F13).
- 70 Inquiry, Notes from visit, Baxter, December 2002.
- 71 Inquiry, Interview with detainee, Baxter, December 2002.
- 72 ACM Curtin, Curtin Education Department, Child Detainee Student Policy, May 2000, (N1, Q12, F13). The Department states that 'the fact that children of 16-17 years were *entitled* to access the adult education classes is not, of itself, proof that post-compulsory school age children were *denied* access to the Curtin IRPC school'. DIMIA, Response to Draft Report, 10 July 2003. The Inquiry notes that the Child Detainee Student Policy, however, indicates that age-appropriate education was not available to post-compulsory aged children.
- 73 ACM Curtin, Detainee Management Strategies, March 2001, (N2, Q3, Supp 2).
- 74 DIMIA Curtin, Unaccompanied Minors Meeting Minutes, 29 June 2001. DIMIA, Letter to Inquiry, 27 November 2002, Attachment B.
- 75 Inquiry, Interview with teenage girl, Curtin, June 2002.
- 76 DIMIA Port Hedland, Unaccompanied Minors Meeting Minutes, 29 November 2001, DIMIA, Letter to Inquiry, 27 November 2002, Attachment B.
- 77 ACM Woomera Education Coordinator, Memo, Response to DIMA Enquiries, to ACM Woomera Centre Manager, 7 February 2002, (N1, Q12, F13).
- 78 Separation detention is examined in Chapter 7 on Refugee Status Determination.
- 79 Katie Brosnan, Transcript of Evidence, Perth, 10 June 2002, p10.
- 80 Katie Brosnan, Transcript of Evidence, Perth, 10 June 2002, p10.
- 81 Katie Brosnan, Transcript of Evidence, Perth, 10 June 2002, p10.
- 82 NSW Commission for Children and Young People, Submission 258, p31.
- 83 Katie Brosnan, Submission 227, pp1-2.
- 84 Katie Brosnan, Transcript of Evidence, Perth, 10 June 2002, p6. See also Amnesty International Australia, Submission 194, p21.
- 85 Inese Petersons, Transcript of Evidence, Adelaide, 2 July 2002, p30.
- 86 Inese Petersons, Transcript of Evidence, Adelaide, 2 July 2003, p30.
- 87 Inese Petersons, Transcript of Evidence, Adelaide, 2 July 2002, p30.
- 88 ACM, Transcript of Evidence, Sydney, 4 December 2002, p39.
- 89 ACM, Response to Draft Report, 5 September 2003.
- 90 ACM Woomera, Monthly Education Report, September 2001, (N1, Q12, F13).
- 91 ACM Woomera, Monthly Education Report, December 2001, (N1, Q12, F13).
- 92 ACM, Transcript of Evidence, Sydney, 4 December 2002, p36.
- 93 ACM, Transcript of Evidence, Sydney, 4 December 2002, p38.
- 94 Inquiry, Focus group, Perth, June 2002.
- 95 ACM, Response to Draft Report, 5 September 2003.
- 96 Teachers in Queensland must register with the Board of Teacher Registration; teachers in South Australia with the Teachers Registration Board of South Australia; in Victoria non-government teachers must register with the Registered Schools Board. See also South Australian Department of Education, Training and Employment, Submission 154, p2.
- 97 IDS, 1998, definitions.
- 98 ACM Port Hedland, Report – PHIRPC Education Centre, undated, (N1, Q12, F13).
- 99 DIMIA, Letter to Inquiry, 13 December 2002.
- 100 DIMIA, Letter to Inquiry, 13 December 2002.

- 101 DIMIA, Response to Draft Report, 10 July 2003.
- 102 Dr Tom Mann, Submission 254b, p1.
- 103 Inese Petersons, Transcript of Evidence, Adelaide, 2 July 2002, p29.
- 104 ACM Woomera, Monthly Education Report, August 2001, (N1, Q12, F13).
- 105 Australian Bureau of Statistics, *Australian Social Trends 2002*, at <http://www.abs.gov.au>, viewed 22 July 2002.
- 106 DIMIA, Letter to Inquiry, 24 December 2002, Attachment F.
- 107 DIMIA Port Hedland, Manager Report, March 2001, (N1, Q4a, F5).
- 108 DIMIA, Contract Operations Group Minutes, 19 July 2001, (N1, Q3, F4).
- 109 DIMIA Port Hedland, Manager Report, October 2001, (N1, Q3a, F5).
- 110 DIMIA Port Hedland, Manager Report, February 2002, (N1, Q3a, F5).
- 111 The Department informed the Inquiry that '[w]hile the department is of the view that short term contracts are not generally desirable, it is understandable that in some instances such contracts might be required to both attract individuals and to assess suitability for the positions'. DIMIA, Response to Draft Report, 10 July 2003.
- 112 ACM, Transcript of Evidence, Sydney, 4 December 2002, p53.
- 113 Inquiry, Notes from visit, Port Hedland, June 2002.
- 114 Rose O'Connor, Submission 230, p2.
- 115 Dr Tom Mann, Transcript of Evidence, Adelaide, 2 July 2002, p53.
- 116 ACM, Transcript of Evidence, Sydney, 4 December 2002, p32.
- 117 ACM Woomera, Monthly Education Report, October 2001, (N1, Q12, F13).
- 118 The Department informed the Inquiry that this is not the case in all centres, specifically that teachers at Villawood were not required to wear uniform: DIMIA, Response to the Draft Report, 10 July 2003. See also ACM, Transcript of Evidence, Sydney, 4 December 2002, p48.
- 119 Inese Petersons, Transcript of Evidence, Adelaide, 2 July 2002, pp24-25.
- 120 Dr Tom Mann, Transcript of Evidence, Adelaide, 2 July 2002, p50.
- 121 ACM, Transcript of Evidence, Sydney, 4 December 2002, p48.
- 122 The Department informed the Inquiry that: 'With respect to the "remuneration" of detainee assistants, participation was voluntary and the value of the meaningful program (the points system) was accepted by all volunteers. Such activities are not 'work' because, as unlawful non-citizens, detainees are prohibited from working under the Migration Act. It would therefore be inappropriate for such activities to receive remuneration consistent with Australian rates of pay for work'. DIMIA, Response to Draft Report, 10 July 2003.
- 123 ACM Woomera Education Coordinator, Memo, Response to DIMA Enquiries, to ACM Woomera Centre Manager, 7 February 2002, (N1, Q12, F13).
- 124 ACM Woomera, Education Induction Talk, undated, (N1, Q12, F13).
- 125 Inese Petersons, Transcript of Evidence, Adelaide, 2 July 2002, p28.
- 126 ACM Woomera, Monthly Education Report, April 2002, (N1, Q12, F13).
- 127 ACM Woomera Education Coordinator, Memo, Requirement for an Extra Education Officer, to ACM Woomera Centre Manager, 22 May 2002, (N1, Q12, F13).
- 128 DIMIA, Contract Operations Group Minutes, 23 May 2002, (N1, Q3, F4).
- 129 Rose O'Connor, Submission 230, p3.
- 130 ACM Woomera, Monthly Education Report, November 2001, (N1, Q12, F13).
- 131 Inese Petersons, Transcript of Evidence, Adelaide, 2 July 2002, p32.
- 132 ACM, Response to Draft Report, 5 September 2003.
- 133 ACM Woomera, Monthly Education Report, July 2001, (N1, Q12, F13).
- 134 ACM, Transcript of Evidence, Sydney, 4 December 2002, p40.
- 135 DIMIA, Transcript of Evidence, Sydney, 4 December 2002, p76.
- 136 ACM, Response to Draft Report, 5 September 2003; See also, Geoffrey Howard, Statutory Declaration, 8 September 2003. ACM, Letter to Inquiry, 10 September 2003.
- 137 DIMIA, Submission 185, pp149-152.
- 138 Question 227 (11), (14). Commonwealth House of Representatives Hansard, 28 May 2002, pp2548-2550.
- 139 ACM Curtin Education Department, Memo, HREOC Review, 31 January 2002, (N1, Q12, F13).
- 140 ACM Woomera, Type and Frequency of Classes 2001, 31 January 2002, (N1, Q12, F13); ACM Woomera Education Coordinator, Memo, Response to Enquiries on Education Facilities 2001/2002, to DIMIA Woomera Manager, 12 February 2002, (N1, Q12, F13).
- 141 ACM Woomera Education Coordinator, Memo, Revised Timetabling and Extended Contact Hours, to ACM Centre Manager, 2 November 2001, (N1, Q12, F13). ACM Woomera Education Coordinator,

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- Memo, Response to DIMIA Enquiries, to ACM Centre Manager, 7 February 2002, (N1, Q12, F13); ACM Woomera Education Coordinator, Memo, Schooling at the WIRPC, to ACM Centre Manager, 6 February 2002, (N1, Q12, F13).
- 142 ACM Woomera, Monthly Education Reports, July 2001, August 2001, September 2001, October 2001, November 2001, (N1, Q12, F13).
- 143 Dr Tom Mann, Submission 254a, para 18.
- 144 Inese Petersons, Submission 220a, para 4.
- 145 ACM Woomera, Monthly Education Report, January 2002, (N1, Q12, F13).
- 146 Inquiry, Interview with teenage boy, Woomera, June 2002.
- 147 Inquiry, Interview with detainee father, Woomera, June 2002.
- 148 ACM Woomera, Monthly Education Report, January 2002, (N1, Q12, F13).
- 149 ACM Woomera, Monthly Education Report, December 2001, (N1, Q12, F13). ACM education staff reported that '[o]wing to the commitment to the project at St Michael's and the need to offer a service in all other compounds within existing staffing resources it has been difficult to maintain last month's contact hours'.
- 150 ACM Woomera, Monthly Education Report, January 2002, (N1, Q12, F13).
- 151 ACM Woomera, Monthly Education Report, February 2002, (N1, Q12, F13).
- 152 ACM Woomera, Monthly Education Report, March 2002, (N1, Q12, F13).
- 153 DIMIA, Submission 185, p83.
- 154 DIMIA, Response to Draft Report, 10 July 2003.
- 155 DIMIA, Submission 185, p82.
- 156 DIMIA, Submission 185, p80.
- 157 DIMIA, Response to Draft Report, 10 July 2003.
- 158 DIMIA, Response to Draft Report, 10 July 2003.
- 159 ACM, Response to Draft Report, 5 September 2003.
- 160 ACM Woomera, Monthly Education Report, January 2002, (N1, Q12, F13).
- 161 ACM, Transcript of Evidence, Sydney, 4 December 2002, p40.
- 162 Dr Tom Mann, Submission 254b, p1.
- 163 Dr Tom Mann, Submission 254a, para 17.
- 164 ACM, Transcript of Evidence, Sydney, 4 December 2002, p36.
- 165 ACM Woomera, Monthly Education Report, July 2001, (N1, Q12, F13).
- 166 ACM Woomera, Monthly Education Report, August 2001, (N1, Q12, F13).
- 167 ACM Woomera, Monthly Education Report, September 2001, (N1, Q12, F13).
- 168 ACM Woomera, Monthly Education Report, October 2001, (N1, Q12, F13).
- 169 Rose O'Connor, Submission 230, pp1-2.
- 170 The Department expresses the view that 'the department does acknowledge that service provision in detention facilities was necessarily focussed on basic needs when large numbers of unauthorised arrivals needed to be accommodated at short notice in detention facilities. At that time, large numbers of people were also being quickly processed and many left detention facilities after approximately three months. In such a context, it would be unreasonable to expect or require a comprehensive assessment of educational needs for every child'. DIMIA, Response to Draft Report, 10 July 2003.
- 171 New South Wales Department of Education and Training, Submission 257, p3.
- 172 ACM, Policy 13.1, Education, Recreation and Leisure Programs, Issue 6, 12 August 2002. Response to Draft Report, 5 September 2003. The Inquiry also received centre operating procedures regarding education at Villawood from October 2001 and Port Hedland from March 2002 that contained this requirement. ACM, Response to Draft Report, 5 September 2002.
- 173 ACM Curtin, Curtin Education Department, Child Detainee Student Policy, October 2000, (N1, Q12, F13).
- 174 Rose O'Connor, Transcript of Evidence, Perth, 10 June 2002, p7.
- 175 Inese Petersons, Submission 220a, para 10.
- 176 ACM, Policy 13.1, para 4.6.
- 177 Inese Petersons, Submission 220a, para 11.
- 178 Inese Petersons, Transcript of Evidence, Adelaide, 2 July 2002, p27.
- 179 Inese Petersons, Submission 220a, para 12. ACM, Transcript of Evidence, Sydney, 4 December 2002, pp33-32.
- 180 Maria Iadanza, Principal, Adelaide Secondary School of English, Transcript of Evidence, Adelaide, 1 July 2002, p41.
- 181 ACM, Transcript of Evidence, Sydney, 4 December 2002, p33, p53.

- 182 ACM, Transcript of Evidence, Sydney, 4 December 2002, p33.
- 183 ACM, Response to Draft Report, 5 September 2003.
- 184 ACM Woomera, Monthly Education Report, April 2002, (N1, Q12, F13).
- 185 Amnesty International Australia, Submission 194, p21.
- 186 ACM Port Hedland, Report – PHIRPC Education Centre, undated, probably early 2002; ACM, Response to Draft Report, 5 September 2003.
- 187 See for example, *Education Act 1990* (NSW), s22; *Education Act 1972* (SA), s5, s75; *School Education Act 1999* (WA), s6.
- 188 DIMIA, Submission 185, p78.
- 189 ACM Woomera, Education Induction Talk, undated, (N1, Q12, F13).
- 190 ACM Woomera Education Coordinator, Memo, Schooling at the WIRPC, to ACM Woomera Centre Manager, 6 February 2002, (N1, Q12, F13).
- 191 Inquiry, Interview with teenage boy, Curtin, June 2002.
- 192 Dr Tom Mann, Transcript of Evidence, Adelaide, 2 July 2002, p55.
- 193 Dr Tom Mann, Submission 254a, para 33.
- 194 Inquiry, Interview with detainee father, Curtin, June 2002.
- 195 ACM, Response to Draft Report, 5 September 2003.
- 196 ACM, Response to Draft Report, 5 September 2003.
- 197 ACM report that this figure represents the number of children in the centre on 1 March 2002. ACM, Response to Draft Report, 5 September 2003.
- 198 ACM, Response to Draft Report, 5 September 2003.
- 199 Geoffrey Howard, Statutory Declaration, 8 September 2003. ACM, Letter to Inquiry, 10 September 2003.
- 200 ACM Port Hedland, Statistics on Children in Detention, 30 January 2002, (N1, Q12, F13).
- 201 ACM, Children's Health, Educational and Recreational Information, undated, (N1, Q12, Supp 1).
- 202 ACM Woomera Acting Programs Manager, Memo, DIMIA Response 15.03.02, to ACM Woomera Centre Manager, 18 March 2002, (N1, Q12, F13).
- 203 ACM Villawood Programmes Manager, Memo, Statistics on Children in Detention, to ACM Villawood Centre Manager, 31 January 2002, (N1, Q8, F9). In 1999-2000 and 2000-2001 approximately 70 per cent of all primary school aged children attended school, and for 2001-2002, 100 per cent of all primary school aged children attended school.
- 204 ACM Woomera Education Coordinator, Memo, Response to Enquiries on Education Facilities 2001/2002, to DIMIA Woomera Manager, 12 February 2002, (N1, Q12, F13).
- 205 ACM Woomera, Unaccompanied Minors (UAM) Committee Meeting, 12 February 2002, (N2, Q5, F4).
- 206 ACM Woomera, Unaccompanied Minors (UAM) Committee Meeting, 12 June 2001, (N2, Q5, Supp 1).
- 207 ACM Woomera, Unaccompanied Minors (UAM) Committee Meeting, 3 July 2001, (N2, Q5, Supp 1).
- 208 DIMIA, Unaccompanied Minor Teleconference, 17 January 2002. DIMIA, Letter to Inquiry, 27 November 2002, Attachment B.
- 209 DIMIA, Response to Draft Report, 10 July 2003.
- 210 Inquiry, Focus group, Perth, June 2002.
- 211 DIMIA, Transcript of Evidence, Sydney, 2 December 2002, pp7-8.
- 212 DIMIA, Transcript of Evidence, Sydney, 2 December 2002, p8.
- 213 See also Chapter 11 on Children with Disabilities.
- 214 The Department suggests that earlier attention to providing access to external education did not occur due to 'the practicalities of large numbers of high turnover populations accessing education' and that there was an increased focus due to 'the evolving educational needs of longer term detainee children from 2002 (as the caseload changed in response to the numbers of unauthorised boat arrivals ceasing)'. DIMIA, Response to Draft Report, 10 July 2003.
- 215 Joint Standing Committee on Migration, *Asylum, Border Control and Detention*, February 1994, p193. It was further mentioned as 'desirable' by the same Committee in its 1998 Inspection Report: Joint Standing Committee on Migration, *Immigration Detention Centres: Inspection Report*, August 1998, p40. Also recommended in HREOC, *Those who've come across the seas*, 1998, p186.
- 216 Inquiry, Notes from visit, Curtin, June 2002.
- 217 Inquiry, Notes from visit, Port Hedland, June 2002. Provision of external schooling in Western Australia is complicated by the provision in the School Education Act which excludes children without a valid visa. ACM reported that this was an impediment to enrolling children in public schools in Port Hedland. It does not appear to have been a problem in Derby.
- 218 DIMIA, Response to Draft Report, 10 July 2003.

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- 219 DIMIA, Response to Draft Report, 10 July 2003.
- 220 ACM Woomera Education Coordinator, Memo, Negotiations with Woomera Area School and SA DFE, to DIMIA Woomera Manager, 12 February 2002, (N1, Q12, F13).
- 221 DIMIA, Transcript of Evidence, Sydney, 4 December 2002, p62.
- 222 South Australian Department of Education, Employment and Training, Submission 154, p6.
- 223 ACM Woomera Centre Manager, Proposal for Integration of Children from the WIRPC into the Woomera Area School, 9 April 2002, (N1, Q12, F13).
- 224 DIMIA, Deputy Secretary, Aspects of HREOC's annual report 2000-01 concerning immigration detention centres, Joint Standing Committee on Foreign Affairs Defence and Trade Human Rights Subcommittee Hansard, 19 August 2002, p27.
- 225 L Doherty, 'Plea to free detained children for school', *Sydney Morning Herald*, 13 May 2002.
- 226 DIMIA Maribyrnong, Manager Report, June 2002, (N1, Q3a, F5). 'ACM have attempted to include three detainee minors in public schools. Negotiations between the State Department of Education and DIMIA Detention Policy Area have started'. See also DIMIA, Deputy Secretary, Aspects of HREOC's annual report 2000-01 concerning immigration detention centres, Joint Standing Committee on Foreign Affairs, Defence and Trade Human Rights Subcommittee Hansard, 18 September 2002, p55.
- 227 DIMIA, Transcript of Evidence, Sydney, 4 December 2002, p61.
- 228 Arrangements for the Provision of Education Services in NSW Government Schools to Immigration Detainee Children in NSW, 28 June 2002, p1, (N1, Q12, F13); Memorandum of Understanding between the Commonwealth of Australia and the State Government of Victoria, Providing Access for Immigration Detainee Children in Victoria to Education in Victorian Government Schools, p3, (N4, Q8, F7); Memorandum of Understanding between the Commonwealth of Australia and the State Government of South Australia, Providing Access for Immigration Detainee Children in South Australia to Education in South Australian Government Schools, 17 December 2002, p2. DIMIA, Letter to Inquiry, 24 December 2002, Attachment D.
- 229 Arrangements for the Provision of Education Services in NSW Government Schools to Immigration Detainee Children in NSW, 28 June 2002, (N1, Q12, F13), p3.
- 230 DIMIA, Response to Draft Report, 10 July 2003.
- 231 DIMIA, Transcript of Evidence, Sydney, 4 December 2002, pp64-70.
- 232 DIMIA Port Hedland, Manager Report, November 2001, (N1, Q3a, F5).
- 233 This officer also reported that 'there were concerns from people in the Woomera township about having children from the detention centre in the mainstream school – for example, there were concerns expressed about exposure of children to infectious diseases'. Former Department Infrastructure Manager, Woomera, Submission 253, para 29.
- 234 Former Department Infrastructure Manager, Woomera, Submission 253, para 32.
- 235 DIMIA Maribyrnong, Manager Report, July 2001, (N1, Q3a, F5).
- 236 DIMIA Maribyrnong, Manager Report, July 2001, August 2001 (N1, Q3a, F5). The Deputy Secretary of the Department, in evidence to the Inquiry stated that the negotiations with the State education authority commenced in August. On the basis of this evidence, ACM suggest that they could not have declined to enrol children on the basis of cost in July 2001 as the access had not yet been negotiated. However, as the schedule of fees is included in the July report, and as this report was created by the Department Manager in the centre, the Inquiry prefers the version of events contained in the Department Manager reports.
- 237 DIMIA, Deputy Secretary, Comments on Transcript of December 2002 Hearing, 19 March 2003.
- 238 DIMIA, Response to Draft Report, 10 July 2003.
- 239 Arrangements for the Provision of Education Services in NSW Government Schools to Immigration Detainee Children in NSW, 28 June 2002, p5 (N1, Q12, F13); Providing Access for Immigration Detainee Children in South Australia to Education in South Australian Government Schools, 17 December 2002, p9. DIMIA, Letter to Inquiry, 24 December 2002, Attachment D. Providing Access for Immigration Detainee Children in Victoria to Education in Victorian Government Schools, p9, (N4, Q8, F7).
- 240 DIMIA, Response to Draft Report, 10 July 2003.
- 241 DIMIA, Transcript of Evidence, Sydney, 2 December 2002, pp7-8.
- 242 Department of Education and Children's Services, South Australia, Transcript of Evidence, Adelaide, 2 July 2002, p17.
- 243 DIMIA, Transcript of Evidence, Sydney, 2 December 2002, p6. See further Chapter 6 on Australia's Detention Policy and Chapter 17, Major Findings and Recommendations, which discuss the best interests of the child in the context of detention.

- 244 Providing Access for Immigration Detainee Children in South Australia to Education in South Australian Government Schools, 17 December 2002, p4. DIMIA, Letter to Inquiry, 24 December 2002, Attachment D.
- 245 "'Buddies" welcome detainees to school', *The Australian*, 18 March 2003. 'As at 6 June 2003, seven school aged children from Baxter are not attending external schools. Of these, four have been assessed as not yet meeting the criteria for attendance at external schools'. DIMIA, Response to Draft Report, 10 July 2003.
- 246 DIMIA, Response to Draft Report, 10 July 2003.
- 247 DIMIA Port Hedland, Manager Report, June 2002, (N1, Q3a, F5).
- 248 Inquiry, Interview with detainee child, Port Hedland, June 2002.
- 249 Inquiry, Interview with teenage boy, Curtin, June 2002.
- 250 Inquiry, Notes from visit, Port Hedland, June 2002.
- 251 DIMIA, Submission 185, p40; ACM Curtin Programs Coordinator, Memo, Parents Interviews at Derby District High School, to ACM Curtin Centre Manager, 23 July 2002; ACM Curtin Teacher, Memo, Parent Teacher Meeting – DDHS Children, to ACM Curtin Centre Manager, 28 June 2002, (N1, Q12, F13).
- 252 South Australian Department of Education, Training and Employment, Submission 154, p5.
- 253 Maria Iadanza, Principal, Adelaide Secondary School of English, Transcript of Evidence, Adelaide, 1 July 2002, p47.
- 254 Child and Family Psychiatrist, Department of Psychological Medicine, Women's and Children's Hospital Adelaide, Psychiatric Report, 3 July 2002, (N3, F13).
- 255 See further section 12.4.4 on Hours of tuition.
- 256 ACM Woomera, Medical Records, 15 May 2002, (N3, F13).
- 257 DIMIA Villawood Manager, Email, to DIMIA Central Office, 1 August 2002, (N5, Case 31, p665).
- 258 ACM Villawood Programs Manager, Memo, to ACM Villawood Centre Manager, 10 July 2002, N5, Case 31, p466).
- 259 DIMIA Villawood Manager, Email, to DIMIA Central Office, 1 August 2002, (N5, Case 31, p665).
- 260 ACM Villawood, Child Management Care Plan, 22 August 2002, (N5, Case 31, p446).
- 261 ACM Villawood, Medical Certificate, 8 August 2002, (N1, Case 31, p486). ACM, Villawood, Medical records, 8 August 2002, (N1, Case 31, p579).
- 262 ACM Villawood Psychologist, Memo, to DIMIA Villawood Manager, 12 August 2002, (N1, Case 31, p43).
- 263 ACM Villawood Psychologist, Memo, to DIMIA Villawood Manager, 12 August 2002, (N1, Case 31, p43).
- 264 DIMIA Deputy Secretary, Email, to DIMIA Villawood Manager, 22 August 2002, (N5, Case 31, p664).
- 265 DIMIA, Response to Draft Report, 10 July 2003.

