



association of **visitors** to
immigration detainees

AVID's submission to the Home Affairs Select Committee Inquiry into Asylum

April 2013

About AVID

AVID is the membership network for all volunteer visitors to immigration removal centres, short-term holding facilities, and prisons: anywhere someone is held for immigration purposes in the UK. Since 1994 we have sought to ensure detainees rights are protected and to promote access to volunteer visitors. Our membership comprises 19 volunteer visitors groups who provide befriending support and practical advice in every single IRC as well as in two residential short term holding facilities and some prisons. This gives AVID a unique insight into the realities of immigration detention nationally.

A list of our members is available at www.aviddetention.org.uk.

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Executive Summary

1. This submission is made by AVID, the Association of Visitors to Immigration Detainees. AVID was established in 1994, to ensure that the increasing numbers of people held under immigration powers could access the support of a volunteer visitor. We now have 19 member groups - over 600 volunteer visitors - who visit in every single IRC in the UK as well as in short term holding facilities and prisons. Visitors are a vital source of support for detainees, giving emotional support and practical advice, acting in lieu of friends and family for those who have none. As such, we have a unique perspective based on detainees lived experiences. We are NGO stakeholder members of the UK Border Agency's *Detention and Escorting Forum* and *DUG Medical Sub Group*.
2. We are particularly concerned by the increasing use of immigration detention in the UK, and its prominent role within the UK's asylum system. Asylum seekers may be detained at any stage in the process whether on arrival, while going through the asylum process under the Detained Fast Track, or if asylum has been refused and removal is proposed. Immigration detention involves the deprivation of liberty for administrative rather than criminal purposes and is without time limit in the UK. AVID members have seen first hand the detrimental impact this has on individuals' mental health and wellbeing, and are concerned by the UK government's reliance on immigration detention as a means of removing people from this country. Our submission focuses on the increasing use of immigration detention within the asylum system in the UK, and also examines the detention of vulnerable people. As such, it is particularly relevant to the inquiry's focus on **post decision outcome** for asylum seekers who may end up in detention, but will also examine the **treatment of applicants** who are detained. We provide examples in critical areas, but have kept our response succinct. We are willing to provide further information on any aspect of our submission as required.
3. AVID is a member of the Detention Forum and we would refer the Committee to this collective submission.

Context: Immigration Detention within the UK Asylum Process

4. Immigration detention has become a normalised part of the asylum system in the UK. The UKBA's own policy describes how detention should be used "sparingly and for the shortest period necessary" (Enforcement Instructions and Guidance, Chapter 55.1.3). This same guidance states that there should be a presumption in favour of temporary admission or release and that where possible alternatives to detention should be considered¹. Despite this presumption in policy towards 'alternatives', the scale and use of detention is growing, and is increasingly a reality for many asylum seekers whether at the beginning or end of their experience of the UK asylum system.

5. In 2012, 28,909 people were detained of whom 13,161 (45.7%) were asylum detainees². The figures for preceding years reveal similar percentages: in 2011 45.3% were asylum detainees, and in 2010 and 2009 the figures were 49.7% and 56.4% respectively³. Around half of all detainees, therefore, are asylum detainees. These figures include child asylum seekers despite the government's pledge to end child detention in 2010. Analysis of the child detainee statistics show that of all children detained in 2012, 75% were asylum detainees, and in 2011 this was 72%⁴. Detained children are therefore highly likely to be asylum seekers.

6. The scale of immigration detention in the UK is also growing, and is doing so disproportionately. When AVID began in 1994 there were 250 immigration detention bed spaces. There are now around 3,400, with around 27,000

¹ UKBA Enforcement Instructions and Guidance Chapter 55 'Detention and Temporary Release' accessed at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/chapter55.pdf?view=Binary>

² Home Office, UKBA, Immigration Statistics October- December 2012 available at <https://www.gov.uk/government/publications/data-tables-immigration-statistics-october-to-december-2012> based on AVID's analysis of these figures

³ ibid

⁴ ibid

people detained every year. Detention is also for increasingly long lengths of time. 255 people were held for over a year in 2012, and 67 for over two years⁵. This has come under intense criticism from NGOs and statutory monitoring bodies⁶. It is AVID's view that detention is not used 'sparingly' nor for 'the shortest period necessary' as per current policy.

7. It is also not the case that detention is fulfilling its policy objective of 'effecting removal'⁷. In fact, of all those who left detention in 2012, 60% were removed and 40% released⁸. It is of note that this figure is significantly higher for asylum detainees. In 2012, of the 13,361 asylum detainees who left detention, 43.4% were removed, and 56.6% were released⁹. In 2011, 50.7% of asylum detainees were released and in 2010 47.6%¹⁰. Asylum detainees are therefore more likely to be released than removed following their detention, raising questions about the decision making process behind their detention in the first place. **It is our view that the detention process is damaging to mental health and wellbeing and as such is particularly unsuitable for those seeking safety in the UK through the asylum system. Asylum seekers should never be detained.**

Immigration detention of vulnerable people:

8. AVID member visitors groups are increasingly meeting people who have a range of vulnerabilities in detention across the country. This includes age disputed minors, the elderly, pregnant women, those suffering from serious medical conditions, people with serious mental illness, victims of torture, people with serious disabilities, and victims of trafficking. This is contrary to the UKBA's own policy which outlines certain 'vulnerable groups' who should only be detained in exceptional circumstances¹¹. It is our view that safeguards in place to protect the most vulnerable in detention are not working, and that far from being in exceptional circumstances, vulnerable

⁵ Ibid

⁶ See for example: Independent Chief Inspector of UKBA A thematic inspection of how the UKBA manages foreign national prisoners (November 2011), Detention Action Detained Lives (2009)

⁷ UKBA Enforcement Instructions and Guidance Chapter 55 'Detention and Temporary Release' accessed at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/chapter55.pdf?view=Binary>

⁸ Home Office, UKBA, Immigration Statistics October- December 2012 available at <https://www.gov.uk/government/publications/data-tables-immigration-statistics-october-to-december-2012>-

⁹ Ibid- based on AVID's analysis of the statistics

¹⁰ Ibid

¹¹ UKBA Enforcement Instructions and Guidance Chapter 55.10

people are frequently detained, with serious consequences. This is relevant to the Committee's interest in post decision outcome for asylum seekers.

9. **Pregnant Women:** Our first example is the continued detention of pregnant women, despite UKBA policy that states this should only happen in exceptional circumstances. Yarl's Wood Befrienders report that in 2011 they visited seven pregnant women, detained for an average of 88 days¹². Her Majesty's Inspectorate of Prisons also reported in 2011 that there were seven pregnant detainees at the time of their announced inspection of Yarl's Wood, and that only one of the case files for these women made reference to her pregnancy¹³. In 2011 the then Minister for Immigration outlined in Parliament that the number of pregnant women in detention is not recorded centrally¹⁴. This makes the scale of the problem hard to quantify, and does not give confidence that the UKBA is correctly identifying whether circumstances are 'exceptional' or otherwise. **We urge the committee to consider the detention of pregnant women.**

10. **Survivors of torture:** The Home Affairs Committee has also raised the issue of the detention of survivors of torture, questioning the Rule 35 process. Rule 35 of the Detention Centre Rules (2001) is the primary safeguard to ensure that vulnerable people are not detained. It places a statutory obligation on IRCs to report to UKBA '*any detained person known to be, or who reports he or she is victim of torture, whose health is likely to be injuriously affected by continued detention or any conditions of detention*' and on the case of any detainee '*suspected of suicidal intentions*'¹⁵. However, a UKBA audit of the Rule 35 process, requested by NGOs and published in March 2011, revealed that in 91% of cases where a Rule 35 report was submitted by a medical practitioner in an IRC, the individual was not released from detention¹⁶. The audit report does not give reasons for this continued detention, nor does it comment on the decision making process involved. Despite repeated calls for change from voluntary sector NGOs and the Home Affairs Committee, we are concerned that little has

¹² Yarl's Wood Befrienders Submission to the Universal Periodic Review, 2012

¹³ <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/immigration-removal-centre-inspections/yarls-wood/yarls-wood-2011.pdf>

¹⁴ House of Commons Hansard, 25th October 2011, accessed at <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm111025/text/111025w0002.htm>

¹⁵ UKBA (2001) Detention Centre Rules available at www.ukba.homeoffice.gov.uk

¹⁶ UKBA (2011) Rule 35 Audit available at www.ukba.homeoffice.gov.uk

changed on the ground and torture survivors are still regularly detained. Substantive questions remain regarding the efficacy of a system which purports to protect the vulnerable- recent research by Medical Justice revealed that of 50 asylum seekers whose cases it investigated, only one was released under the so-called Rule 35 process that is supposed to safeguard torture victims on arrival in the UK¹⁷. **We ask the Committee to continue to scrutinise the Rule 35 process and to ensure that follow up actions are taken forward by UKBA.**

11. People suffering from mental illness: As the Home Affairs Committee is well aware, there have been four breaches of Article 3 in the last twelve months relating to the immigration detention of people with serious mental illness. We are concerned that these Human Rights Breaches are not being taken significantly seriously by the UKBA, leaving many with mental health issues at risk. We have witnessed little change on the ground in terms of identification, and treatment, of those with mental ill health in detention. **AVID believes that the process of detention is damaging to mental ill health and that people with identified mental health concerns should never be detained.** We refer the committee to a full list of our concerns, outlined in the briefing paper '*Positive Duty of Care? The Mental Health Crisis in Immigration Detention*' published jointly with Bail for Immigration Detainees (BID) and attached to this submission.

12. We are particularly concerned that screening to identify mental health issues on arrival in detention is inadequate, and that many vulnerable people are detained inappropriately as a result. Under the statutory provisions of the Detention Centre Rules (2011), all detainees must be screened for mental health within 24 hours of arrival in detention. This is usually carried out by a nurse. Despite this screening, we know that many people with pre-existing mental health concerns are detained- as this case study from Gatwick Detainee Welfare Group illustrates:

- *Before my detention they knew I had mental health problems. [...] I am diagnosed with PTSD and part of my treatment is anti-psychotic therapy and I need regular contact with a psychiatrist and occupational therapists which I had already at home. The whole time*

¹⁷ Medical Justice (2012) [The Second Torture: The Immigration Detention of Torture Survivors](#)

*I've been here I've had three reports from doctors, one of them from Medical Justice saying I'm not fit to fly and not fit to be detained*¹⁸

13. The UKBA policy states that mental health concerns should be able to be 'satisfactorily managed'¹⁹ in detention for the detention to be authorised, yet it remains the case that provision in detention for mental health is sorely lacking. HMIP has repeatedly expressed concerns that mental health provision in IRCs is 'inadequate'.²⁰ The Equality and Human Rights Commission, in highlighting immigration detention as one of its top ten human rights concerns in 2012, noted that '*provision of mental health services is not always adequate given some individuals' high level of need*'²¹. AVID's research into conditions in detention reveal inconsistencies in provision mental health care. For example, there is no standardised access to mental health nurses, or other staff to support those with mental health needs. Preventive strategies for the reduction of harm to vulnerable detainees in IRCs are not in line with the equivalent standards in the UK prison service. For example, first night screening including a detailed assessment of risk of self-harm is not carried out in IRCs but it is in prisons. Segregation is often used to manage mental ill health or suicide risk as observations are easier. Recently a detainee with mental health or behavioural problems was kept in segregation for 22 months in Harmondsworth IRC²². However, it is common for mental health and wellbeing to deteriorate rapidly when in isolation, as these case studies show:

- Mr B, a victim of torture, was diagnosed with Post Traumatic Stress Disorder prior to his arrival in detention. A young man in his twenties, he was hearing constant voices in his head. His visitor said "*he experienced regular hallucinations; self harmed and complained of a permanent headache. He told me about nightmares, many of which centred on a recurring dream of 'being locked in a bunker'*". Mr B was detained by UKBA for over three years. As a result of uncertainty on

¹⁸ Gatwick Detainee Welfare Group (2012) [Prison in the Mind: the mental health implications of detention in Brook House Immigration Removal Centre](#)

¹⁹ UKBA [Enforcement Instructions and Guidance](#), Chapter 55.10

²⁰ HMCIP (2010) [Report on announced inspection of Brook House IRC \(15-19 March 2010\)](#)

²¹ Equality and Human Rights Commission (2012) [Human Rights Review 2012](#) p 440

²² Independent Monitoring Board report on Harmondsworth Immigration Removal Centre 2012 available at <http://www.justice.gov.uk/downloads/publications/corporate-reports/imb/annual-reports-2012/harmondsworth-2012.pdf>

how to handle the manifestations of his behaviour, Mr B was kept in isolation under Rule 40 for extended periods of time²³.

- A young man from Afghanistan, Mr F was diagnosed with Post Traumatic Stress Disorder and prescribed anti-psychotic medication. Prior to his detention, Mr F was visited every day by a community mental health crisis team. In detention he frequently suffered panic attacks and heard voices, such as women and babies, screaming at him. He waited a long time to see a psychiatrist in detention, and was kept in isolation under Rule 40 for about 5 weeks as a result of behavioural issues related to his mental health²⁴.

It is our view that mental ill health and other vulnerabilities cannot be 'satisfactorily managed' in detention as it is the very nature of immigration detention which exacerbates these very vulnerabilities. We are also concerned at the lack of process made in implementing changes in policy since the very serious breaches of Article 3 and the recommendations made by the HAC. **We know that the HAC is committed to probing these issues and we would welcome the continued scrutiny of the Committee into mental health in detention.**

14. Detention of vulnerable single women alongside men in short term holding facilities: In 2012, 15.3% of all those entering detention were women²⁵. A particular concern for us is the detention of single women in facilities which predominantly hold men, as is the case in the UK's residential short term holding facilities. For example, in Larne STHF (Northern Ireland) and in Pennine House, men and women are held on the same corridor. While the facilities have rooms for women which can be separated from the male accommodation by a door, they are still on the same corridor, and as such wholly inappropriate for single women. At Pennine House the women's shower cubicle is situated right next door to the men's. No provision is made for women to receive specific care during induction or information on services for vulnerable women. Sanitary products are available but there is no information provided on women's health or welfare needs. While women are allowed to eat in their rooms if they wish, this information is not relayed to the women themselves in the induction process.

²³ Visitors Group report to AVID, March 2010

²⁴ AVID visitors group 2010

²⁵ Home Office, UKBA, Immigration Statistics October- December 2012 available at [https://www.gov.uk/government/publications/data-tables-immigration-statistics-october-to-december-2012-](https://www.gov.uk/government/publications/data-tables-immigration-statistics-october-to-december-2012)

15. In 2012 in response to concerns raised about women in the Colnbrook STHF, a separate unit for women was opened in Colnbrook. While it is a positive move to give women separate living quarters, women are significantly disadvantaged as they have little or no access to legal advice or other aspects of the regime, as access can only be given when the men within the centre are locked on the wings. As a result, women are held on the unit for 20 hours a day, and it is our experience that women held are not informed of their right to legal advice or to access fresh air and exercise. During a recent visit to this unit, we were shocked to learn that staff were not aware of the National Referral Mechanism- to refer victims of trafficking- nor had they received training in issues relating to women's needs in detention. In November 2010, we asked the UKBA to undertake Equality Impact Assessments of all IRCs and STHFs where women are held. These are still not publicly available- leaving many women at risk.

16. Frequent moves around the detention estate serve to heighten anxiety and exacerbate vulnerability: We are also concerned that those detained are being subject to frequent and unnecessary moves around the detention estate. Our members report frequently that this causes distress and anxiety, particularly when these moves take place during the night. Movement around detention facilities also impacts on an individual's access to their support networks and can interfere with legal cases pending if solicitors are in a different part of the country. The Manchester Immigration Detainee Support Team (MIDST) which visits at Pennine House STHF report that detainees are frequently moved from Manchester to Dungavel IRC in Scotland, and this is also the case for detainees held at the STHF in Larne (Northern Ireland). Movement to a different jurisdiction causes interruptions to legal casework or the loss of legal representation. It is our view that many movements are illogical, unnecessary, and that the rationale is not explained. A recent case identified by the SOAS Detainee Support Group, which visits IRCs surrounding London, involves a man with medical issues who has been moved around the detention estate no less than eight times in a seven month period. This has led to cancellations of scheduled appointments with independent doctors to assess his medical situation²⁶. Another visitors group told us of a seriously mentally unwell man who was moved across the country, despite his legal provision and medical case being considered at a critical time. These moves can

²⁶ Visitors Group (SOAS Detainee Support) report to AVID, April 2013, by email.

therefore place the vulnerable at even greater risk and makes it more difficult to progress both medical and legal concerns.

Conclusions

We are pleased that the HAC has launched this inquiry into asylum. In light of the significant use of detention for asylum population, and the particular vulnerabilities faced by those detained, we urge the Home Affairs Committee to undertake a full review of the use of immigration detention in the UK. In particular we ask for the continued scrutiny of the Committee into the detention of particular vulnerable groups, such as those with mental health issues.