

# Detained Fast Track Litigation Case Study: Detention Action

Using the law for social change

November 2017

Institute for Voluntary  
Action Research

IVAR | 020 7921 2940 | [ivar.org.uk](http://ivar.org.uk) | [@IVAR\\_UK](https://twitter.com/IVAR_UK)

# Introduction

## 1.1 Purpose

The Institute for Voluntary Action Research (IVAR) was commissioned by Detention Action to develop *'an external write-up of a case study of our strategic legal challenge to the Detained Fast Track asylum process (DFT)'* in order to *'capture and share learning amongst non-governmental organisations (NGOs), legal agencies and funders interested in the question of what makes litigation strategic.'* The case study focuses upon the process of the litigation rather than the outcomes, since the resulting judgements have already been subject to legal analysis<sup>1</sup> and the long-term outcomes cannot yet be predicted.

### Strategic litigation

Strategic litigation is the practice of bringing lawsuits to effect social change. A typical feature is that individual cases are brought to test wider implications. The aims of strategic litigation may involve more than winning the case. They might also focus upon publicity, public debate and setting precedents. Strategic litigation may well be one aspect of a wider advocacy campaign, for example, sitting alongside lobbying, public campaigning and media work.<sup>1</sup> Litigation is increasingly being used by NGOs as a tool for policy change, particularly when other approaches have failed.<sup>2</sup>

The Strategic Legal Fund for Vulnerable Young Migrants, which supported Detention Action's litigation, explicitly funds *'legal work that goes beyond securing justice for an individual and makes a significant contribution to law, practice and procedures to uphold and promote the rights of vulnerable migrant children and young people more generally.'*<sup>5</sup>

## 1.2 Method

IVAR undertook 19 semi-structured interviews which lasted between 60 and 90 minutes, and took place over the phone, face-to-face and one via email. The interviews with Helen Bamber Foundation staff were conducted as a joint meeting. A full list of interviewees can be found in Appendix I. Interviewees were asked about:

- How far litigation can be planned in advance to ensure that it is strategic
- The nature of the risk involved and how it can be managed
- How organisations directly involved in litigation can work effectively with other interested organisations
- How individuals affected by the practice could be involved
- The opportunities and risks of media and communications work around strategic litigation
- How successes in court can be translated into long-term change in policy and practice.

Interviews were analysed for key themes. As agreed with interviewees, we do not attribute any comments or quotations (indicated in italics) to named people, but refer only to 'interviewees'. In this report, 'sector' refers to the NGOs and law firms within the immigration sector focusing upon detention.

<sup>1</sup> For a thorough and helpful summary of the legal issues see Harvey Alison (2016) *Immigration Detention in the UK: Recent Developments* (Journal of Immigration, Asylum and Nationality Law - IANL)

<sup>2</sup> See <http://www.publiclawproject.org.uk/data/resources/153/Guide-to-Strategic-Litigation.pdf> for more information about strategic litigation

<sup>3</sup> See, for example, <https://www.clientearth.org/major-victory-health-uk-high-court-government-inaction-air-pollution/>

<sup>4</sup> [www.strategiclegalfund.org.uk](http://www.strategiclegalfund.org.uk)

# Findings

In Part Two of this report, we discuss the background to the case; the success factors identified; and the risks and challenges for the NGO leading the strategic litigation.

## 2.1 Background<sup>5</sup>

Prior to Detention Action's legal challenge, people seeking asylum were routinely detained on arrival in the UK and kept in high security immigration detention centres as they awaited the results of their application for asylum, under the Detained Fast Track (DFT) process. The DFT was designed to accelerate timescales for claims that were considered suitable for a quick decision, however vulnerable people with complex cases were regularly detained. This included victims of torture, trafficking, gender-based violence and homophobic persecution.

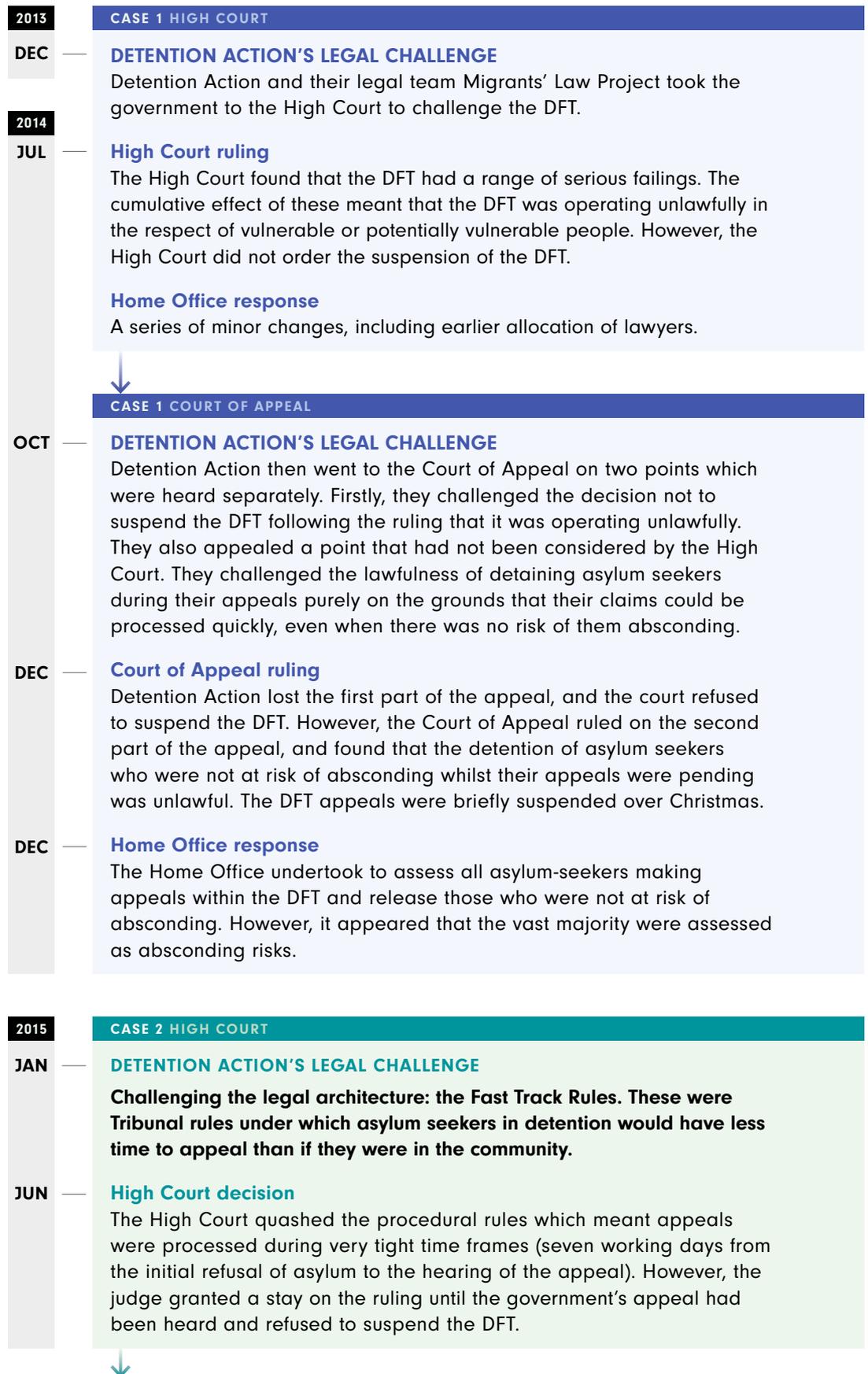
Wrongly entering the DFT had a significant impact on a vulnerable person's chances of successfully claiming asylum: by 2013, nearly one in five people seeking asylum were having their claims heard via a process that had a 99 per cent rejection rate. 4,386 people seeking asylum were detained through the Fast Track in 2013, and around a quarter were under 24 years old. Previous legal challenges to the DFT had failed to demonstrate unlawfulness.

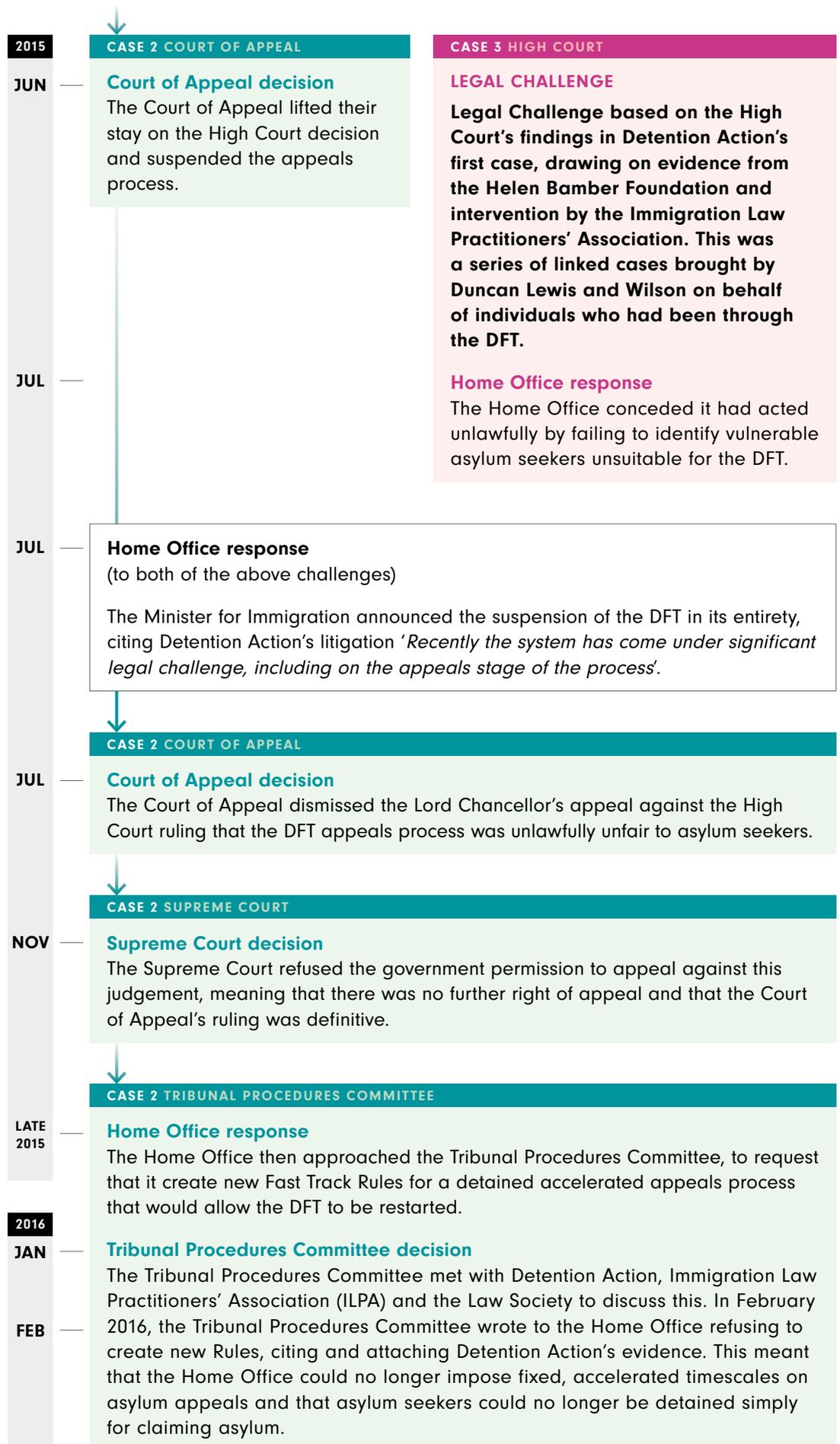
Detention Action and their legal team, at Migrants' Law Project, put together a series of challenges to the DFT, some of which occurred simultaneously, culminating in the Supreme Court upholding a judgement that found the Detained Fast Track asylum appeal process to be 'systematically unfair'. It was initially a slow, incremental process that gathered speed, finally leading to the suspension of the Detained Fast Track.



<sup>5</sup> Drawn from <http://detentionaction.org.uk/campaigns/end-the-fast-track-to-despair/legal-challenge>

## Cases against the Detained Fast Track





## 2.2 Success factors – role of the NGO

We heard that having an NGO to bring the litigation was a vital ingredient in the litigation's success, as *'NGOs can focus on systemic problems rather than individual cases which can always be settled.'* NGOs can play a specific role in strategic litigation by *'asking questions of their legal teams and encouraging them to see beyond the next judgement, which doesn't always come naturally to lawyers.'*

Interviewees attributed Detention Action's leadership in this case to its organisational culture, its approach to collaboration, its credibility and its staffing.

### Organisational culture

#### 1. Commitment to the cause

*'There was substantial organisational commitment to the cause rather than simply to organisational survival, which was never seen as the key priority.'*

#### 2. Tenacity

*'Strategic litigation is about keeping going; Detention Action just found the energy and didn't give up' and 'simple perseverance is very important'.*

#### 3. Attitude to risk

*'There was a robust attitude to risk and mature discussion about it, which enabled firm decisions to be made.'* The Management Committee is not risk averse, having seen the organisation through many years of challenging situations.

#### 4. Courage

Detention Action was described by interviewees as *'courageous'* and *'brave'*, which are seen as necessary qualities in taking strategic litigation forwards: *'it was a massive undertaking for a tiny organisation'* and *'there's a culture of it being better to fight [but] it's so rare to have the chance to win anything'*

#### 5. Willingness to *'do the tedious work'*

Interviewees acknowledged that strategic litigation is *'a lot of hard work and not glamorous'* and that gathering the evidence is hugely time-consuming.

### Approach to collaboration and relationship building

The work of building relationships – with the wider sector, the legal team, government – was a significant element in the litigation's success, and an important aspect of the wider advocacy strategy. Interviewees identified Detention Action's willingness to collaborate and proactively engage the wider sector as a vital element in the litigation's success: *'it took a village to do this'* and *'the great piece of work was how everyone collaborated'.*

Detention Action spent considerable amounts of time bringing other organisations together, building trust and keeping them involved. Detention Action's thoughtful, strategic and non-confrontational approach was seen to have been a significant factor in the work of relationship building: *'People can be territorial but they built relationships over a long period, and this was a continuation of that. Detention Action is easy to work with, responsive and open.'* One interviewee described Detention Action as *'not arrogant and prepared to listen.'* Linked to this was a relaxed approach to branding: *'we saw no need to be precious about branding, which helped bring others along'.*

The work of building these collaborative relationships, described by one interviewee as *'a holding role to build the momentum'*, enabled the sector to develop common ground among *'quite an awkward coalition': 'any concerns were able to be raised and addressed – they were able to draw on the collective wisdom of the sector.'* Detention Action played a dual role of simultaneously driving the movement and carefully holding it. Some of the work was invisible to other organisations, who mainly saw the bilateral relationships between themselves and

other organisations, rather than the centralising influence of Detention Action. The legal team also played a very significant role in developing and maintaining relationships with the wider sector, particularly in working with them to find evidence.

It also required a delicate balancing act from Detention Action in that the purpose of collaboration was to gather momentum and ensure that the legal team had access to evidence from a variety of organisations, rather than to take part in all strategic decisions, particularly given that these often had to be made quickly and reactively. This could have risked the trust of the other organisations in the coalition. With the benefit of hindsight, perhaps clarity about the role of the coalition and limitations of group decision-making would have been helpful.

Another critical role in this coordination process was convening meetings between civil society and the Home Office. This brokering role was sometimes challenging and time-consuming, yet highly important, as it enabled a diversity of voices on detention to be heard.

## Knowledge and credibility

### 1. Expertise and evidence

Detention Action gained considerable credibility within the sector for their 2011 report *Fast Track to Despair: the unnecessary detention of asylum seekers*,<sup>6</sup> which demonstrated their grasp of policy and *'ability to understand the very complex and wide-ranging issues'*, alongside their extensive experience of case work: *'being grounded in the issue is vital.'* This report was followed by policy briefings in 2013 and 2015. This *'connection between case work and policy work improved during the litigation.'*

Detention Action's *'meticulous records'* meant that substantial evidence was available to use in the case. This ability to go directly to clients meant that Detention Action could ask them whether they would prefer to spend longer in detention or have the DFT, which made for compelling evidence for the Tribunal Procedures Committee. Working alongside the wider sector was a critical success factor. It meant that the legal team drew on a wide range of organisations including Yarl's Wood Befrienders, Freedom From Torture and the Helen Bamber Foundation, alongside law firms representing individual clients: *'it wouldn't have been successful without the wealth of evidence provided by the wider sector.'* Bringing this together meant *'amassing the evidence of systemic rather than individual breach over a long period of time, and in a way that the court would not simply dismiss as a large number of individual cases.'*

### 2. Positioning

Detention Action is acutely aware of its positioning in relation to campaigning and lobbying work. This clear-sighted approach meant that interviewees felt that it was *'serious and credible – not at the shouty end of the campaigning spectrum'* which was seen to be particularly important in the context of such a highly politicised issue. *'The willingness to position itself as "pragmatic" gave credibility in a sector where there historically have not been many 'constructive insider voices'.* Detention Action's ability to take this stance was also seen to be reliant on its position as part of a wider coalition of voices, some of whom take on a more overt campaigning stance. Whilst the decision to limit media and communications work was not always easy (see below), this ability to put immediate organisational interests in abeyance to the interests of the wider campaign and sector was indicative of a tactical, thoughtful approach to the advocacy work surrounding the litigation.

### 3. Advocacy strategy

Interviewees stressed that the litigation was one element of a wider campaign to end the DFT, and that Detention Action (alongside others) were continuing other advocacy work alongside it to shift the political noise about detention more generally:

*'This was about a campaign rather than a case; ideally it would have been done through policy. You have to make a clear decision about the limitations of legal work and whether this is the right way to achieve change.'*

<sup>6</sup> <http://detentionaction.org.uk/wordpress/wp-content/uploads/2011/10/FastTracktoDespair.pdf>

The decision to use litigation was not taken lightly, but in the knowledge that *'most of the things the Home Office has given way on recently have been a result of litigation. NGOs tend to think that simply getting the Home Office around a table is progress, but that is not enough.'*

Detention Action's complex advocacy strategy allowed it to increase its authority and influence over the Home Office, despite the risk of being seen as hostile. Ongoing meetings with the Home Office enabled Detention Action to develop relationships with officials, despite the difficult context, and its work on alternatives to detention enabled it to present solutions that addressed Home Office policy objectives without the use of detention. Detention Action's pragmatic policy stance was also critical in enabling it to influence the Tribunal Procedures Committee, through providing oral and written evidence.

A careful, considered and segmented approach to advocacy saw Detention Action working alongside the wider sector and Detention Forum<sup>7</sup> to build up alliances that included Conservative backbenchers and faith-based audiences, by focusing upon the human stories. This approach helped to move the parliamentary debate about detention along, which had historically been *'toxic'* on the subject of immigration and asylum.

## Staffing and Management Committee

### 1. Staff team

Having a small yet highly committed, knowledgeable and skilled team meant that Detention Action could keep staff actively engaged in the litigation, which kept interest levels and enthusiasm high. The London Legal Walk (to fundraise) also galvanised internal interest. The strong and effective working relationship between the two key members of staff working on the litigation meant that they could hold *'multi-faceted and complex relationships with different stakeholders.'*

### 2. Management Committee – staff relationship

Detention Action's Management Committee was described as *'responsive'* and *'nimble'*, as well as happy *'to be engaged with a proactive piece of work.'* Their *'clear focus on governance'* meant that it was easy to determine when decisions needed to be taken by the staff and when by the Management Committee. A subgroup consisting of the two key members of staff plus the Chair and the trustee with legal expertise meant that lines of communication were clear. This enabled the organisation to take robust decisions quickly.

### 3. Management Committee expertise

Having legal expertise in the form of a specialist lawyer was described as *'critical'*, as it meant that Detention Action could proactively contribute to the legal strategy: *'otherwise there is a risk that [the] client becomes a "spare part" where lawyers have a very strong view.'* Alongside the legal expertise, Detention Action had a *'strong Treasurer'* on the Management Committee, who could reassure the team about financial constraints and risks. A highly experienced and trusted Chair was able to take firm decisions, but also knew when to leave decisions to the staff team.

## 2.3 Success – wider factors

Interviewees identified five external factors that contributed to the litigation's success.

### 1. The *'clear injustice'* of the DFT

The sector-wide agreement about the *'manifest injustice'* of the DFT meant that it was possible to galvanise people behind it: *'you need something that everyone feels passionately about; otherwise the risks would outweigh it.'* The sense of it *'being the morally right thing to do'*, aligned with the fact that *'no one internationally does this'* meant that there was a large constituency with the potential to become involved.

<sup>7</sup> [www.detentionforum.org.uk](http://www.detentionforum.org.uk)

At the outset however, there was a fair degree of scepticism from other organisations, some of whom felt that the case was unlikely to succeed. As time went on, and the case gained traction, there was increasing interest from the wider sector, which coalesced around a wrong. It reached the point: *'where everyone had a stake in it: this is a depressing area of work and it gave everyone hope; it reminded people that the system is inherently unfair.'* Seeing that there was a possibility of winning galvanised the wider sector and *'reminded them that victory was possible'*, even against the odds.

The *'David and Goliath'* feeling that this engendered resulted in a huge investment of time from individuals and organisations: *'you need people who are passionate enough to be willing to give up their time to work on it outside work hours'*. This entailed lawyers being willing to do unbilled hours and other NGOs putting in a huge amount of time to gather and analyse data and evidence. One interviewee described how this process had an unexpectedly positive internal outcome for their organisation as they are now *'capturing the data more systematically'* which has provided them with better evidence to present to the Home Office.

## 2. Strong legal team

Interviewees were unanimous in their praise for the legal team. The individual lawyers were praised for being *'tireless'*, *'strategic'* and *'rigorous'*. The lead solicitor from the Migrants' Law Project at Islington Law Centre, was singled out for her relentless focus on strategy and evidence. The fact that she had been involved in the previous attempts to challenge the DFT was seen as critically important, as she was aware of what new strategies might prove successful. Her role as a mediator, not representing individual clients, was also understood to be vital as it meant she could concentrate on maintaining an overview of the case.

Interviewees said that the combination of people in different roles and with different kinds of expertise had been important to the case: *'you need solicitors to do background work and research and strong legal counsel to give advice'*. The legal team included people with significant expertise on detention but also people not associated with cases in this highly politicised area. Interviewees felt that this helped to move the courts from seeing the litigation as purely being brought by *'the usual suspects'* which meant that the case was more likely to be taken seriously.

The strength of the team gave the wider sector confidence in the legal strategy and knowledge of what would work: *'you need legal expertise to be able to know what evidence is useful, it's more than about case studies.'*

## 3. Strategic legal approach

Strategic decisions about how to approach the litigation were necessarily ongoing, as Home Office tactics switched: *'it was about thinking about the long term, being strategic in the short term. It is not a one-off process. We were trying to look beyond the next judgement.'* As a result, *'strategic decisions were ongoing – we had to make judgement calls throughout; it was very hard to map out a clear pathway but we had to be strategic where we could'*. This meant that there *'was a broad direction of travel but there couldn't be an overall plan.'* Communications between Detention Action and the legal team were therefore critical, as was the ability to make decisions swiftly and to know when to involve the Management Committee: *'we needed to be fleet; being small helped.'*

The legal team was clear that *'working strategically is all about preparation so that you can anticipate. You need to demonstrate that there is enough evidence to get past judicial review.'* This meant substantial work took place to gather evidence to ensure that *'no point was left unproven'* and to try and second guess the outcomes. For example, the team *'held back on the second challenge to the rules, so that there was further evidence to present even after remedies had been suggested.'*

#### 4. Shifting political context

At the same time, the political mood was shifting somewhat from a highly critical focus upon the negative impacts of immigration and asylum (which are often conflated in public discourse<sup>8</sup>). Interviewees attributed this partly to the work undertaken by the Detention Forum (a network of organisations working together to challenge the UK's use of detention<sup>9</sup>). In July 2014, the All Party Parliamentary Groups on Refugees and on Migration 'announced a joint enquiry into the use of immigration detention in the UK.'<sup>10</sup> This looked at the evidence and raised the profile of some of the issues, while later, the *Review into the Welfare in Detention of Vulnerable Persons* by Stephen Shaw<sup>11</sup> demonstrated the need for wider detention reform. Meanwhile, the 2015 Channel 4 News investigation was shocking and enabled individual voices and testimony to be heard by a wider public: 'people in detention were no longer automatically considered to be liars - it had been said before, but now it was heard.' The team capitalised on these events effectively. This suggests that strategy needs to be responsive to chance as well as anticipatory - turning luck into strategy.

#### 5. Timing

We heard that timing is likely to have played an important role in the litigation's success. The fact that there had been previous unsuccessful cases meant that the legal team had a better idea of what strategies might be successful. While it is 'unlikely that the politics influenced the legal outcome', the shift in public and political background noise seem likely to have increased focus on the case: 'the fact that DFT was getting public scrutiny meant that the judiciary was put under pressure; judges are objective, but the political mood matters.' This also influenced awareness that following up and monitoring the outcome was very important: 'it's put being horrified back into the discourse - in an unfair system, horrendous stuff gets normalised'.

## 2.4 Risks and challenges

The main focus of this report is on the role played by an NGO and how that relates to its wider advocacy work. As such, there were several risks and challenges. Interviewees said that, at the outset, there had been two potential risks to Detention Action - financial and reputational.

#### 1. Financial

Detention Action was clear at the outset that there was a potential financial risk involved. The Management Committee discussed what loss the organisation could sustain, and largely mitigated financial vulnerability by fundraising for unrestricted funds (e.g. from the London Legal Walk). Critically, Detention Action obtained Protective Costs Orders (£15,000)<sup>12</sup>, giving the comfort that costs were capped. Without these measures, interviewees believed it would have been a very difficult decision to go ahead: 'really NGOs can only do cases like this with cost protection.'

#### 2. Reputational

The main risk to reputation was that the case might damage relationships with detention centres, which could prevent Detention Action staff delivering services there. There was also a potential threat to Detention Action's relationship with the Home Office which could have made it harder to hold constructive conversations about other matters. Detention Action was also acutely aware of having a responsibility to the wider sector, in that, if the case failed, there was a risk that no-one else would challenge the DFT legally.

For Detention Action, therefore, risk assessment was a 'constant process' throughout the case. For other organisations, any potential damage to Detention Action's reputation if the case failed was far outweighed by widespread agreement that the process was unlawful and that simply bringing the case was 'brave'.

8 Lewis (2005) Asylum: Understanding public attitudes (IPPR)

9 <https://detentionforum.org.uk/about/>

10 Harvey Alison (2016) Immigration Detention in the UK: Recent Developments (IANL)

11 <https://www.gov.uk/government/publications/review-into-the-welfare-in-detention-of-vulnerable-persons>

12 Protective Costs Orders or Costs Capping Orders limit the costs to which individuals or not for profit organisations will be liable when they undertake litigation

## Challenges and risks for other organisations

Interviewees highlighted some of the organisational challenges they had experienced in becoming involved in the strategic litigation. The main one was the sheer time and resources required to gather the evidence: *'it's very time-consuming for small organisations without dedicated campaigning or legal capacity.'* As one interviewee put it: *'it required organisational altruism because each organisation was drawing on its own resources to contribute to the collaboration when they are all competing for the same funders and pots of money ... You can't deny that strategic litigation comes at a cost. We're all small-scale organisations, we try to go to forums but can't get to all of them. If you're not a policy organisation your capacity to take this on is very limited.'* Linked to this, one interviewee described their key challenge as making a strategic decision about *'the level of transparency and data about services to share'*; the risk being that they were opening themselves up to scrutiny by the Home Office with the potential that it could be used against them.

Some legal firms had contracts with the Legal Aid Agency to represent asylum-seekers on the DFT. This sometimes made it difficult for firms to agree whether to also become involved in the litigation.

Four further challenges were described by interviewees:

### 1. Definitions of success

Interviewees felt that there was not a shared definition of success at the outset: *'of course everyone wanted to end DFT, but there wasn't necessarily a clear vision of what that looked like.'* Detention Action were clear that *'we understood at the outset that it was about chipping away at it, about creating a space for advocacy on this issue, there was a sense that if you could punch a hole somewhere you could weaken the whole edifice.'*

This analysis was not necessarily initially shared by the wider sector, some of whom questioned the viability of using strategic litigation: *'it seemed unbelievable that the sector could take on the government.'* To some extent, this was exacerbated by the different priorities of organisations within the sector, some of whom focus upon specific groups of people within detention such as women or children: *'You need to take care with the "vulnerable people" approach; stories are compelling but it can be unhelpful as it suggests some people are okay in detention, and may make it worse for others.'*

However, as the litigation progressed, the individuals and organisations coalesced around the possibility of the DFT ending: *'a different vision became possible when DFT was suspended for the first time.'*

### 2. Link to people with direct experience

As described above, Detention Action's experience of working directly with clients gives the organisation substantial credibility. It also meant that Detention Action could feed the developments in the case back to clients and encourage them to seek legal advice so that they could benefit from the changes. The links with clients meant that both Detention Action and their legal team were aware of what was happening in detention centres in real time, and were able to feed that information back into the case. Detention Action and partners also made sure that as many lawyers as possible were aware of each development and its implications.

Detention Action's strong partnership with the Freed Voices group of experts-by-experience of detention enabled people who had gone through the Detained Fast Track to play key roles in the media work around the judgements.

### 3. Media/communications work

Detention Action made an active decision not to seek too much media coverage, given the politicised nature of the issue: *'sometimes you need to be quiet to be taken seriously.'* This was not always *'easy'* as the desire to celebrate success publicly was strong. At the outset, they put out a press release that one interviewee described as *'overly enthusiastic'*, but afterwards became more measured in tone and approach.

#### 4. Future of the DFT

Interviewees were unanimous in their praise for the strategic approach and courage demonstrated in the strategic litigation. There were more mixed views about the long-term success and impact of the litigation, with some interviewees fearing that *'you could say that what the Home Office has done is rebuild the DFT. Within two weeks they had rebuilt it by making minor modifications.'* Most interviewees however viewed the outcome as a significant success, arguing that the current policy is markedly different and a substantial improvement to the DFT:

*'The successful strategic litigation was an incredible moment in [the sector's] history. [The sector] punched above its weight; it showed what's possible.'*



# Lessons from the strategic litigation

In Part Three of this report, we have identified key lessons for other organisations considering undertaking strategic litigation and for funders considering investing in this approach.

*'It was immensely successful – all the ducks were in a row, it was a very capable NGO and a crack team of lawyers, and a very collaborative approach.'*

## When to use strategic litigation?

We heard that issues suitable for strategic litigation are likely to be:

- **Entrenched:** where other approaches have not worked: *'policy and advocacy had not worked on this issue, it needed more.'*
- **Highly politicised:** where public campaigning may be challenging or needs a boost: *'it was partly about depoliticising the issue, it was so toxic.'*
- **Unlawful:** so there is a clear basis for arguments: *'if you conclude it is unlawful, you can win.'*
- **Well-evidenced:** *'you have to be able to nail the evidence, and you can't do that for every issue. You can't leave yourself vulnerable, judges don't want to overturn the system.'*
- **Well-timed:** *'it's important to think about timing, work out what is going on out there – think about why any previous challenges were not successful.'*

## Strategic litigation: risk versus reward

Using strategic litigation as a campaign tool is a huge undertaking for a small organisation. There are undoubted challenges inherent in this approach – it is hard work, time-consuming and potentially financially and reputationally risky. Yet, as this case demonstrates, it can be a highly effective campaign tool. As a result, organisations may require support in weighing up whether, when and how to use strategic litigation.

The nature of strategic litigation, which relies on quick and strategic decision-making in response to a shifting external context, means that having a confident board that can sit with uncertainty and weigh up risk is critical. The evidence from this case study suggests that along with strong governance, an excellent staff team and robust collaboration are all vital elements of success.

## Sophisticated advocacy strategy

Having a well thought through advocacy strategy that considers the external political and policy environment *'matters in terms of determining what tools to use, it should fall out of your campaigning and advocacy strategy.'* We found that one of the reasons litigation in this case was successful was that it formed part of a *'sophisticated'* advocacy strategy, which carefully considered what approaches to use: *'litigation needs to be one tool in an overall campaigning approach; you need to start with the issue and then work out the correct response and not go for litigation for its own sake.'*

The insider/outsider approach to advocacy that Detention Action and its allies used worked effectively alongside the litigation in developing complex relationships with government.

Part of this is about seeing advocacy as a long-term strategy that is more far-reaching than a single campaign. This requires thoughtful, capable organisations with the capacity to take on the complex process of strategic litigation.

### **Roles**

We heard that having a capable and mature NGO to front the coalition was critical. This role, of simultaneously being prepared to *'put your head above the parapet'* and of undertaking the largely invisible legwork of building the collaboration, was vital in developing momentum and galvanising the sector behind the case. In turn, this ensured that a highly diverse group of organisations worked together, bringing a wealth of expertise about issues affecting clients; different approaches to advocacy; and legal expertise. Looking ahead, we heard that the sector might benefit from an even more strategic approach to coalition building: *'a clear, holistic and formal collaboration with a focus on what each organisation brings.'*

# Interviewees

**Tamsin Alger**

Detention Action

**TJ Birdi**

Helen Bamber Foundation

**Juliet Cohen**

Freedom From Torture

**Tim Davies**

Previously Yarl's Wood Befrienders

**Rahwa Fessahaye Caplan**

Detention Action

**Sonal Ghelani**

Migrants' Law Project  
at Islington Law Centre

**Peter Grady**

UNHCR

**Alison Harvey**

Immigration Law Practitioners' Association

**Toufique Hossain**

Duncan Lewis Solicitors

**Sally Ireland**

Helen Bamber Foundation

**Professor Cornelius Katona**

Helen Bamber Foundation

**Nathalie Lieven**

Landmark Chambers (via email)

**Jenna McKinney**

Duncan Lewis Solicitors

**Marcela Navarette**

Wilson Solicitors LLP

**Aisling Ni Chuinn**

Wilson Solicitors LLP

**Jed Pennington**

Bhatt Murphy Solicitors  
Previously on Detention Action's  
Management Committee

**Jerome Phelps**

Detention Action

**Sile Reynolds**

Freedom From Torture

**David Rhys Jones**

Helen Bamber Foundation

**Theresa Schleicher**

Medical Justice

**Caroline White**

Chair Detention Action

Detention Action acknowledges the financial support of the Joseph Rowntree Charitable Trust.