



Briefing Paper - Immigration Detention in the United Kingdom September 2017

Detention in the UK – key facts¹

- Between July 2016 and June 2017, 27,819 people were detained by the Home Office for immigration purposes.
 - 85% of people detained during that time were male.
- At the end of June 2017, nearly 3,000 people were being held in an Immigration Removal Centre.
 - More than half of those people had been locked up for longer than 28 days
 - 271 people had been in an immigration detention centre for more than six months
 - One man had been in detention for 1,514 days – well over four years
- The UK is the only country in Europe that does not have a maximum time limit on how long someone can be detained.

What is Immigration Detention?

People can be detained by the administrative authority of the Home Office. The power to detain was created by the Immigration Act 1971. **There is no time limit on how long individuals can be detained under these powers.** The decision to detain is an administrative process – it is not a judicial procedure.

Detention is normally used for one or more of the following reasons: to establish a person's identity or basis of an immigration claim; to effect removal; and where there is reason to believe that the person will fail to comply with any conditions attached to a decision to allow someone to live outside of a detention centre. People can also be detained while awaiting a decision from the Home Office on whether or not to grant them leave to enter the UK. There are currently nine Immigration Removal Centres in the UK – seven are run by private companies under contract to the Home Office, with the remaining two are operated by the Prison Service.

According to Home Office policy, there should be a presumption in favour of temporary admission or release rather than detention. Detention should also be used sparingly, and for the shortest period necessary. Alternatives to detention – where the cases of individuals can be resolved without resorting to detention – should be used wherever possible.

¹ Statistics taken from Immigration Statistics, April to June 2017, [tables dt 01 to dt 14 q](#)

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In too many cases, Home Office practice does not reflect Home Office policy. People are detained for months, if not years, on end, and decisions to detain are frequently not taken as a last resort.

Calls for reform

In March 2015, a cross-party panel of MPs and Peers published a report, which concluded that the enforcement-focused culture of the Home Office resulted in the official policies not being followed, resulting in too many instances of unnecessary detention.² The report followed a nine-month parliamentary inquiry by the APPGs on Refugees and Migration. The panel's recommendations included:

- there should be a maximum time limit of 28 days on the length of time anyone can be detained;
- there should be a presumption in favour of community-based resolutions and against detention;
- decisions to detain should be very rare and detention should be for the shortest possible time;
- the Government should introduce a much wider range of alternatives to detention.

Shortly before the APPG report had been published, Theresa May, then Home Secretary, had asked Stephen Shaw, a former Prisons and Probation Ombudsman, to conduct a review of the welfare of vulnerable people in detention. Stephen Shaw's review was published in January 2016, and contained 64 recommendations for reform.³ In the conclusion to his review, Shaw said:

“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 practices and processes associated with detention are in urgent need of reform.”

In its response, the Government said that it accepted the “broad thrust” of Stephen Shaw's recommendations. In the response, which was contained within a written statement, the then Immigration Minister, James Brokenshire, outlined a number of reforms that would be introduced.⁴ The Minister added that the reforms would be expected to:

“lead to a reduction in the number of those detained, and the duration of detention before removal, in turn improving the welfare of those detained.”

2 All Party Parliamentary Group on Refugees and All Party Parliamentary Group on Migration (March 2015), Inquiry into the Use of Immigration Detention in the United Kingdom <http://bit.ly/2xPuCtj>

3 Stephen Shaw OBE (January 2016), Review into the welfare in detention of vulnerable persons, <https://www.gov.uk/government/publications/review-into-the-welfare-in-detention-of-vulnerable-persons>

4 Written Ministerial Statement, Immigration Detention: Response to Stephen Shaw's report into the Welfare in Detention of Vulnerable Persons, 14 January 2016, HCWS470 <http://bit.ly/1WdXjqn>

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The Home Affairs Select Committee welcomed “the broad thrust” of the Government’s approach, but added that “If we do not see significant progress then we will revisit the issue of a maximum time limit on detention.”⁵

The Immigration Act 2016

The Shaw Review was published half-way through the Immigration Act 2016’s progress through parliament. Immigration detention, and calls for reform, was debated at each stage of the Act, in both the House of Commons and the House of Lords. In the House of Lords, the Government were defeated on a number of occasions, most significantly on the introduction of a 28 day time limit and a ban on the detention of pregnant women.

Following ping-pong, the Government introduced amendments that introduced a maximum time limit of seven days on the length of time a pregnant woman can be detained, as well as provisions to ensure that anyone who had been detained longer than four months had their case reviewed by a court.⁶ The Immigration Act 2016 gained Royal Assent on 12 May 2016. As of September 2017, the automatic judicial oversight provisions have not yet been enacted.

New Government policies and their impact

As well as the legislative changes brought in by the Immigration Act 2016, a number of other Home Office policies have been introduced following the publication of the APPG inquiry and the Shaw review. These include:

- a new Adults at Risk policy, intended to reduce the number of vulnerable people detained⁷;
- the introduction of a “gatekeeping” team within the Home Office, to ensure decisions to detain an individual are made according to policy and that detention is necessary.

As James Brokenshire said in 2016, these changes were supposed to lead to a reduction in the number of people detained and the length of time people were detained for.

Tinkering isn’t enough – systemic reform is needed

Sadly, the latest statistics published by the Home Office show that changes the Government have made to detention policy have not had the required impact. Nearly 28,000 migrants are still entering detention every year and the number of people in detention in any given time has remained unchanged. As Stephen Shaw begins his follow-up review on immigration detention this month,⁸ the evidence is clear: the Government’s policies have failed to change the mentality of the Home Office which remains one of detain first, think later.

5 House of Commons Home Affairs Committee, [The Work of the Immigration Directorates \(Q3 2015\)](#), Sixth Report of Session 2015-16, HC772.

6 The time limit on the detention of pregnant women is contained within [section 60](#) of the Act; the automatic judicial oversight is contained within [paragraph 11](#) to Schedule 10 of the Act

7 UK Visas and Immigration, [Adults at risk in immigration detention](#), 26 May 2016

8 House of Commons, 4 July 2017, [Written Question 2693](#)

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Indefinite detention has a severe, damaging impact on those who are subjected to it. Abdi, who has been detained on several occasions for as long as five years, describes the harm:

“The uncertainty of indefinite detention changes you. I don’t think the way I used to think. I don’t talk to people the way I used to talk to people. I can’t get into relationships. I’ve forgotten how to speak to people outside of detention. In detention you lose touch with the world itself. The world it keeps moving and changing but in detention you are left behind.”⁹

It is time to implement radical and fundamental change, to create a fair and humane migration governance system. The implementation of the key recommendations made the cross-party inquiry would force the Home Office to rethink how they use immigration detention and will lead to a significant reduction in the scale and the length of detention.

The Government should, as a matter of urgency, commit to:

- the introduction of a 28 day time limit
- the implementation of automatic bail hearings
- much wider use of community based alternatives to detention
- ending the detention of vulnerable people

About the Detention Forum: We are a network of over 30 organisations who are working together to challenge the UK’s use of immigration detention, hosted by the Refugee Council. We are able to provide further briefing on the need for a time limit on detention, benefits of community-based alternatives to detention and how they can be developed and vulnerability in detention.

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⁹ To read more about how indefinite detention impacted Abdi, see <http://bit.ly/2wLC6Rd>