



association of **visitors** to
immigration detainees

***AVID evidence to the Review into the Home Office response
to the 'Review of Welfare in Detention of Vulnerable
Persons'***

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Submission by AVID:

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About AVID:

AVID is the national network of volunteer visitors to immigration detainees in the UK. Established in 1994, AVID has over 23 years' experience in supporting immigration detainees wherever they are held; our 17 member groups visit in every single immigration removal centre (IRCs), as well as in residential short term holding facilities (STHFs) and prisons. AVID provides advice, training, resources, information and advocacy support to all those who visit immigration detainees. Working with and through our membership, AVID collates evidence of the daily realities of immigration detention and uses this to present a collective voice for change, working to reduce the negative impacts of detention. AVID is a coordination group member of the Detention Forum, working for systemic change in the use of detention in the UK.

Background to AVID's submission

AVID is grateful for the opportunity to input into the *Review into the Home Office response to the Review of Welfare in Detention of Vulnerable Persons*. AVID welcomed the findings of the first review into the welfare in detention of vulnerable people, as it made clear that there were systemic problems in the UK's use of detention, calling for a range of changes and highlighting "there is too much detention, detention is not a particularly effective means of ensuring that those with no right to remain do in fact leave the UK; and many practises and processes associated with detention are in urgent need of reform"¹ urging the Government to begin reducing detention 'boldly and without delay'². The Parliamentary Inquiry into the use of detention in the UK (conducted by the APPGs on Migration and on Refugees) had concluded the year before that detention is used 'disproportionately frequently, resulting in too many instances of detention'³. Their report recommended a substantive overhaul of the immigration detention system including the introduction of a time limit and the consideration of community alternatives, both steps which, once implemented, would reduce at a stroke the detention of the most vulnerable. The first 'Shaw Review' and the APPG Inquiry were landmark publications, both providing undisputable evidence of the crisis of harm facing vulnerable detained people in the UK and making clear and tangible recommendations for improvements.

The Ministerial commitments made in the aftermath of the first Shaw Review included an acceptance of the 'broad thrust' of the recommendations and the promise of a range of reforms which – in the words of then Immigration Minister James Brokenshire – would 'lead to a reduction in the number of those detained, and the duration before removal, in turn improving the welfare of those detained'⁴. The nature and scale of these reforms, if implemented, would have had far reaching consequences on what has been described as one of the most 'opaque areas of public administration'⁵. However, almost two years later, it is clear that there has been a lack of substantive change in practice. Promises made two years ago have either not been kept, have stalled, or have not been implemented. The three key reform outcomes outlined by the Minister have been replaced by limited, operational and technical changes and there is no evidence of a transparent, coherent or planned process through which these systemic reforms will be achieved. AVID remains concerned, as we outlined in our first submission, that in the meantime vulnerable people remain at risk in a system that continues to detain indefinitely.

In our response to the first review, we provided evidence in relation to the following key findings:

- *The Home Office repeatedly fails to follow its own policy guidance and continues to detain individuals they have recognised as 'vulnerable groups'*
- *EIG (Enforcement Instructions and Guidance) Chapter 55.10 is inadequate, lacks clarity and leaves many at risk*
- *Once detained, the reporting systems and safeguards in place to identify vulnerable detainees have repeatedly been found lacking*

¹ Review into the Welfare in Detention of Vulnerable Persons: A report to the Home Office by Stephen Shaw (2016) available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf p191

² Ibid p9

³ Report of the Inquiry into the use of immigration detention in the UK, available at <https://detentioninquiry.com/report/> p9

⁴ Ministerial response to Stephen Shaw's report into the welfare in detention of vulnerable persons: written statement (14th January 2016) available at <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-01-14/HCWS470/>

⁵ Monitoring Immigration Detention: A Practical Manual, available at https://www.apr.ch/content/files_res/monitoring-immigration-detention_practical-manual.pdf p7

- *Detention is in itself a contributing factor to vulnerability, particularly in the context of indefinite detention and the impact on mental health*
- *Current processes to monitor and audit self-harm in immigration detention are inadequate, and self-harm is often seen as a behavioural rather than a mental health issue*
- *Detainees in prisons are particularly vulnerable, prisons are inappropriate places to hold immigration detainees.*
- *Those detained in short term holding facilities are particularly vulnerable as a result of the protection gap (absence of STHF rules)*
- *Vulnerability needs to be reconceptualised in the immigration detention context (implementation of a vulnerability screening tool recommended)*

Unfortunately, we have seen little change in relation to these key findings in the two years since the first review. In this submission, we aim to provide an update on progress made in relation to the above key and over-arching objectives outlined in the Ministerial statement, i.e.:

- a) reduction in the number of those detained,
- b) and the duration before removal,
- c) in turn improving the welfare of those detained'

Importantly, while there have been some legislative and policy changes since the first review, the objectives above have not been met. The changes made have been limited in scope, of an operational and technical nature, and have therefore not been able to impact substantively on the detention of vulnerable people. Further, a series of recent crises in detention have only served to further underscore the need for urgent action and wholesale reform, to ensure vulnerable people are no longer put at risk by a system that still, unnecessarily, relies on the overuse of incarceration to fulfil administrative aims.

Recommendations:

1. **Adults at Risk Policy:** The Adults at Risk policy is not implementing Stephen Shaw's calls for greater protection for those at risk, and in some areas, has resulted in a downgrading of protection mechanisms. New statutory guidance should be developed in consultation with experts in working with vulnerable groups including clinicians and NGOs, and based on the presumption that vulnerable people should be routed away from detention into community based alternatives to reduce the use of detention. Any policy to protect vulnerable people from detention, including the current Adults at Risk policy, should apply to people being held under immigration act powers in UK prisons.
2. **Monitoring and audit/impact assessment:** For there to be confidence in the effectiveness in any new framework to protect vulnerable people, it is essential that meaningful data is provided so that monitoring and audit can be carried out. The review team should encourage the publication of key statistical data and information in relation to the detention of vulnerable people so that progress towards the recommendations of the Shaw Review can be monitored in an ongoing way that is transparent. Government should introduce a transparent, consistent monitoring process to enable the impact of any policy to protect vulnerable people, including the current AAR, to be audited.
3. **Community Based Alternatives to Detention:** The review team should encourage the Government to consider the mounting body of evidence that community based alternatives to detention can have significant advantages, including increasing compliance with immigration control. A working group should be established and tasked with exploring options for alternatives for vulnerable groups, within the UK context, so that migrants can

resolve their cases in the community, without detention. This working group should include civil society and international experts.

4. **Publication of STHF Rules:** We would urge the Review team to follow up on their previous recommendation regarding the publication of statutory guidance governing the STHF detention facilities and to ask that the Government reconsider the detention of men and women in the same facility. Vulnerable people detained in STHF facilities should have equal access to the protection mechanisms available to those held in IRCs.
5. **Improved screening through use of tailored vulnerability screening tool:** We propose that the Home Office should implement a vulnerability screening tool which enables a more thorough approach to screening before detention but is also adaptable to changes over time in detention. Such a tool should be developed in partnership with international and national experts, including UNHCR, civil society organisations and migrants who have themselves experienced detention, via a working group to develop and tailor an appropriate tool.
6. **Time limit on immigration detention:** It is vital that the Government respond to the mounting pressure to initiate a time limit on immigration detention, and in particular that it consider this for vulnerable groups.
7. **Ongoing scrutiny of immigration detention:** We would recommend that the review team consider the need for ongoing scrutiny once the review has concluded. Options for this could be ongoing regular monitoring by the Home Affairs Select Committee, or via a discrete APPG on the use of detention.

Changes since the last review: detention policy and practice

1. Legislative change

- 1.1. **Legislative change during the passage of the 2016 Immigration Act:** There has been some limited legislative change followed the first Shaw Review. Detention was debated at length during the passage of the Immigration Act 2016; a key area within these debates was the absence of a time limit on the use of immigration detention. That the issue of indefinite detention, whilst not initially part of the scope of the Immigration Bill, became such a focus area during the Act's passage through Parliament, is testimony to the weight accorded this area of public policy across both Houses. Although a time limit provision was ultimately defeated, some concessions were included within the provisions of the Immigration Act. The Government introduced two key amendments: a time limit on the detention of pregnant women to 72 hours (which can be extended with Ministerial approval) and the introduction of automatic judicial oversight of detention (the requirement for the Home Office to initiate a bail hearing every four months). However, these automatic bail hearings exclude those in detention who are ex-offenders with deportation orders. This is the very group most at risk of long term detention. Despite receiving royal assent on the 12th May 2016, by November 2017 this provision has still not been enacted, evidence of the lack of urgency apportioned to this area of public policy.
- 1.2. **Introduction of a time limit on the detention of pregnant women:** While the commitment to judicial oversight has stalled, the changes in relation to pregnant women have been in place since July 2016. The numbers of pregnant women detained does seem to have fallen as a result. Sadly figures are not actively published by the Home Office to enable this to be monitored consistently: the Government has repeatedly failed to respond to Freedom of Information requests from the

NGO *Women for Refugee Women* to produce figures on the numbers of pregnant women detained. This absence of transparency in data provision is a key concern for AVID: we have long pushed for greater monitoring particularly in relation to vulnerable people. A Parliamentary question revealed that in the first six months since the introduction of a time limit (June to December 2016), 27 women were detained, far fewer than in preceding years⁶. However, only five of these women were removed from the UK (19%) compared to 88% being released into the community. This raises questions about the quality of decision making on their detention in the first place and suggests that pregnant women, although being held in fewer numbers, are still being held needlessly, despite legislative changes to protect them.

1.3. *Absence of any progress on the publication of statutory protection mechanism for those in STHFs:*

In our first submission we highlighted the particular vulnerabilities faced by those held in residential STHFs, this area was also picked up in the first Shaw Review. It is extremely disappointing that despite promises made and deadlines set regularly since 2009, and the recommendation within the first Shaw Review, the statutory guidance for STHF detention has not yet been laid before Parliament. Not only does this betray a lack of importance accorded these rules by the Home Office, it also suggests a lack of understanding of the protection gap that exists within these facilities. Around 7,000 people pass through a STHF each year, and the lack of legislative framework governing the operation of these facilities is a huge protection gap which leaves many at risk. The facilities are, in our view, the worst in the detention estate, with no access to natural light, no ventilation, or facilities to cook fresh food. Worse, the detention of single women alongside the majority of men causes anxiety. There is a paucity of information available inside residential STHFs about external supports, legal advice or specialist support for vulnerable people. Given that individuals can be held in these facilities for up to one week, it is vital that they are equipped and fit for purpose and importantly, that the statutory protection mechanisms apply equally to those held in an IRC or a residential STHF.

AVID members visit and support detainees in both Larne House and Pennine House, two residential STHFs, and tell us often of the anxiety faced by those held, who are often aware they are on the move but without any real idea of what awaits them, and in shock at their detention. For those who have additional vulnerabilities, this situation is particularly worrying. Our member groups have told us that they have not seen any change in the approach to detaining vulnerable people in STHFs. One member group described having supported, in a three month period: a young Tanzanian man who was claiming asylum on the basis of his sexuality, but who was detained in a STHF despite being *“on medication for depression, and was spaced out and anxious”*, a young man from Afghanistan who had been trafficked to the UK, and a young woman detained alongside men despite having a history of horrendous domestic abuse and who was unable to communicate due to her *“extreme agitation”* at her detention and separation from her children⁷. In the words of one visitor, who pointed out that staff within the residential STHF were not assessing vulnerability:

“(All those detained) would be made increasingly vulnerable by being detained....it is only if the detainee asks for help/medication from the nurse that, I think, they staff are alerted. Because (this) is a STHF, the detainees move on within a week, again a procedure which increases vulnerability. Anxiety rises at the thought of moving, say, to Dungavel in Scotland, beyond the

⁶ <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-03-29/69792/>

⁷ Visitors group email to AVID, 16.10.17

reach of family and friends and because of not having their possessions which they have had to leave behind”⁸.

We would urge the Review team to follow up on their previous recommendation regarding the publication of statutory guidance governing the STHF detention facilities and to ask that the Government reconsider the detention of men and women in the same facility. Vulnerable people detained in STHF facilities should have equal access to the protection mechanisms available to those held in IRCs.

2. Policy change:

2.1 Adults at Risk policy: The major policy change since the first Shaw Review and Ministerial response is the *Adults at Risk policy* (September 2016). This was the key output following the Government’s commitment to ‘safeguard the most vulnerable’ by implementing a new process with ‘a clear presumption that people who are at risk should not be detained’⁹. However, over a year since the policy came into force, AVID and its member organisations are still seeing vulnerable people in detention across the country. We are concerned that the policy is not fulfilling its objective of reducing the numbers of vulnerable people detained. This is mirrored by the findings of statutory monitoring bodies: Her Majesty’s Inspectorate of Prisons reports since the introduction of the policy have evidenced that vulnerable people continue to be detained despite being at higher levels of risk. This is outlined further below, with reference to recent reports on Yarl’s Wood IRC and the HMIP annual report.

2.2 Absence of any baseline figures, or ongoing monitoring mechanism to enable impact of AAR to be measured: Before it was published, AVID raised concerns with the Home Office that the stated aim of the AAR policy will be hard to monitor and audit, because the government repeatedly said it did not gather figures centrally on, for example, people with mental health needs, or those who had survived torture. There would therefore be no baseline figures against which progress could be measured. We asked the Home Office to provide information on how they would be able to measure progress, but this was never provided. For the impact of the policy to be assessed, there has to be some meaningful way for transparent data to be produced. As outlined above in relation to the detention of pregnant women, there is a reluctance to provide figures and to make the data publically available. As outlined above, pregnant women are still being detained and then released, which does not give confidence that the safeguards in place for this group are working. We would suspect that this will also apply to other groups.

The Government must consider monitoring and audit of vulnerable people in the detention system in a way that is transparent so that it can be held accountable for the commitments made since the Shaw Review. Government should introduce a transparent, consistent monitoring process to enable impact of any policy to protect vulnerable people, including the current AAR.

⁸ IBID

⁹ Ministerial response to Stephen Shaw’s report into the welfare in detention of vulnerable persons: written statement (14th January 2016) available at <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-01-14/HCWS470/>

2.3 'Evidencing' vulnerability: balance of risk factors and burden of proof: The new Adults at Risk (AAR) policy increases the burden of evidence on vulnerable people and balances vulnerability against a wide range of immigration factors. We, like other NGOs, are concerned that this leads to more vulnerable people being detained for longer – something that is hard to evidence given the absence of any baseline figures for numbers of vulnerable people held prior to the policy's introduction, and the ongoing difficulties in accessing data from the Home Office on vulnerable people since the policy was implemented. Unlike previous policy guidance, the new policy introduces the concept of 'balancing' or weighing up vulnerability factors to be carried out by those making the decision to detain. Vulnerability is ranked on three levels, based on the types of evidence one can provide. Providing your own evidence, or self-declaration, would constitute level one. Professional evidence that a person may be an adult at risk would form 'level two'. Professional evidence that the person is at risk and that detention would cause harm gets a person to the highest level – level three. This is then weighted against immigration factors, such as length of detention, public protection issues and compliance issues, or a late asylum claim. It is important to note that a late asylum claim or other poor 'immigration factor' related to immigration history may be directly related to, or a consequence of, someone's vulnerability, the experience of trauma, or the mental ill health they experience. There is no requirement for the decision maker to provide evidence that this detention may be injurious to health of the person being detained: the burden of proof falls disproportionately on the person being considered for detention. Imposing an additional evidential burden in this way is inconsistent with the objective to reduce the numbers of vulnerable people detained; we are worried that it is leading to more vulnerable people being detained for longer, because they cannot provide adequate 'evidence'.

Once detained, it remains as difficult as it was previously to be released under Rule 35. We are worried that this is resulting in a 'wait and see' approach where vulnerable people are detained, and deteriorate, before they will be considered for release. The case study below demonstrates just one example of detention being maintained despite medical evidence that the continued detention was damaging:

Case Study: Mr B

Mr B was first in contact with AVID in mid-2017. He had been detained for some months already and we were able to put him in touch with a visitor to provide emotional and practical support. Worryingly, Mr B was describing hallucinations and a deteriorating mental state which was of great concern.

A psychiatric report on Mr B described him as highly anxious, with hallucinations, and in a state of great agitation. The report described that he was reliving previous trauma and was at high risk of suicide. The report concluded that Mr B required emotional support in a family environment to reduce his symptoms, and to be assessed by a specialist. It clearly states that continued detention of Mr B would *"increase the risk of self-harm or suicide"*.

Mr B was still in detention over a month later. He continues to receive support from an AVID member visitor group. His future is uncertain.

2.4 Lack of clarity and understanding of AAR policy, lack of standardised implementation across the detention estate: AVID and its member groups have been informally monitoring the levels of awareness of the AAR policy since it came into force in September 2016. Unfortunately it has become apparent that there is a lack of knowledge of, or understanding of the AAR policy and its implementation. Detention Custody Staff, including welfare staff, that we have spoken to in various centres (including Morton Hall and the Verne) have been unaware of the policy's existence. This mirrors concerns raised by HMIP in their inspections of Morton Hall and Brook House, and in their annual report for 2016:

“the policy was not yet widely understood, and there was a lack of communication between centre staff who had contact with at-risk detainees and the caseworkers, based in offices around the country, who decide if detention should be maintained. At both Brook House and Morton Hall, we obtained lists of detainees identified by the Home Office as being of risk of harm under the new policy, but neither the Home Office teams at the centres or custodial managers had these lists. They could not, therefore, systematically identify and support at risk adults, nor monitor the impact of detention on them over time”¹⁰

More recently, at Yarl's Wood, inspectors questioned the effectiveness of the AAR policy, finding that almost a fifth of those detained were assessed as being at the higher levels of risk¹¹. They also noted that the safeguarding adults policy and procedures had not been updated to bring them in line with the AAR policy¹², despite it having been in place for some nine months at the time of inspection. Even more worrying, inspectors found that there was “no accurate list of detainees assessed to be at risk” and described their lack of confidence that effective support and monitoring was in place for adults at risk. This mirrors our own anecdotal evidence.

Further, we have found the guidance itself to be opaque and difficult to understand, making it difficult for those supporting people in detention to be able to communicate concerns. It is not clear, for example, who has ownership of the AAR process inside detention centres, or who should be responsible for the care pathways for those identified as being at risk, or what those pathways would be. It is therefore difficult to monitor treatment of detainees or to assess the effectiveness of the new policy, as a method of identifying and releasing vulnerable people.

Clarity of process and responsibility should form part of any revision to the AAR policy, including a documented pathway, so that impact and effectiveness can be monitored.

2.5 Protection principles: lack of clarity in AAR: The AAR guidance states that once an individual is considered to be at risk, there is a presumption against detention. AVID is concerned that this is merely a restating of the general protection principles which apply to all detainees, as set out in the Hardial Singh Principles and the previous general policy under Chapter 55.10 of the Enforcement Instructions and Guidance. The AAR also states

¹⁰ HM Chief Inspector of Prisons Annual Report for 2016 -2017, available at: https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2017/07/HMIP-AR_2016-17_CONTENT_201017_WEB.pdf

¹¹ <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2017/11/Yarls-Wood-Web-2017.pdf> p13

¹² IBID p25

that one of its main principles is that *'individuals can be detained if there is a realistic prospect of removal within a reasonable timescale'* but again this is merely restating what is the overarching principles that apply to all detainees. It is very unclear how, then, the AAR offers additional protection particularly in terms of those who are at risk.

2.6 Risk and Foreign National Offenders: It is our experience that those who are in immigration detention having previously served a prison sentence are at the greatest risk of long term detention, and are therefore facing a range of multiple vulnerabilities themselves. However, the AAR guidance at page four outlines that *"the public interest in the deportation of foreign national offenders (FNOs) will generally outweigh a risk of harm to the detainee"*¹³. This element of the policy is clearly guiding caseworkers to find that the evidence of vulnerability will be outweighed by the fact of having served a criminal sentence of 12 months or more, and does not reflect an individualised approach – the need for which was emphasised throughout AVID's first submission, was prioritised in the first Shaw Review, and is a supposed objective of the AAR policy. We are concerned that this approach is based on a blanket assumption about a category or group of people, rather than an individualised assessment of risk. Further, the breaches of Article 3 of the ECHR referred to in the first Shaw Review related to individuals who were 'foreign national offenders' (in the case of BA, a ten year prison sentence had been served). It is highly likely then, under the new AAR, that BA's detention would be maintained. It is unclear how the new policy guidance reduces the risk of further human rights abuses of this kind.

2.7 Groups detained under immigration act powers, yet excluded from the Adults at Risk policy: AVID remains concerned that the very limited safeguards to protect vulnerable people do not apply to those held in prisons under immigration powers. Since the Ministerial commitment to detention reform, the numbers held in prison have remained consistent at around 400 - 500 per month¹⁴. It is very well established that mental health needs are high amongst the prison population, and as such it is a great concern that the adults at risk policy or the other mechanisms to protect vulnerable people – such as Rule 35 of the Detention Centre Rules – do not apply in prisons. Compounding this is the greater barriers faced by immigration detainees in prisons to maintaining contact with friends, family or legal advisors as, unlike their peers in IRCs, they do not have access to the internet or mobile phones. It is therefore extremely difficult for NGOs or support organisations, like AVID, who can provide support, to access this population.

Any policy to protect vulnerable people from detention, including the current Adults at Risk policy, should apply to people being held under immigration act powers in UK prisons.

In addition, there are other gaps in the current AAR policy. For example, a glaring omission is the absence of any mention of how to ensure protection for those who lack capacity to deal with their immigration case or to instruct someone to do so. This is arguably one of the most heightened examples of vulnerability one can imagine in detention and yet is not mentioned within the AAR policy.

¹³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/574970/adults-at-risk-policy-guidance_v2_0.pdf

¹⁴ AVID Freedom of Information Requests, available at: <http://www.aviddetention.org.uk/immigration-detention/detention-prison/prison-statistics>

2.8 *Downgrading of definition of torture:* The Adults at Risk policy restricts the wider definition of torture previously used in its detention policy, instead applying the narrower definition in the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) Article 1, which limits ‘torture’ to acts involving a public official only. This meant that those tortured at the hands of non-state actors (Isis, Boko Haram) would no longer be protected from detention. Previously, torture had been understood in terms of the harm done to individual, rather than the perpetrator. This left many others, such as those who have survived rape, sexual or gender based violence, or gang violence by non-state agents, at risk of detention. This policy was found unlawful in October 2017 and the Home Office was required to amend the statutory guidance on Adults at Risk. **We would strongly urge the review team to recommend that meaningful and effective consultation with relevant groups, including AVID and others via the NASF detention sub group, is a part of the process of amending the statutory guidance. We believe that proper consultation on the AAR revisions may help to avoid future problems of this kind.**

3. Changes in the scale and use of immigration detention in the UK

3.1 *Statistics suggest that the Ministerial commitment to reduce detention has not been met:* The statistical evidence further highlights that the Ministerial commitment to reduce the numbers detained and the length of detention have not been met. The UK is still detaining too many people, for too long. As the latest statistics from the Home Office show:

- At the time of the Ministerial statement in January 2017, 2,607 people were in detention. At the end of September 2017, there were 3,125 people in detention, an increase of almost 20%¹⁵. (It should be noted these figures do not include those detained in prisons).
- In the year to September 2017, 27,565 people entered detention, which is a decrease of 7% compared with the previous year at the time of the Ministerial statement.
- In the year to September 2017, only 48% of those leaving detention were removed from the UK. While this is a slight increase on the figures for the year before (46%), it is still apparent that more than half of those subject to immigration detention are eventually released back into the community. Detention is therefore not fulfilling its strategic aims, and there has been little change in this in the period since the first Shaw Review.
- Duration of detention remains extremely problematic. At the end of June 2017, 271 people had been held for over six months, compared to 263 at the time of the Ministerial statement (December 2015). It appears, then, that lengthy periods of detention remain routine. One man had been in detention for 1514 days (over 4 years) in June 2017.

4. Other developments since the first Shaw Review:

4.1 *Closure of some detention facilities, but absence of any operational plan:* A key finding of the first Shaw Review was that the detention estate had developed in an ad hoc manner and in relation to the availability of bed spaces rather than strategic planning:

¹⁵ <https://www.gov.uk/government/statistics/immigration-statistics-july-to-september-2017>

'The use of detention is determined on a direct one to one basis by the number available spaces. A strategic decision therefore needs to be made about the size and location of the IRC estate over the next decade and longer'¹⁶

In response, the Government outlined that *'Immigration Enforcement's Business Plan for 2016/17 will say more about the Government's plans for the future shape and size of the detention estate'¹⁷*. However, despite being raised in Parliament several times, and despite requests made by AVID and others in stakeholder meetings to have sight of some kind of operational/business plan, the Government has not been able to provide any form of operational planning document. Unfortunately, the ad hoc approach to closure or expansion of various facilities has continued since the statement of January 2016.

A positive step forward has been the announcement of the closure of the Verne immigration removal centre in Dorset (announced 10th October 2017, estimated closure early December). When it opened in September 2013, AVID established a visitors group presence in this centre, and the Verne Visitors Group comprising local community volunteers became an active part of the day to day life in the centre providing emotional and practical support to men held there. We are therefore very aware of the problems posed by this facility's location. Visiting was difficult due to the remote and hard to reach location, which also made access to legal advice, specialist organisations or external supports very challenging. The centre was not without problems: its legacy included a long history as a prison with many elements of the criminal regime still affecting day to day life within the centre when it became an IRC. Men held there told us of their isolation – many had never been to Dorset and had families elsewhere in the UK. The difficulties of indefinite detention were compounded by this remote rural location. Its closure is therefore welcomed.

However, our concern remains that the decision to close the Verne (made only four years since it became an IRC), reflects the 'ad hoc'/opportunistic approach to the planning of the detention estate highlighted in the first review. As with the proposed closure of Dungavel or the planned expansions of Campsfield which were later scrapped, there is little to suggest that the Home Office has a coherent operational plan in terms for the future use of detention in the UK.

While the closure of a centre holding 580 men would in principle reduce the numbers detained overall, without clarity on future plans or the intentions of the Home Office to continue utilising prisons to hold immigration detainees, it is unclear if this is an opportunity to reduce the overall use of detention or yet another ad hoc decision made in the absence of an overarching strategy for the future use of detention in the UK.

4.2 *Increasing detention of EU nationals*: In some areas, there has been an increase in use of detention and in the last few years this has been the case with the detention of EU nationals. It was widely reported earlier this year that the numbers of EU nationals detained had increased by 27% (almost a third) since Brexit¹⁸. There has been a consistent increase in the number of EU nationals leaving detention since 2015.

¹⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf p 9

¹⁷ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-01-14/HCWS470/>

¹⁸ <https://www.theguardian.com/uk-news/2017/aug/23/number-of-eu-citizens-detained-in-uk-up-by-27-figures-show>

4.3 *Increasing numbers of deaths in detention:* Sadly, since the beginning of 2016, when the Shaw Review was published and the Ministerial commitments were made, there have been twelve deaths in immigration detention alone. Most tragic of all, seven of these 12 immigration detainee deaths were either ‘self-inflicted’ or ‘hanging’. Three of the deaths were either not investigated by the PPO or the cause of death is unknown. There can be no starker statistic to demonstrate the crisis of harm within the immigration detention system than these men taking their own lives at such high numbers. That the numbers have increased so dramatically since the introduction of a policy which purports to protect vulnerable people is a significant cause for concern, and underscores the need for urgent reform. Importantly, these figures do not include deaths of immigration detainees in prison, so this number is likely to be an under estimate. The charity INQUEST, for example, reports three self-inflicted deaths of immigration detainees in prisons in 2017 alone.

5. Solutions for detention reform: need for screening and the use of community based alternatives

5.1 Successful reduction in the numbers of vulnerable people detained can only be achieved through appropriate, holistic screening and integrated use of community based alternatives: As we outlined in our first submission, there are a number of different approaches to the screening of vulnerable people prior to detention which would significantly reduce the numbers of vulnerable people who end up detained. The international EVASP model (Enhancing Vulnerable Asylum Seekers Protection, based at University of Essex) enables a more thorough approach to screening before detention but is also adaptable to changes over time in detention. More recently, UNHCR and International Detention Coalition (IDC) have developed a “vulnerability screening tool” which also enables more effective screening and considers the dynamic nature of vulnerability as something which changes over time¹⁹. Use of these ‘vulnerability screening tools’ would enable decision makers to take into account the multitude of factors which may influence someone’s ability to cope in detention, but when engaged at regular intervals, can enable changes over time to be reviewed.

AVID believes that vulnerable people with complex needs should never be detained. However, where detention is to continue, we propose that the Home Office should implement a vulnerability screening tool which enables a more thorough approach to screening before detention but is also adaptable to changes over time in detention. Such a tool should be developed in partnership with international and national experts, including UNHCR, civil society organisations and migrants that have themselves experienced detention. For example this could be done via the establishment of a working group.

5.2 A time limit on the length of time an individual can be detained under immigration act powers should be introduced as soon as possible: It is apparent from the lack of progress outlined above that the Government has been unable to fulfil the promises made in January 2016 in relation to reducing the numbers detained or the lengths of detention. We would again draw attention to the recommendations of the Parliamentary Inquiry into the use of detention in the UK, which has cross party support, and which called for a 28 day time limit on detention, which has since been echoed by many (including Her Majesty’s Inspectorate of Prisons). The introduction of a time limit would effectively reduce, at a stroke, the numbers of people detained. There are precedents, such as the Family Returns Process introduced in 2010, and the introduction of a time limit for pregnant women, which demonstrate the effectiveness of this policy for certain vulnerable groups. **It is vital that the**

¹⁹ <http://www.unhcr.org/uk/protection/detention/57fe30b14/unhcr-idc-vulnerability-screening-tool-identifying-addressing-vulnerability.html>

Government respond to the mounting pressure to initiate a time limit on immigration detention, and in particular that it consider this for vulnerable groups.

5.1 The Government should work with civil society and independent specialists to develop community based alternatives to detention based on case management models: Despite written policy guidance that advises Government to use detention ‘sparingly’ and as a last resort, and to use ‘alternatives to detention wherever possible’, there is little evidence to suggest that the Government has invested in developing model alternatives to detention that are based on addressing the support and protection needs of vulnerable people. Current consideration of ‘alternatives’ are based on narrow understanding of enforcement based models which rely on, for example, the use of temporary admission, bail, tagging or curfews. The Government has begun to use the language of ‘alternatives’, for example, a recent response to a parliamentary question about the use of alternatives outlines that the Government is looking at alternatives *“This includes community engagement by our immigration enforcement teams, and the development of the compliant environment to prevent access by illegal migrants to work, services and benefits, designed to encourage compliance and maximise voluntary returns”*²⁰. This language mirrors that of the ‘hostile environment’. This type of enforcement based model has already been proven to be ineffective in reducing the use of detention in the UK, and this language of alternatives ignores the wealth of international evidence that community based engagement models can and do lead to more effective case resolution.

Increasing the availability of community based alternatives would provide a pathway that enables vulnerable and at risk groups to be routed away from detention into case management programmes based on engagement rather than enforcement, ensuring they have access to supports the need while dealing with their immigration cases. This would reduce the UK’s use of immigration detention by systematically routing those at risk away from immigration detention into supportive case management programmes where immigration concerns can be addressed from within the community without putting people at further risk of harm.

We would urge the review team to recommend to the Government that a programme of research, learning and evaluation of community based alternatives should begin as a matter of urgency. A working group could be set up that includes civil society experts based on their experience of supporting and working with migrants on case resolution, and also brings in migrants themselves, with experience of detention.

5.2 Regular, ongoing scrutiny of the future use of immigration detention is vital: Finally, we remain concerned that there be some form of ongoing scrutiny mechanism on the use of immigration detention in the UK. Since the joint APPG Parliamentary Inquiry into the use of immigration detention concluded in 2015, there have been a plethora of reports, inquiries and reviews, none of which have resulted in the systemic reforms so needed and as outlined in the first Shaw Review. Our concern is that there is no single mechanism to ensure the scrutiny and oversight of this area of public administration, and that once this current review concludes, there will be little opportunity for follow up and impact to be evaluated. **We would recommend that the review team consider the need for ongoing scrutiny once the review has concluded. Options for this could be ongoing regular monitoring by the Home Affairs Select Committee, or via a discrete APPG on the use of detention.**

²⁰ <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-11-14/112911/>