



association of **visitors** to
immigration detainees

Written evidence to the:
Parliamentary Inquiry on Immigration Detention
(APPG on Refugees and APPG on Migration)
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Submission by the Association of Visitors to Immigration Detainees (AVID)

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About AVID: We are the national membership network of volunteer visitors to immigration detainees in the UK. Established in 1994, AVID has 20 years experience in supporting immigration detainees wherever they are held; our 20 member groups visit in immigration removal centres (IRCs), short term holding facilities (STHFs) and prisons. There is a volunteer visitor group - and member of AVID - in every detention centre in the UK. Working with our membership, AVID collates evidence of the daily realities of immigration detention and uses this to present a national perspective and collective voice for change.

About our submission: Our evidence is based on our direct work in detention over the past 20 years. Our work is led by the information we receive directly from our membership of visitors groups, who visit detention frequently and provide befriending, emotional support and practical advice to detainees. Our membership comprises 20 groups, who have around 700 volunteers across the country supporting detainees. Our submission will focus specifically on the conditions in detention and the treatment of vulnerable people, as two critical areas for AVID and its members. Our Director also co-convenes the Vulnerable People Working Group of the Detention Forum and **we refer the panel for more detail on this topic to the submission made by that Working Group.**

EXECUTIVE SUMMARY

- Based on our experience of working directly on detention over the last 20 years, AVID believes that the current system of immigration detention is unjust and that a critical rethink of the reliance on such a system is long overdue. Immigration detention causes real harm, particularly to the most vulnerable, and mental ill health is common.
- The current detention system is opaque, unaccountable and at crisis point. Decisions are made arbitrarily, and once detained the impact on the individual and the public purse is substantive. As the UK Home Office's own statistics show, around 40%¹ of those detained are ultimately released rather than removed, which raises questions about the quality of initial decision making.
- The conditions in which detainees are held are prison-esque, and the culture and regime of detention are increasingly punitive. Current trends in the policy and practice of detention suggest to us that this is getting worse. There are also huge inconsistencies across the various detention centres in the UK, leading to differences in what a detainee can access, depending on where they are held.
- There is a mental health crisis in immigration detention which continues despite increasing acknowledgment that detention both exacerbates pre-existing mental ill health conditions, and is itself a cause of mental ill health. Despite six breaches of the Article 3 rights of detainees suffering from severe mental health conditions in the last three years, these systematic failings remain unaddressed and the most vulnerable remain at risk in a system that cannot meet their needs.
- Community based alternatives to detention exist and evidence suggests the objectives of immigration control can be fulfilled without the use of detention. It is our view that the government should consider these alternatives, in order to reduce the human and financial costs of the current system, and to prevent further harm.

¹ Home Office Quarterly Statistics, available at <https://www.gov.uk/government/collections/immigration-statistics-quarterly-release>

What are your views on the current conditions within UK immigration detention centres, including detainees' access to advice and services? Please highlight any areas where you think that improvements could be made.

1. We are deeply concerned by the rapid expansion of detention in the UK, which has gathered momentum in recent years despite mounting evidence that detention causes harm, is inefficient and expensive.
2. In the last two years alone, there has been a 30% rise in the number of immigration detention spaces in the UK. Unlike the publicised expansion of the opening of IRC The Verne in Dorset (580 bed spaces), most of this expansion has taken place 'behind the scenes', without any consultation or scrutiny, as a consequence of:
 - a) agreement between NOMS and the Home Office in 2012 to increase the use of mainstream prisons to hold immigration detainees from around 600 to around 1,000 (an additional 400); and
 - b) extensions made to existing detention centres. In 2014, extensions were made to Haslar, Dover, Dungavel, Brook, Campsfield and Harmondsworth, increasing bed spaces available by 267. This is the equivalent of the opening of a small detention centre but without the scrutiny this would have required.
3. In the context of this large scale and rapid expansion of the use of detention, it is a significant issue that the UK Home Office continues to refuse to publish accurate statistics on the scale and extent of detention. The quarterly statistics published by the Government do not include those immigration detainees held in prison. The consequence is that the use of detention is significantly underrepresented and misunderstood. Government frequently cites figures on the use of detention that are inaccurate, most recently for example in Parliament where the Minister referred to 3690 detention spaces (excluding prisons)². As at 28 September AVID estimates the numbers held at closer to 4270, including the recent 'extensions' and IRC the Verne. This discrepancy is substantial.
4. Immigration detainees held in prison face considerably greater barriers to access to justice. The regime offered to detainees in prison is not equivalent to that in detention centres. For example, access to communications such as mobile phone or internet does not exist for those in prison, and as such they are less likely to be able to contact external support organisations, legal advisors, or friends and family. Time in cell during 'lock up' will also impact. There is no equivalent to the legal aid funded advice scheme which exists in detention. In our experience, prison staff are generally unaware that immigration detainees in prison should be treated as remand prisoners and there is very little difference in their treatment as a result. Often, staff in prisons themselves struggle to meet the needs of immigration detainees and will contact AVID or other NGOs for help. The visitors groups who visit in prisons are subject to increasing levels of scrutiny and screening processes have recently become enhanced, which is exacerbating the problem in that it is more difficult for the few groups that do exist to make contact with detainees.
5. **RECOMMENDATION: Immigration detainees should never be held in prison. The UK should cease the practice of holding immigration detainees in prisons, a practice described as**

² Hansard, HC Deb, 1 September 2014, c141W, at http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm140901/text/140901w0005.htm#140901w0005.htm_wqn67

‘fundamentally flawed’ by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

6. **RECOMMENDATION: We ask that the panel considers the recommendation of a moratorium on the expansion of detention.**
7. **RECOMMENDATION: We urge the panel to call on the Home Office to be transparent in its use of detention, by producing accurate quarterly statistics that are accurate, i.e. include the location and length of detention of those being held in prison.**
8. AVID has monitored conditions in each of the detention centres in the UK for 20 years. We are concerned that the trend towards use of high security physical spaces to hold people for administrative purposes is exacerbated by an increasingly punitive approach inside. This is felt deeply at all levels. Recent changes initiated by the Home Office to the policies and procedures governing detention, have severely curtailed detainees access to advice and services but also in the most extreme examples led to very serious breaches of the UK’s human rights obligations on no less than six occasions³.
9. The current physical environment of detention is unsuitable for those held under administrative powers, i.e. those who are not serving a criminal sentence. Brook House, and extensions at Colnbrook and Harmondsworth are examples of detention centres which meet Category B prison standards. Other detention centres opened recently- namely the Verne and Morton Hall - are themselves former prisons where security was heightened when they changed remit. AVID visited both sites prior to their opening as detention centres and were surprised to see, for example, areas previously ‘open’ being closed off and security fencing and barbed wire being enhanced. These facilities are bleak, and the trend towards prison environments has been criticised by HMIP who note that the *‘prison like design of the new units is regrettable and such an environment will always be unsuitable for people held under immigration powers’*⁴.
10. Unfortunately this is mirrored in policies and practices in detention which are increasingly punitive in approach. Recent policy developments which concern us include, for example the recently published DSO (Detention Service Order) on Paid Work⁵. This document is explicitly based on the assumption that paid work in detention is a ‘privilege’. There is a conflict between the purpose of IRCs as set out in the Detention Centre Rules, and the current DSO whereby compliance with the Home Office is a prerequisite to engage in meaningful activity in the form of paid employment. Detainees tell us regularly that the hardest thing about detention is the lack of meaningful activity, and paid jobs are valued as they help to ‘pass the time’. This linking of activity with a ‘privilege’ or incentive scheme in policy sets a worrying precedent, particularly in the context of a system where 40% of those detained are ultimately released. Encouraging compliance with removal through policies such as this, for the 40% who are released into the community, is a huge concern.

³ R(BA) v SSHD (2011) EWHC 2748 (Admin), R(HA) (Nigeria) v SSHD (2012) EWHC 979 (Admin), R(S) SSHD (2012) EWHC 1939 (Admin), R(D) v SSHD (2012) EQHC 2501 (Admin), R (Das) v SSHD (2014) EWCA Civ 45, R (S) v SSHD (2014) EWHC 50 (Admin)

⁴ HMCIP (2011) Report on an unannounced full follow up inspection of Harmondsworth IRC (14-25 January 2011) p6

⁵ <https://www.gov.uk/government/publications/condition-under-which-detainees-can-get-paid-work>

11. Our concerns that prison structures are being increasingly replicated in daily regimes in detention has also been highlighted by HMIP and confirmed by reports from our visitors groups. In Brook House, for example, *'the application of a prison style basic regime, which included separation within its sanctions'* was criticised by HMIP as being *'inappropriate for a detainee population'*⁶. At a visit to Morton Hall IRC we were informed by staff that they planned to develop an 'enhanced wing' for detainees who were compliant with Home Office. We do not know if this went ahead, but it betrays a culture which conflates a detained individual's compliance with immigration controls with his or her living conditions. This is wholly inappropriate to a detainee's legal situation; they are not serving criminal sentences for crimes but are deprived of their liberty for administrative purposes.
12. **Recommendation: No migrant should be held in prison conditions, or subject to prison 'sanctions' where privileges are incentives are used, which are inappropriate for those who have never, or have completed, the serving of a criminal sentence.**
13. Similarly, we are concerned by a trend towards restricting, rather than enhancing and improving, detainees' access to basic services and amenities. For example, a key issue which is raised time and again by those in detention is **access to the internet**. For years, AVID has monitored detainees' experience of internet access. We are concerned that current levels of access are inconsistent and security measures disproportionate. Sites are often blocked without reason, including those which pose no security risk for example Amnesty International, the BBC, NGOs, visitors groups, foreign language newspapers and even the website for the current Parliamentary Inquiry. It is hard to monitor as the sites are blocked ad hoc and intermittently. Detainees also tell us that they are often unable to download information documents sent in PDF format, for example from the websites of legal practitioners or other support groups such as Freedom From Torture. Further, in some centres, detainees' access to their own personal email account is restricted. This is inconsistent and interferes with their right to private correspondence. For example, in Dover IRC detainees are unable to access Hotmail or other email providers and must use a Dover IRC issued email address. This is not the case in other centres. These restrictions come at a time when the Prison Service, conversely, is making advances in terms of enhancing communications. In HMP Parc, for example, foreign national prisoners are being given supervised access to Skype.
14. **RECOMMENDATION: a system of internet access which matches that available in public libraries or other community spaces should be available to all detainees.**
15. **Access to Legal Advice:** this is perhaps the single most critical issue that visitors groups report to us. In recent years, the exclusive contracts system – where a small number of legal providers are contracted to provide legal aid funded advice to detainees- has become riddled with problems, severely curtailing many detainees chances of access to justice. For example, there are reports of extremely long waiting times for many detainees: waits of a fortnight are not uncommon. This can include detainees for whom removal directions have been set. Accessing the system in the first place is also problematic, often requiring either sign up via a librarian or welfare officer who will act as a 'gatekeeper'. Most worryingly, the system of tendering for contracts to deliver advice in detention has been at the expense of quality. In the context of cuts across the board in legal aid, which have removed immigration work (other than asylum) from scope, the situation as implemented in detention at present is causing major problems for detainees.

⁶ HMCIP (2012) Report on an unannounced full follow up inspection of Brook House IRC (12-23 September 2011) p13

- 16. The use of residential short term facilities (STHFs) is amongst the worst accommodation in the detention estate. There is currently no equivalent to the Detention Centre Rules (2001) governing these facilities, a protection gap which puts many at risk.** AVID has visited all three residential STHFs (Colnbrook, Larne and Pennine House) in the last three years. It is our view that the material conditions of these facilities make them unsuitable for residential use. In particular, Pennine House (Manchester Airport) is inadequate as the facility has no natural light or ventilation. Detainees wishing fresh air are escorted by staff to a small 'smoking area' encased by metal fencing and with a grille over the roof; the area is too small to even enable any exercise. There is no prayer room or space for worship in the facility. There is no provision for mental health and a paucity of information on legal advice. As many detainees held in these facilities are on the move- either to other facilities or out of the country- their need for quality legal advice is arguably even more necessary. There is no equivalent to the Detention Duty Advice Scheme. Detainees spend their days standing in the corridor waiting. It is one of the most depressing facilities we have seen.
- 17.** Our key concern regarding residential STHFs is that unrelated men and women are held together in both Larne and Pennine House, an environment wholly inappropriate for vulnerable single women. 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 do not lock. 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. Women have described to us feeling afraid in these facilities because the doors don't lock, telling us they feel afraid to come out and prefer to eat in their room. This system is placing vulnerable women at risk.
- 18.** While the management of IRCs is subject to the Detention Centre Rules (a statutory instrument) and a set of publicly available operating standards, there is limited accountability in short term holding facilities as the UKBA has, to date, not yet produced either Rules or Operating Standards for its short term holding facilities. We have grave concerns about the lack of accountability in these facilities as a result. We have repeatedly been told by the UKBA that these Rules are in development (since 2009) but they remain elusive.
- 19. RECOMMENDATION: The Home Office should produce statutory Detention Centre Rules on STHFs for consultation as a matter of urgency.**
- 20. RECOMMENDATION: Unrelated men and women should never be held in the same facility.**
- 21. RECOMMENDATION: Detainees held in the residential STHFs should have the same level of access to legal advice, healthcare and regime that is available in larger detention centres.**

How far does the current detention system support the needs of vulnerable

detainees, including pregnant women, detainees with a disability and young adults?

- 22.** Despite a policy which purports to only detain the most vulnerable in exceptional circumstances⁷, we know that the Home Office continues to routinely detain those most at risk of harm. Visitors groups regularly report that they meet people in detention who suffer from mental health problems, people who have survived torture, experienced trafficking, pregnant women or age disputed cases. All of these are people who, by the Home Office's own admission, should only be detained in 'exceptional circumstances' and under 'satisfactory management'. There is clearly a need for initial decision making and screening to take better cognisance of pre-existing vulnerabilities. In addition, there is a very general lack of understanding of the impact of indefinite detention on mental health and wellbeing once detained. Indefinite detention is a contributing factor to making someone vulnerable once detained.
- 23.** We refer the panel to the submission made by the Vulnerable People's Working Group of the Detention Forum for a full summary and analysis of our evidence and recommendations regarding the detention of vulnerable people, but would wish to reiterate that:
- 24. RECOMMENDATION: vulnerable people should never be detained.**
- 25. RECOMMENDATION: We propose the development of a 'vulnerability tool' based on international models, which enables a more thorough approach to screening before detention but also enables vulnerability to be monitored over time, so that those at risk of harm can be easily identified and released. The development, implementation and monitoring of this tool or matrix should be overseen by an independent panel of clinicians and specialists in the full spectrum of vulnerability.**

CONCLUDING RECOMMENDATIONS

- 26. AVID recommends the establishment of an All Party Parliamentary Group on Immigration Detention or alternative parliamentary mechanism that monitors the implementation of any recommendation made by the panel of this inquiry. Such a mechanism should enable changes over time to be monitored, but also to ensure that compliance with are recommendations audited, and failure to make improvements are actioned.**

⁷ Home Office, Enforcement Instructions and Guidance, Chapter 55.10