

WOMEN FOR REFUGEE WOMEN

“From one hell to another”

The detention of Chinese women who
have been trafficked to the UK

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Summary

Since summer 2018, Women for Refugee Women has been receiving an increasing number of phone calls from women originally from China who are detained in Yarl's Wood, many of whom are survivors of trafficking. In spite of the exploitation they have suffered, the Home Office has locked them up for months on end, and has only released them following sustained efforts by Duncan Lewis, the solicitors to which we have referred them.

By reviewing the legal files of 14 of these women, it is clear that the Home Office is deliberately refusing to protect them, and is knowingly inflicting further harm and trauma on them.

The case against detention has been made time and again. The Home Office has made promises of reform by introducing an "Adults at Risk" policy, which states that people who are vulnerable, including survivors of gender-based violence and trafficking, should not be detained. It has also repeatedly promised to help and support survivors of trafficking.¹ But we show here that despite this, vulnerable women are still routinely being locked up and harmed by detention. The UK government needs to end its use of detention, and resolve people's immigration cases in the community.

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About Women for Refugee Women

Women for Refugee Women supports women who are seeking asylum in the UK and challenges the injustices they face. Our vision is a society in which women's human rights are respected and in which they are safe from persecution. Our mission is to ensure that women seeking asylum in the UK are treated with justice and dignity.

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Introduction

Women for Refugee Women (WRW) has been campaigning to end the detention of asylum-seeking women for over five years. In this time we have seen some steps forward, including a time limit on the detention of pregnant women and an end to the practice of male guards observing women who have been put on suicide watch.

However, the Home Office continues to harm some of the most vulnerable women in the UK by locking them up in detention. Over the last year, we have repeatedly seen the terrible impact of detention on women who have survived trafficking. Since July 2018, we have spoken to 40 Chinese women detained in Yarl's Wood, many of whom have been trafficked. Many of these women had been brought to the UK because of personal or family debt, and then forced into sexual exploitation or forced labour to pay off this debt. Despite the exploitation they have suffered, the Home Office has locked them up in detention, often for months on end, and has only released them following sustained efforts by solicitors.

In this briefing, we look at the cases of 14 women from China who are survivors of trafficking, who contacted WRW while they were in Yarl's Wood and whom we referred to Duncan Lewis solicitors for legal representation. These cases show that the Home Office's commitment to safeguard and protect vulnerable people is not being implemented. It is also evident from these cases that the Home Office's treatment of these women is not the result of individual caseworker incompetence or patchy implementation of new policies. Rather, these cases demonstrate that the Home Office is deliberately refusing to protect women who have experienced serious human rights abuses, and is knowingly inflicting further harm and trauma on them.

It is important to remember that in 2015, after campaigning by WRW and other organisations, the Home Office commissioned a review of vulnerable people in detention. This review,

conducted by Stephen Shaw, concluded that the government should reduce its use of detention, and implement reform "boldly, and without delay".² As part of its response, in September 2016 the Home Office introduced a new Adults at Risk policy, which it said would reduce the number of vulnerable people in detention. Under the Adults at Risk policy, vulnerable people, including survivors of gender-based violence and trafficking, should not normally be detained.

Research on the policy since it has been introduced, however, has found that the Home Office is not sticking to its promise to protect vulnerable people. In November 2017 we published *We are still here*, which showed that survivors of gender-based violence were still routinely being locked up in detention: 85% of the women we interviewed, who had been detained in Yarl's Wood since the Adults at Risk policy was brought in, had experienced rape, domestic violence, forced marriage, forced prostitution or female genital mutilation.³ In the same month, HM Inspectorate of Prisons published an inspection report on Yarl's Wood, which corroborated our findings. It found that "women were being detained despite professional evidence of torture, rape and trafficking, and in greater numbers than we have seen at previous inspections."⁴

Since then, further reports have documented how vulnerable people are still being locked up in detention. A follow-up review by Stephen Shaw, commissioned by the Home Office and published one year ago in July 2018, found that "it is not clear that Adults at Risk has yet made a significant difference to [the numbers of vulnerable people in detention]".⁵ In March 2019, an inquiry into immigration detention by the Home Affairs Select Committee concluded that the Adults at Risk policy "is clearly not protecting the vulnerable people that it was introduced to protect".⁶ **It is time for real change, and an end to the harmful practice of immigration detention.**

Background to our research

Women from China in detention

According to Home Office statistics, women from China make up the largest group of women in immigration detention: across 2018, 420 Chinese women were detained.⁷

Of the 414 women from China who left immigration detention during 2018, 275 had claimed asylum at some point. Most of the Chinese women who had claimed asylum did not leave detention to be removed from the UK. Rather, **252 or 92%, were released back into the community to continue with their asylum cases.**⁸

The cases in this research

For this report, we looked at the legal files of 14 women from China who are survivors of trafficking, who contacted WRW while they were in Yarl's Wood and whom we referred to Duncan Lewis solicitors for legal representation. Before we looked at their files, solicitors at Duncan Lewis contacted the women concerned to ask if they would consent to us doing this. They explained the purpose of the research, and that individual women would not be identifiable in the briefing.

In most of the cases we looked at, the woman concerned had been brought to the UK because she, or a family member, was in debt – and she was then forced into sexual exploitation, or forced labour, when she arrived here, in order to pay off this debt. **In nine cases women had been forced into prostitution in brothels or massage parlours, and in five cases women had been forced to work in restaurants, or in other forms of forced labour, including domestic servitude.**

Most of the women had managed to escape the exploitative situation by the time they were encountered by immigration enforcement, and taken to Yarl's Wood, although some women

were detained directly from the place where they were being exploited. At the time of conducting the research for this briefing, 13 of the women had been released from Yarl's Wood, to continue with their cases in the community. One woman, however, is still in detention. The overall lengths of detention for the women ranged from six weeks to nine months. As the table below shows, **the vast majority, 11 out of 14 women, were in detention for three months or more** (for the woman who is still in Yarl's Wood, we have used the length of time she had been detained at the time of this research):

Length of detention	Number of women
Less than a month	0
1 month to <2 months	1
2 months to <3 months	2
3 months to <4 months	1
4 months to <5 months	4
5 months to <6 months	2
6 months to <7 months	0
7 months to <8 months	3
8 months to <9 months	0
9 months to <10 months	1
Total number of women	14

All of the women have now been referred into the National Referral Mechanism (NRM – see opposite). **Eight of the 14 women have now received positive "reasonable grounds" decisions, which means that the Home Office accepts there are grounds for believing they have been trafficked.**

While we have only been able to work with a relatively small number of cases to produce this report, our research builds on publications by others which have shown how survivors of trafficking are routinely being detained, and refused protection in other ways by the Home Office.⁹

My husband in China got in a lot of debt. He wasn't a good man. He would beat me. He would cut me with knives and threaten to kill me. I was afraid of him and I was afraid of the leaders of the gang he owed money to. One day they captured me and said I would have to go and work overseas to pay back his debt. The journey to the UK was awful. They did terrible things to me.

When I arrived here a man came and picked me up. He took me to a house with other women. I thought I would be cleaning but they said I had to work as a prostitute. They made me have sex with more than ten men every day. My body and my mind got so sick, I just wanted to end it all.

What is the Adults at Risk policy?

The Adults at Risk policy was introduced in September 2016. According to the Home Office, the purpose of the policy is to safeguard and protect vulnerable people, and reduce the number of vulnerable people in detention.

Under the policy, the following groups of people should not normally be detained:

- People with mental health conditions or impairments
- Survivors of torture
- Survivors of sexual or other gender-based violence
- Survivors of trafficking or modern slavery
- People with post-traumatic stress disorder (PTSD)
- Women who are pregnant
- People with a serious physical disability
- People with other serious physical health conditions or illnesses
- People aged 70 or over
- People who are transgender or intersex

What is the National Referral Mechanism?

The National Referral Mechanism is the UK framework for identifying survivors of trafficking and ensuring they receive support.

Following referral into the NRM, there are two key stages to the process:

1) *Reasonable grounds decision*: The Home Office has five working days to make the reasonable grounds decision. If the test "I suspect but I cannot prove" that the person concerned is a victim of trafficking is met, then a positive reasonable grounds decision should be granted. Following this, the potential victim of trafficking should be allocated a place in a government-funded safe house, and granted a "reflection and recovery" period of at least 45 days.

2) *Conclusive grounds decision*: During the reflection and recovery period, the Home Office gathers further information. If, following this, the Home Office is satisfied that, on the balance of probabilities, "it is more likely than not" that the person concerned has experienced trafficking, a positive conclusive grounds decision should be granted. This means that the Home Office conclusively accepts that the person is a victim of trafficking.

Findings from our research

The Home Office is detaining women who are encountered in exploitative situations

Under the Adults at Risk policy, a new “detention gatekeeper” was introduced: according to the Home Office, the gatekeeper “assesses vulnerability and provides challenge to decisions about who enters immigration detention”.¹⁰ And yet, as we highlighted in our 2017 report *We are still here*, the gatekeeper only looks at information that the Home Office already holds on record to assess if a person is vulnerable. There is no proactive screening process to identify vulnerabilities that the Home Office may not be aware of before the decision to detain is made. As a result of this, the Home Office is routinely locking up people who, according to the Adults at Risk policy, shouldn’t be in detention.

In this research, however, we identified a different problem. As highlighted earlier, in the majority of cases we looked at, the women concerned had managed to escape from the exploitative situation they were in by the time they were encountered by immigration enforcement and taken to Yarl’s Wood. However, in four of the cases, women had been encountered by police during raids on brothels or massage parlours – so, in

circumstances where there were clear, objective indicators that they might be being sexually exploited and might be victims of trafficking. In spite of this, these women were not treated by the police as possible victims, and provided with help and support. Rather, they were referred to immigration enforcement and detained.

In two of the cases, moreover, the women had, on a previous occasion, been encountered by the police in a brothel and detained. Even though this information was on file – and thus the Home Office was aware that they had previously been found in a situation of potential sexual exploitation – these women were nonetheless detained.

By detaining women from potentially exploitative situations, where there are clear indicators that they might be victims of trafficking, the Home Office is deliberately going against the Adults at Risk policy. It is significant, moreover, that after eventually being referred into the NRM, three of the women who were detained from brothels subsequently received positive reasonable grounds decisions, which means the Home Office accepts there are grounds for believing they are survivors of trafficking. The other woman is challenging the negative reasonable grounds decision she received.

The gang leaders forced me to do things that I didn’t want to do, things that make me feel ashamed. They made me have sex with men who would come to the house where I was imprisoned. If I tried to refuse they would beat me and starve me. I would often go for three days with no food or water. This went on for nearly a year. I was being hurt and abused every day.

Then one day men in uniforms came to the house. I was terrified because the authorities had hurt me back in China and so I tried to hide but they found me. They dragged me out and took me to the police station. Later, I was put in another van. It drove for a long time through the night and ended up at Yarl’s Wood. I was taken from one hell to another.”

When women disclose trafficking, the Home Office doesn't follow appropriate procedures

In *We are still here*, we found that, once they were in detention, women sometimes disclosed experiences of gender-based violence, which should have meant they were released – and yet, the Home Office appeared to take no account of this information, keeping them in Yarl's Wood for months after they had made the disclosure.

We found something similar in this research. Many women find it very difficult to disclose that they have been trafficked because of the severe trauma they have experienced, sometimes because of feelings of shame, as well as fears of potential repercussions from the people who have trafficked them. As a significant body of evidence shows, being locked up in detention is also very traumatic, and so detention, in itself, acts as a further barrier to disclosure – as, indeed, do some of the practices in detention, which we say more about later on. In some of the cases we looked at, however, women had been able to disclose what happened to them; and yet, in **two cases where women had done this, the Home Office didn't then follow the processes that they were supposed to.**

In one of these cases, a woman disclosed some of her experience of exploitation to WRW, at which point we referred her to Duncan Lewis. The solicitor then worked to build a relationship of trust with the woman, and she gradually disclosed more of what had happened to her – and, at this point, the solicitor requested her referral into the NRM. It was two weeks, however, before the Home Office actually made this referral. Following this, according to its own guidance, the Home Office should then have made a decision on whether there were grounds for believing she was a survivor of trafficking – the reasonable grounds decision – within five working days. And yet, despite repeated emails from Duncan Lewis, at the time of researching this briefing, the Home Office

still hadn't made this decision, almost two weeks after her referral into the NRM.

In the other case, a woman disclosed what had happened to her during an appointment for her Rule 35 report. As Home Office guidance sets out, the purpose of Rule 35 reports is to “ensure that particularly vulnerable detainees are brought to the attention of those with direct responsibility for authorising, maintaining and reviewing detention”;¹¹ the reports themselves are produced by doctors in detention centres, and sent to the Home Office caseworker responsible for managing the person's detention. In this case, the Rule 35 report documented what the women had told the doctor about her experiences of exploitation; and yet, upon receiving the report, the Home Office didn't make a referral into the NRM. It wasn't until WRW referred her to Duncan Lewis, in fact, and her new solicitor requested an NRM referral, that this took place. The woman subsequently received a positive reasonable grounds decision, and was released from Yarl's Wood – but, by this point, she had been in detention for more than five months.



The Home Office is flouting its own guidance in order to refuse trafficking cases

As already highlighted, once a referral into the NRM had been made, Home Office guidance sets out that a decision on whether there are grounds for believing someone is a survivor of trafficking should be made within five working days. The threshold for receiving a positive reasonable grounds decision is, in fact, quite low: the test that has to be satisfied is “I suspect but I cannot prove” that the person is a victim of trafficking. Home Office guidance also sets out that when assessing the credibility of the person concerned, it is important to bear in mind that the trauma they have been subjected to may mean that the account they give is sometimes inconsistent or lacking in detail. Home Office guidance also clearly states that, as a result of the trauma they have experienced, they may be unable to disclose what has happened to them immediately, and that a delay in disclosure should not be viewed “as necessarily manipulative or untrue”.¹²

“I have not told anyone what they did to me before. I feel so ashamed and so scared that they [the men who trafficked me] will find out and capture me again. It is difficult for me to talk. I am not safe.”

In eight of the cases we looked at, the Home Office had initially made a negative reasonable grounds decision following referral into the NRM; and, in six of these, it was clear from the paperwork we saw that the Home Office had refused these cases in direct contravention of their own guidance. So, in these cases, the Home Office said they didn’t believe the women’s accounts on the basis of “internal inconsistencies”, and/or because of late disclosure, without any acknowledgement that the trauma they had been through may have affected their ability to describe what had

happened to them, and disclose it to someone else.

In some of these cases, the Home Office made ludicrous assertions to justify the negative reasonable grounds decision. In the refusal for one woman, for instance, the Home Office stated that because she hadn’t told the immigration officers who had arrested her during a raid – on the place where she was working at the time – that when she had first arrived in the UK she had been forced into prostitution for many months, her account couldn’t be believed. In another refusal, for one of the women who had been encountered by the police during a raid on a brothel – and, thus, while she was still in the situation of exploitation – the Home Office stated that it was reasonable to expect that she should have told the police officer who arrested her that she was being exploited.

Additionally, in three of the cases we looked at, women had had Rule 35 reports done by doctors in detention prior to the Home Office making a decision on their trafficking case. In all of these cases, the Rule 35 reports documented the exploitation the women had experienced in the UK, and the Home Office had responded by recognising the women as Adults at Risk – which means they accepted the account of their experiences contained in the report. And yet, in spite of this, the Home Office subsequently went on to make a negative reasonable grounds decision, in complete contradiction of their earlier response to the Rule 35 report.

In three of the cases where women initially received a negative reasonable grounds decision, the Home Office has now given a positive decision, following intervention by Duncan Lewis. In another case, the Home Office has agreed to reconsider their original negative decision. This suggests a pattern where the Home Office routinely refuses cases even though there are grounds for believing the person had been trafficked, and only offers protection when, because of legal intervention, they feel they have no other option but to do this.

The Home Office is not supporting women whom they have recognised as survivors of trafficking

Home Office guidance sets out that, following a positive reasonable grounds decision, the person concerned should normally be released from detention. As recent research by Detention Action and the Jesuit Refugee Service has found, however, where survivors of trafficking have criminal convictions, they are often kept in detention – even though their convictions are usually a direct result of the exploitation they have been subjected to in the UK.

We didn't come across any cases like this in the sample we looked at. However, we did come across **two cases where women who had received positive reasonable grounds decision were treated with complete disregard by the Home Office following this decision.** In one case, a woman who had been in detention for seven months by the time she had received a positive reasonable grounds decision was not released for more than two weeks after this, because apparently no bedspace could be found for her in a safe house. In another case, the Home Office didn't make a request for a safe house bedspace at all, and instead released a woman who had been forced into prostitution back to the address where she was being sexually exploited before she was detained.



The Home Office is allowing detention centres to continue with practices that prevent disclosure of trafficking

As we highlighted earlier, many women find it very difficult to disclose that they have been trafficked, because of the severe trauma they have experienced, and sometimes because of feelings of shame, as well as fear of potential repercussions from the people who have trafficked them. Being detained also acts as a barrier to disclosure because women are further traumatised by being locked up. Alongside this, there are practices in detention centres that make disclosure even more difficult – **and yet, even though they have been aware of these practices for some time, the Home Office has done nothing to address them.**

Upon arrival in detention, everyone is supposed to have an initial health screening. During this screening, people who have been detained are supposed to be asked if they have ever experienced torture or abuse. It wasn't clear from the paperwork we saw whether the women in our sample had been asked this question. It was clear, however, that **six of the women had arrived at Yarl's Wood, and had their initial screening between 10pm and 6am which HM Inspectorate of Prisons (HMIP) has repeatedly recommended against in its inspection reports** – in part because arriving late at night or early in the morning means that people are exhausted, and are unlikely to feel able to disclose previous experiences of violence or exploitation.

HMIP has also repeatedly recommended against male health professionals conducting the initial screening in Yarl's Wood because this is also likely to act as a barrier to disclosure. **In two cases, however, women's initial screening had been carried out by a male nurse.** In another case, no interpreter had been used during the screening, even though the health professional conducting the screening also recorded that the woman concerned didn't speak English very well.

Following the initial health screening, people who are detained are supposed to have the option of seeing a doctor in detention, for a more detailed assessment, known as Rule 34. In eight of the cases we looked at, however, it was clear that although a Rule 34 appointment had been booked, the woman concerned didn't attend. **The routine non-attendance we identified in our sample indicates serious problems affecting the operation of the Rule 34 process in Yarl's Wood.** Moreover, in one of the cases where a woman did attend, a male doctor conducted the assessment and no interpreter was used.

Rule 35 is the central mechanism for identifying vulnerability in detention. All but one of the women in our sample had had Rule 35 reports done. **In eight of the cases we looked at, however, women's Rule 35 assessments had been carried out by male doctors** – once again, against the recommendations of HMIP. Moreover, in eight cases, women had been in detention for over a month before they had a Rule 35 report done. In one case, a woman had been in detention for three months before she had her Rule 35 assessment.

Every man I have ever known has hurt me. How am I meant to talk about this painful thing with a man? My appointment with the doctor was less than ten minutes and then he said 'You can go now.' No, I couldn't say anything.

While private companies, such as Serco and G4S, run detention centres and have the contracts for healthcare in detention, the Home Office has overall responsibility and accountability for what is happening in Yarl's Wood and other centres. The Home Office is well aware of the practices documented above, as result of HMIP's inspection reports, as well as reports published by NGOs – and yet, they have done nothing to ensure that detention centre contractors are rectifying these practices.

The Home Office is detaining women with serious mental health problems

The Home Office's refusal to protect vulnerable people is also evidenced by the serious mental health problems many of the women in the sample were experiencing while in detention, as evidenced by medico-legal reports or their healthcare records. The mental health problems experienced by the women are shown below:

Mental health concern	Number of women
PTSD	5
Depression	8
Self-harm	6
Suicidal thoughts	7
Psychotic symptoms	1

The high level of mental ill health experienced by women in detention is clear. WRW has previously documented that women who are already vulnerable as a result of sexual and gender-based violence become more vulnerable when detained. In *We are still here*, nearly 90% of the women we interviewed said their mental health deteriorated while in detention. Indeed, in a literature review conducted for Stephen Shaw's first report, Professor Mary Bosworth highlighted that there is a consistent finding across research studies that immigration detention has a negative impact on mental health, and that it "injures the mental health of a range of vulnerable populations".

Since being in Yarl's Wood I feel like there is a dark cloud coming over me. There are a lot of Chinese women in here, on the edge of despair.



Conclusion and recommendations

In this report we have shown that the Home Office is refusing to protect survivors of trafficking, and is deliberately inflicting further harm and distress on them. Our research adds to the wealth of evidence demonstrating that immigration detention is an institutionally racist system which needs to be brought to an end.

The UK government needs to act now to ensure that survivors of trafficking and gender-based violence are never detained, by immediately implementing the stated presumption against their detention. Ultimately, the Home Office needs to end its use of immigration detention completely. People's cases can be resolved much more humanely, and effectively, in the community.

The Home Office should also implement its commitment to ensuring that survivors of trafficking can access appropriate independent legal, practical and emotional support, in safe accommodation outside detention.

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The Home Office is routinely locking up women from China who have been trafficked to the UK in immigration detention for long periods of time. This report looks at the cases of 14 women who were trafficked into prostitution or forced labour and then detained at Yarl's Wood. Their cases show how the Home Office is deliberately refusing to protect women who have experienced serious human rights abuses and is knowingly inflicting further harm on them by locking them up in detention. It is time for real change, and to end the practice of immigration detention.

The gang leaders forced me to have sex with men who would come to the house where I was imprisoned. If I tried to refuse they would beat me and starve me. Then one day men in uniforms came to the house. I was terrified. They took me to Yarl's Wood. I was taken from one hell to another.

Anonymous, Chinese woman detained at Yarl's Wood

My main concern is that safeguarding is not a priority for the Home Office. There is clear incompetence and sheer disregard for the safety of these women who have already been subjected to such horrendous sexual abuse and exploitation. These women are by no means fit for detention, but despite this they are detained for months at a time with no adequate support. It is only when legal representatives step in that they are eventually being released from detention. I hate to think what is happening to those women who are not able to access legal advice.

Shalini Patel, Solicitor, Duncan Lewis

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