The Report of the Inquiry into the Use of Immigration Detention in the United Kingdom

Executive Summary

A Joint Inquiry by the All Party Parliamentary Group on Refugees & the All Party Parliamentary Group on Migration

 The printing costs of the report were funded by The A B Charitable Trust and Oak Foundation, and was authored by the members of the inquiry panel.

The Report of the Inquiry into the Use of Immigration Detention in the United Kingdom

A Joint Inquiry by the All Party Parliamentary Group on Refugees and the All Party Parliamentary Group on Migration

EXECUTIVE SUMMARY

Key Recommendations

- There should be a **time limit of 28 days** on the length of time anyone can be held in immigration detention.
- Detention is currently used disproportionately frequently, resulting in too many instances of detention. The presumption in theory and practice should be in favour of **community-based resolutions** and against detention.
- Decisions to detain should be very rare and detention should be for the **shortest possible time and only to effect removal.**
- The Government should learn from international best practice and introduce a much wider range of **alternatives to detention** than are currently used in the UK.

About the Inquiry

The inquiry into the use of immigration detention in the United Kingdom received written submissions and heard oral evidence from over 200 individuals and organisations, including those with experience of being detained, the Immigration Minister, academics and charities. The panel looked at the way immigration detention is used in the United Kingdom, including the lack of a time limit on the length of time an individual can be detained, and at the conditions within Immigration Removal Centres. The panel conclude that the UK uses detention disproportionately and inappropriately. The evidence shows that the current system is seriously detrimental to the individuals who are detained in terms of their mental and physical well-being, as well as hugely costly to the tax-payer.

For more information about the inquiry or to read the full report:

Visit the inquiry's website at **www.detentioninquiry.com**
Contact Sarah Teather's office at **teathers@parliament.uk**

Practice and Culture

Home Office guidance currently states that detention must be used sparingly and for the shortest possible period. What became clear during the course of the inquiry is that the standard working practices and the enforcement-focused culture of the Home Office are resulting in this guidance being ineffective. This is compounded by the lack of a maximum time limit and a lack of effective means for those detained to challenge their continued detention.

We believe that depriving an individual of their liberty for the purposes of immigration control should be an absolute last resort, should be comparatively rare, and should only take place for the shortest possible time. To achieve this, not only are changes to the procedural practices of the Home Office required, but also a radical move away from a focus on enforcement to one of engagement.

In this report, we recommend that a maximum time limit of 28 days should be introduced and that this should be set in statute. Decisions to detain should be taken much more sparingly and only as a genuinely last resort and to effect removal.

To prevent the 28 day time limit from becoming the default period individuals are detained for, we also recommend that the Government should introduce a robust system for reviewing the decision to detain early in the period of detention. This system might take, for example, the form of automatic bail hearings, a statutory presumption that detention is to be used exceptionally and for the shortest possible time, or judicial oversight, either in person or on papers.

To accommodate these changes, the Government will need to introduce a much wider range of alternatives to detention affecting the entire process of the immigration system. We were told of numerous examples of alternatives to detention being used in other countries which focus on intensive engagement with individuals in community settings, rather than relying on enforcement and deprivation of liberty. **These alternatives not only achieve high compliance rates, but they are also considerably cheaper than our current system which, particularly in the case of asylum, could be characterised as low-level initial engagement and support, lengthy decision-making of variable quality, and expensive ineffective end-stage enforcement. We recommend that the Government learn from the alternatives that work elsewhere and make much more extensive use of these schemes.**

Given the scale of the task, we recommend that the incoming Government after the General Election should form a working group to oversee the implementation of the recommendations of this inquiry. This working group should be independently chaired and contain officials from the Home Office as well as representatives from NGOs in order to widen the thinking and approach. The working group should produce a time-plan for introducing a time limit on detention and the creation of appropriate alternatives to detention, drawing on the best practice that is already in place in other countries.

Asylum Applicants and the Detained Fast Track

The Detained Fast Track (DFT) was introduced to deal with a sharp rise in the

number of asylum seekers entering the UK by deciding straightforward cases quickly. We are concerned that the DFT has become too focused on utilising detention for administrative convenience rather than speedy, high quality decision making. Additionally, many individuals who are detained within the DFT are, by the Home Office's own guidance, allocated to it incorrectly.

Failures of the DFT screening process and the inherent stressful environment of being detained are not generally conducive to allowing asylum seekers to receive the support they need and are entitled to, as well as being counter-productive to high quality decision making. We recommend that the Government takes urgent steps to reduce the number of outstanding claims. While the need for a fast-track procedure still exists, we do not believe that this necessitates a presumption of detention and we reiterate our belief that detention should be a last resort and for the shortest possible time.

Literature Review

Over the last twenty years, many inquiries and reports have been published into the workings of the current immigration and asylum system as well as into the operation of the detention estate specifically. Few of these reports appear to result in meaningful action by the Home Office and the repetitive nature of the constructive suggestions for improvement can lead to fatigue and unwillingness to engage among those who want to see an effective system. **We recommend that a literature review is undertaken by the Home Office to collate the recommendations for improvement of the immigration and asylum systems, including case-working and the use of detention, that have been made in successive reports, drawing out common themes with a view to analysing what progress has been made against these recommendations.**

Immigration Removal Centres should not be prisons

Individuals detained under immigration powers are increasingly being held in prison-like conditions. The most populated IRCs are either converted high security prisons or have been built to that specification. However, IRCs are not prisons and detainees should not be held in prison-like conditions. **We recommend that detainees are held only in suitable accommodation that is conducive to an open and relaxed regime.**

Fewer restrictions on internet access in IRCs

Individuals detained in IRCs have access to the internet, but we were told that this access is severely limited. We were particularly shocked to learn that in some IRCs detainees could not access the website of this parliamentary inquiry. Additionally, the Home Office's blanket ban on the use of social media appears to be counter-productive and unjustified, particularly for those who will subsequently be returned to their home country and who want to make connections in order to prepare for return. **We recommend that detainees are allowed to access social media and filtering should be akin to the parental controls that are used in households across the country.**

Better access to legal representation

Detainees require legal advice for a number of reasons, and often have complex legal cases. However, individuals are frequently unable to secure high quality and timely advice within IRCs. The contracts for providing publically funding legal advice in the IRCs are very restrictive and do not allow detainees to receive the support they need, or allow legal practitioners the time and resources to properly represent their clients.

We recommend that the Legal Aid Agency and the Immigration Services Commissioner carry out regular audits on the quality of advice provided by contracted firms in IRCs, and this must involve talking to detainees about their experiences.

Detainees should only be moved around the detention estate when absolutely necessary

Many detainees who gave evidence to the inquiry had been moved between IRCs. One detainee likened his experience to being treated like a piece of furniture. When the Home Office were asked for information relating to how often such moves are made, the information was not available, making it difficult to effectively scrutinise.

Frequent moves around the detention estate can be extremely disruptive and distressing for detainees, as well as their friends and families. We recommend that the Home Office ensures that detainees are only transferred between IRCs when absolutely necessary and that legal representatives are informed. We also recommend that the Home Office ensures information relating to the number of transfers is collated and published as part of the quarterly immigration statistics.

Challenging ongoing detention

Detainees need to be able to challenge their ongoing detention, particularly given the lack of a time limit. Unlike in the criminal justice system there is no automatic judicial oversight of the decision to detain or the decision to continue to detain. Challenges to detention must be instigated by the detainee. The main mechanism for doing so is through asking for a bail hearing.

The evidence we received shows that this mechanism is not currently working. Not only do detainees struggle to get legal support, but bail hearings also appear to operate in a way that creates a presumption against release. **Until the time limit recommended in Part 1 of this report is implemented, we recommend that automatic bail hearings, as contained in section 44 of the Immigration and Asylum Act 1999 when it gained Royal Assent, be introduced.**

There is a lack of adequate healthcare in detention centres

Detainees told us that the healthcare they have access to while in detention is inadequate. Additionally, the screening interviews that take place at the start of a period of detention, which are supposed to gain information about any health issues, are routinely tick-box processes that do not allow detainees to talk about possible concerns.

NHS England have recently taken over the com-

missioning of healthcare services within IRCs in England and we hope that this leads to improvements in the standard of care. We recommend that NHS England ensure that screening processes are suitable and that detainees have access to the healthcare they are entitled to.

Detainees with mental illnesses are detained too often

Immigration Removal Centres are not conducive to the treatment of individuals with mental illnesses. Many individuals who are currently detained have experienced trauma in their past and detention is wholly unsuitable. Furthermore, healthcare professionals do not appear to have either the resources or the training to be able to identify and treat mental health issues in detention.

We recommend that individuals with a mental health condition should only be detained under very exceptional circumstances. In addition, we recommend that NHS England work with experts who have experience of working with detainees to produce a training programme on identifying and treating mental illnesses that should be mandatory for all staff in detention centres.

Victims of trafficking or torture should not be detained

A number of the detainees who gave evidence to the inquiry were victims of trafficking or torture. They should have been referred to the National Referral Mechanism (NRM) rather than being detained. Given the Government's focus on supporting victims of these crimes, this is especially worrying.

We recommend that screening processes are improved before a decision to detain is taken so as to ensure that victims of trafficking are not detained for immigration purposes and that Home Office caseworkers understand the NRM. Additionally, as part of the ongoing reform of the NRM, detention centre staff must be given more training about identifying victims of trafficking.

Rule 35 Reports are not protecting vulnerable detainees

Rule 35 Reports are supposed to provide protection for vulnerable detainees for whom continued detention is detrimental to their health, or who are victims of torture. Currently this safeguard is failing – in too many cases GPs are either simply passing on the details of claims made by detainees rather than giving a clinical opinion or Home Office staff are failing to act on the evidence they receive.

We recommend that when completing a Rule 35 report GPs should give a clinical opinion rather than just passing on what they have been told by the detainee. Caseworkers should be properly trained in how to respond to Rule 35 reports, so that responses are in accordance with Home Office policy.

Women in Detention

The nature of detention is often particularly distressing for women, who report feeling intimidated by male staff and lacking in privacy. **We recommend that gender-specific rules are introduced for all IRCs where women are detained to prevent such intimidation.**

Additionally, Home Office guidance lists groups of people who should not be detained as it is unsuitable. **We recommend that women who are victims of rape and sexual violence should not be detained and should be added to this list and pregnant women should never be detained for immigration purposes**

Lesbian, Gay, Bisexual, Trans and Intersex detainees

We were extremely concerned to hear that LGBTI detainees face bullying, harassment and abuse inside detention centres. This is not acceptable. There is a lack of information available about the extent to which LGBTI individuals face detention and the Enforcement Instructions and Guidance make no mention of assessments of the risks to detaining LGBTI individuals.

We recommend that the Home Office works with the Home Office National Asylum Stakeholder Forum to properly assess what risks there are and to ensure that those LGBTI individuals who do face detention do not also face harassment.

Detainees should only be held in prisons in the most exceptional circumstances

Around 10% of individuals detained under immigration powers are held in prisons, usually after serving a custodial sentence. Failures in Home Office procedures are resulting in delays in removing those who should be removed at the end of their sentences, and we agree with the Public Accounts Committee recommendation that the Home Office and the Ministry of Justice should undertake a full review of the end-to-end process of removing foreign national offenders.

We recommend that where it is necessary to detain individuals at the end of a criminal sentence this should be done on the basis of a risk assessment showing that community alternatives are not appropriate. Detention should only continue in prisons under the most exceptional of circumstances.