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Bail for Immigration Detainee's submission to the APPG on Refugees and APPG on Migration's parliamentary inquiry into the use of immigration detention in the UK

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Bail for Immigration Detainees is a charity that provides legal advice and representation to asylum seekers and migrants held in immigration detention to secure their release.
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Introduction

1. This submission sets out BID's concerns about the failure of the immigration bail process to provide adequate safeguards to immigration detainees against arbitrary and long term detention.

Immigration bail as a safeguard against arbitrary and long-term detention

Immigration detention and bail: facts and figures

2. Home Office statistics show that at the end of June 2014, 3,079[1] people were held in immigration detention in immigration removal centres, in short-term holding facilities (STHF), and in pre-departure accommodation (PDA).[2]

3. Data on the number of applications for release on immigration bail submitted to the First-tier Tribunal (IAC) and the success rate of these applications is shown below.

[1] Source: Home Office, (updated 29 August 2014), *Immigration Statistics April to June 2014*. Available at https://www.gov.uk/government/publications/immigration-statistics-april-to-june-2014/immigration-statistics-april-to-june-2014#detention-1

[2] None of the published Home Office statistics on immigration detention the UK include those detainees held in the prison estate post-sentence. In recent times these detainees constitute a significant additional population, for example at 31 December 2013, 1214 immigration detainees were in prisons in England and Wales (Source: Hansard 9 April 2014, c249W)

immigration bail at the First-tier Tribunal (IAC) January – December 2013[3]			
		% of total number of applications received	% of applications fully heard (i.e. not withdrawn)
Bail applications received	12, 373		
Bail applications heard	12, 248		
Grants of bail	2, 717	22.18	34.68
Refusals of bail	4, 973	40.60	63.47
Withdrawals	4, 538	37.05	

What is immigration bail?

4. The primary statutory powers to grant bail are contained in the Immigration Act 1971 Schedules 2 and 3. These bail powers apply not only to those detained for examination, administrative removal or deportation under the Immigration Act 1971, but also to those detained for deportation under the UK Borders Act 2007.[4] At present, any person who has been in the United Kingdom for at least seven days and who is detained solely under the Immigration Acts may be released on bail.[5]

5. Bail may be granted by an immigration officer or by a civil servant acting on behalf of the Secretary of State for the Home Department or by immigration judges of the First Tier-Tribunal, Immigration and Asylum Chamber. An application to a Chief Immigration Officer for release on bail is to seek release from the detaining power, while an application to the First-tier Tribunal (Immigration & Asylum Chamber) is considered by a decision maker who is independent of the Home Office. Both the Secretary of State and the detained applicant are parties to First-tier Tribunal bail hearings. This briefing considers only FTT bail.

6. The primary issue to be considered on immigration bail is whether the applicant, if released subject to any conditions that might be imposed, would answer bail.[6]

7. Immigration bail can be viewed as a mechanism for enabling release from administrative detention with conditions attached which are designed to ensure contact with the authorities is maintained for the purpose of immigration enforcement. These conditions include release to a specified address, regular reporting to the Home Office, and electronic monitoring ('tagging').

8. Detainees may be in a position to offer one or more sureties, who are individuals known to the applicant who make an undertaking to the First-tier Tribunal (IAC) to forfeit all or part of a sum of money in the event of the bailee absconding. Somewhat perversely, unlike sureties in the criminal justice system, immigration bail sureties are sometimes expected by First-tier judges to exercise control over the commission of further offences by the bail applicant if released.

[3] Source: HM Courts &Tribunals Service, '*Bail management information period April 2012 to March 2013'* & '*Bail management information period April 2013 to December 2013*', produced for HMCTS Presidents' stakeholder meeting.
[4] UK Borders Act 2007 s36(4)
[5] IA 1971 Sch 2 para 22(1A) and (1B). The requirement that the person should have been in the UK for at least seven days applies only to new arrivals seeking leave to enter.
[6] Ibid §21

9. If the applicant is a former offender and still within his licence period, then NOMS licence conditions will also apply to release into the community, whether on immigration bail or otherwise, and the bailed detainee will be supervised in the community by their probation officer. Guidance to First-tier judges[7] requires them to ensure that immigration bail conditions and licence conditions do not contradict each other.

Bail and the lawfulness of detention

10. Bail decisions are not an assessment of the legality of detention; First-tier judges are not empowered to consider the lawfulness of detention. Indeed, the guidance for immigration judges of the independent tribunal that considers bail applications (the First-Tier Tribunal, Immigration and Asylum Chambers) tells immigration judges that they should assume that bail applicants are lawfully detained:

> *"A First-tier Tribunal Judge's power is simply to grant bail, which is itself a restriction of liberty. The judge has no power to declare the detention unlawful and give any relief if it is considered to be; such matters need to be decided in the Administrative Court or in a claim for damages. Given the wide ranging powers of the immigration authorities in relation to the detention of non-nationals, First-tier Tribunal Judges should normally assume that a person applying for immigration bail has been detained in accordance with the immigration laws.* ***However, it will be a good reason to grant bail if for one reason or another continued detention might well be successfully challenged elsewhere"*** *(Tribunals judiciary, 2012: paragraph 5)[8](emphasis added)*

The Immigration Act 2014 removed the independence of First-tier Tribunal in bail matters

11. The Immigration Act 2014 introduced restrictions on release on immigration bail, which BID opposed. Section 7 (3) and (6) of the Act provide that the First-tier Tribunal must dismiss an application for bail without a hearing if bail has been refused within the last 28 days and the applicant cannot demonstrate a "material change in circumstances". This provision creates a two-stage bail application process where previously there was only one stage, at an additional cost to the public purse. Further passage of time in detention should always be considered a "material change in circumstances" for the purpose of a bail application.

12. The provisions mean that immigration detainees must wait in administrative detention for up to 28 days before making a new application for release even in cases where the First-tier Tribunal has made a procedural error, engaged in conduct amounting to a material error of law, or there has been an error of local knowledge on the part of the Tribunal. Research by BID[9] shows that this happens often enough for this provision to be unsafe, since it fails to allow the First-tier Tribunal to rapidly correct its own errors by means of a

[7] Tribunals Judiciary, (2012), '*Presidential Guidance Note No 1 of 2012: Bail guidance for judges presiding over immigration and asylum hearings'*. Available at https://www.justice.gov.uk/downloads/tribunals/immigration-and-asylum/lower/bail-guidance-immigration-judges.pdf

[8] Ibid.

[9] Bail for Immigration Detainees, (2012), ('*The Liberty Deficit: long term detention and bail decision making: a study of immigration bail hearings in the First-tier Tribunal'*. Available at http://www.biduk.org/162/bid-research-reports/bid-research-reports.html

new bail application heard within a few days. The new provision trivialises both the fact and effect of immigration detention. Detainees in this position may have been held for months or years in detention. The senior courts have indicated that even very short periods of detention – sometimes a matter of days - may be found to be unlawful under certain circumstances.

13. In addition, this provision erects a further barrier to the First-tier Tribunal for the 45% of detainees interviewed by BID in May 2014[10] who have no legal representative and those detainees whose English is poor or non-existent. These detainees may in fact have new grounds or a change of circumstances but their applications for release on bail may be dismissed without a hearing if they lack the ability to demonstrate this.

14. Section 7 (2) of the Immigration Act 2014 removes the discretion of the First-tier Tribunal to grant bail in the majority of cases where removal directions are in force which require the individual to be removed within 14 days, unless the Home Office (the detaining power) consents. This provision makes the Secretary of State the only adjudicator in immigration bail applications for the 14 days prior to the proposed date of removal once removal directions are set. But as anyone who works with detainees will know, the service of Removal Directions does not inevitably result in removal from the UK, and Removal Directions are often cancelled by the Home Office only to be set again, sometimes repeatedly over several months.

15. The presence of Removal Directions should not therefore trigger an automatic refusal of bail. The presumption of liberty is not displaced by imminence of removal, though this new provision seeks to do just this.

16. It is entirely unacceptable that the Secretary of State seeks via this new provision to override bail decisions of the independent Tribunal, when she herself will have been a party in such cases.

Immigration bail: a safeguard against arbitrary detention not an alternative to detention

17. Immigration bail is of course only an 'alternative to detention' for those who have already been detained, and should, in BID's view, be more properly characterised simply as a mechanism for release. Alternatives to detention should have as their starting point not an unspecified and potentially unlimited period in detention, but a genuine presumption against detention in the first place combined with reporting and other conditions where strictly necessary. This 'alternative to detention' could be deployed right now on a greater scale in the UK but the Home Office chooses not to do so.

18. The Home Affairs Select Committee has criticised the UK Border Agency/Home Office for releasing too many foreign national ex-offenders from immigration detention. The Committee appears to suggest that ex-offenders should remain in detention simply because they ***should*** be deported, even where in individual cases it may be the case that they ***cannot*** be deported.

[10] Bail for Immigration Detainees, (2014), '*Summary: BID surveys of levels of legal representation for immigration detainees across the UK detention estate carried out between November 2010 and May 2014*'. Available at http://www.biduk.org/162/bid-research-reports/bid-research-reports.html

"We are concerned about the number of offenders who are released on bail by the courts when the Agency has advised they should remain in detention prior to deportation. As these arrangements fall within the remit of the Ministry of Justice we will draw this to the attention of the Secretary of State for Justice and the Justice Select Committee… We are concerned at the large number of foreign offenders who remain in the community when they should have been deported"[11]

19. This sounds remarkably like a blanket policy of detention for all foreign nationals leaving prison, and is in our view a significant misreading of the implied judicial limitations on the power to detain. However, messages are mixed on detention of foreign national ex-offenders. In 2011 the Independent Chief Inspector of the UK Border Agency criticised the then-UKBA for not releasing people from detention when the Agency's own guidance suggests it should be doing so under certain circumstances, for example at the point at which it becomes apparent that removal within a reasonable time will not be possible[12] compared to the number of people released from detention on application to the Tribunal. John Vine's report notes:

    "There was also a disparity between the number of people released from detention by the Agency and the number released on bail by the courts. Between February 2010 and January 2011, the Agency released 109 foreign national prisoners from detention compared with 1,102 released on bail by the courts" (ICIUKBA, 2011: 4)[13]

20. Home Office migration statistics[14] demonstrate the greater reliance on bail as a means of getting released from detention by those detainees held for longer periods: in the year to 30 June 2014, 36% of people leaving detention were detained for seven days or less, and of these, 1% were bailed, 38% were granted temporary admission or release, and 60% were removed. Of those people leaving detention who had been detained for 12 months or more, 30% were bailed, 24% were granted temporary admission or release, and 44% were removed. Longer-term detainees were still less likely to be removed at the end of their detention. Of the 5 detainees who left Immigration Removal Centres in 2013 after spending 48 months or more in detention, only 20% were removed from the UK.[15]

21. Set against these perspectives, immigration bail is - or should be – instead viewed as an essential safeguard for detainees against arbitrary and indefinite detention, whether their detention is measured in weeks, months, or years. In BID's view, once someone has been detained for one month without removal from the UK there is an ever-greater need for the immigration bail system to operate as a proper check on the use of detention, and for this to be reflected in structures and safeguards that ensure fairness in bail outcomes.

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[11] House of Commons, (2012) '*The work of the UK Border Agency (December 2011-March 2012) - Home Affairs Committee'*. Available at http://bit.ly/RBmOTi

[12] Home Office, *Enforcement Instructions &Guidance, Chapter 55 'Detention and Temporary Release*, "55.3.2.4 In all cases, caseworkers should consider on an individual basis whether removal is imminent. If removal is imminent, then detention or continued detention will usually be appropriate. As a guide, and for these purposes only, removal could be said to be imminent where a travel document exists, removal directions are set, there are no outstanding legal barriers and removal is likely to take place in the next four weeks. Cases where removal is not imminent due to delays in the travel documentation process in the country concerned may also be considered for release on restrictions". Available at http://bit.ly/L6Lhwm

[13] Independent Chief Inspector of the UK Border Agency, (2011), '*A thematic inspection of how the UK Border Agency manages foreign national prisoners, February – May 2011*'. Available at http://bit.ly/rT6UuL

[14] Source: Home Office, (updated 29 August 2014), *Immigration Statistics April to June 2014*.

[15] Source: Home Office*, Immigration Statistics - January - March 2014*. Table dt_06

Barriers to fairness in the immigration bail process

22. BID has carried out two detailed pieces of research[16] into immigration bail decision-making in the First-tier Tribunal (Immigration & Asylum Chamber) based on detailed and structured observations of bail hearings by barristers and trained observers, and file reviews. Both studies have found the immigration bail system wanting.

23. Detainees experience practical barriers to lodging an application for bail, including a lack of knowledge about the bail process, difficulties accessing legal advice, and delays sometimes amounting to several months in acquiring a Section 4 (1)(c) bail address from the Home Office. Barriers to fairness in the bail process itself were found to arise from the treatment of applicants and interpreters, the service and content of Home Office documents, the actions of immigration judges at hearings, and from the bail decision-making process itself.

Inadequate legal advice provision and delays in provision of Home Office bail addresses are barriers to regular bail applications

24. Publicly funded immigration advice is provided in removal centres by the Legal Aid Agency under an exclusive contracting arrangement with a small number of provider firms. BID's regular surveys of detainees' experiences of legal advice across the estate show unacceptable delays, sometimes of two or three weeks, in gaining access to these legal surgeries.

25. The requirement for legal aid providers to operate the statutory means and merits tests for legal aid in the UK result in large numbers of detainees, especially longer term detainees, being left without legal representation and without assistance in applying for release on bail for weeks or months at a time, and regardless of how many months or years they have been detained.[17]

26. BID's legal advice surveys consistently record low numbers of bail applications being lodged on behalf of detainees who have the benefit of legal representation. In BID's research on bail decision-making in 2012, bail applications by represented applicants had a 31% grant rate while unrepresented applicants were granted bail in only 11% of cases.

27. BID's experience is that unrepresented applicants often have little idea of how to frame grounds for release (often mixing up the purpose of bail applications with evidence used in relation to a claim for protection for example); the tone of their application is often wrong and may contain personal or emotional appeals to the judge; they are often unable to marshal suitable sureties with supporting evidence to appear on the day; and they have little or no idea of what evidence is available, could usefully be submitted, or how to obtain it. All of this is assuming that they can read and speak adequate English, and feel sufficiently confident to navigate the tribunal system.

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[16] Bail for Immigration Detainees, (2010), '*A Nice Judge on a Good Day: Immigration Bail and the Right to Liberty*', and Bail for Immigration Detainees, (2012), '*The liberty deficit: long-term detention & bail decision-making. A study of immigration bail hearings in the First Tier Tribunal*'. Both reports available at http://www.biduk.org/162/bid-research-reports/bid-research-reports.html

[17] For further information on the provision and delivery of immigration advice to immigration detainees, please refer to Bail for Immigration Detainees, (September 2014), '*Evidence on access to immigration legal advice in immigration removal centres: BID's submission to the parliamentary inquiry into the use of immigration detention in the UK*'.

28. Delayed access to bail addresses also delays access to the bail process. Detainees in BID's caseload who are reliant on a Home Office Section 4 (1)(c) dispersal bail address are currently waiting on average for nearly 15 weeks to receive a bail address before they can lodge an application for release on bail before the First-tier Tribunal.[18]

Immigration bail system in the UK not designed to deal with very long periods of detention or the assessment of criminal risk

29. BID's research into bail decision-making recently sought to examine whether the immigration bail system offers sufficient safeguards to long-term detainees and those with criminal convictions. We took 'long-term' in our research to mean continuous administrative detention of a period of 6 months or more, as, in our view, a period of six months in detention without removal having been achieved is unacceptable. The six-month period is in line with the guidance to First Tier judges (2012)[19] which states:

> *"The senior courts have been reluctant to specify a period of time after which the length of detention will be deemed excessive and as a result that bail should be granted. Each case turns on its own facts and must be decided in light of its particular circumstances.* ***However, it is generally accepted that detention for three months would be considered a substantial period of time and six months a long period. Imperative considerations of public safety may be necessary to justify detention in excess of six months****" (Tribunals Judiciary, 2012: para 19)(emphasis added)*

30. The immigration bail system was not designed to deal with either very long periods of detention or the assessment of criminal risk. Criminal risk and removability are foregrounded in bail hearings by the Home Office and First-tier judges, but generally without the benefit of adequate supporting evidence – as opposed to mere assertions - of the sort we should expect would be relied upon by the Tribunal to make decisions about release.

31. Despite the key role that evaluations of the risk of absconding (failure to answer bail) and re-offending play in immigration bail decision-making, neither HM Courts & Tribunals Service nor the Home Office publishes data on the rate of absconding by bailees. The only available indicator, which applies only to those grants of bail where the detainee offered a surety, is that there were 38 bail forfeiture hearings[20] during the period to January to December 2013. During this same period 12248 applications for release on bail were heard in full or in part. Nor does the Home Office publish data on overall rates of re-offending by immigration bailees.

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[18] The average (mean) total time taken by the Home Office to conclude the Section 4 (1)(c) application process from application to grant letter (where standard dispersal accommodation (SDA) granted) for all types of case): 103.13 days (14.7 weeks), range 5-503 days (1-71.86 weeks). Source: Bail for Immigration Detainees, (2014), '*No place to go: delays in Home Office provision of Section 4(1)(c) bail accommodation'*. Available at http://www.biduk.org/980/news/new-bid-report-on-bail-address-delays-no-place-to-go-delays-in-home-office-provision-of-section-41c-bail-accommodation.html

[19] Tribunals Judiciary, (2012), '*Presidential Guidance Note No 1 of 2012: Bail guidance for judges presiding over immigration and asylum hearings'*. Available at https://www.justice.gov.uk/downloads/tribunals/immigration-and-asylum/lower/bail-guidance-immigration-judges.pdf

[20] Source: HM Courts &Tribunals Service, 'Bail *management information period April 2012 to March 2013'* & '*Bail management information period April 2013 to December 2013*', produced for HMCTS Presidents' stakeholder meeting.

32. As a matter of course, in individual bail applications the Home Office fails to substantiate assertions of high levels of criminal risk or absconding on release with offender management information provided to it by the National Offender Management Service (NOMS). This is despite an obligation on the Home Office to do so under a Service Level Agreement with NOMS to serve offender management information on the First-tier Tribunal and the detained bail applicant. Decisions on loss of liberty are therefore being made by the First-tier Tribunal without the benefit of up to date professional risk assessments.

33. Our research has also shown that the First Tier Tribunal (IAC) environment is characterised by constraints on the time available for bail hearings dictated by case management needs, including the need to list bail hearings within a short amount of time, and complicated by the practicalities of video links and the necessity to use interpreters.

34. Insufficient time is available for consideration by First-tier judges of the often sizeable bundles submitted by long-term detainees in support of their application for release and by the Home Office opposing release. The First-tier Tribunal is currently able to list bail applications within 3-6 days in most hearing centres and deliver decisions at the end of bail hearings, but it does this in the absence of substantiated arguments on the part of the SSHD in too many cases, most notably where issues of level of criminal risk on release must be considered.

35. Barristers acting in bail cases have made it clear to BID that the ten minutes available to consult with their detained clients via videolink is always insufficient, especially where the applicant has a long detention history.

Conclusion and recommendations

36. Over the last couple of years we have made a number of recommendations to the First-tier Tribunal (IAC), the Home Office, the Legal Aid Agency, and HM Courts & Tribunals Service for improvements to the immigration bail system, a selection of which are reproduced in Annex A.

37. Bail decision-making as currently delivered in the First Tier Tribunal is certainly fast and efficient, but it is not, in BID's view, necessarily accurate or fair. In BID's view the safeguards against arbitrary detention that could be provided by an application to the First-tier Tribunal for release on immigration bail are still failing, and the barriers to fairness in the immigration bail system are significant and systemic.

ANNEX A

BID'S RECOMMENDATIONS[21]

Barriers to fairness arising from the use of videolink bail hearings

1. The Tribunal should double the time available for representatives to consult with their client from 10 minutes to 20 minutes, or longer where an interpreter is required. Where a joint bail application is made by an adult family, we recommend that counsel be allowed twenty minutes for consultation with each of the joint applicants, to run consecutively.

2. Tribunal hearing centres should be linked to each other via videolink to allow sureties to appear in the hearing centre nearest them regardless of where the bail hearing is being heard.

3. The tribunal should consider the possibility of separate videoconference booths for the use of barristers and their detained clients (of the sort found at magistrates' courts), which could then be booked for longer periods outside the timings of court listings.

Barriers to fairness arising from the treatment of sureties

4. When assessing sureties the Tribunal should no longer require geographical proximity to the bail address where an applicant is reliant on Home Office Section 4 (1)(c) bail accommodation, since under COMPASS accommodation contracts bail accommodation is provided across the UK on a no-choice basis.

5. As in the criminal justice system, immigration bail sureties should not be expected by the Tribunal to exercise any control over the commission of further offences by the bail applicant.

6. The Tribunal must follow bail guidance in relation to financial requirements made of sureties, which must always be proportionate to the means of the surety, and must not create additional and unnecessary conditions for sureties.

Barriers related to case management of bail hearings

7. The First Tier Tribunal should again review the number of bail applications listed for each session, so as to ensure adequate time for legal representatives to take instructions, comprehensive interpretation of hearings in their entirety, and for consideration of greater volumes of evidence especially where the applicant has been detained long term. The number of bail hearings on a list may need to be reduced.

[21] For the full list of BID's recommendations on immigration bail refer to Bail for Immigration Detainees, (2012), *The liberty deficit: long-term detention & bail decision-making. A study of immigration bail hearings in the First Tier Tribunal'*. Available at http://www.biduk.org/162/bid-research-reports/bid-research-reports.html

8. The number of bail hearings listed for each session should also be reviewed to ensure that decision makers have sufficient preparation time.

Disclosure of evidence by the Home Office

9. Rule 51 (7) of the Tribunal Procedure Rules ("subject to s108 of the 2002 Act, the Tribunal must not take account of any evidence that has not been made available to all the parties") should be rigorously enforced by the Tribunal.

10. As a general principle the Home Office must fulfil its duty to assist the Tribunal and must therefore disclose all evidence upon which it relies to oppose release on bail. The Tribunal must use adjournments and directions to order disclosure where it is not forthcoming.

11. The Home Office should append evidence for arguments made in a bail summary with the bail summary at the point at which it is served on the Tribunal and the applicant, in order to allow for proper consideration prior to the hearing.

12. The Home Office must immediately comply with both the bail guidance and its own agreement with the National Offender Management Service in relation to its role in the disclosure of offender management information to the Tribunal.

13. The Tribunal should use its existing powers to direct both parties to provide evidence and information, and its powers to grant bail in principle or to adjourn a hearing to allow for practical barriers to be dealt with. It can no longer be considered acceptable for the Tribunal to avoid this responsibility by in effect 'returning' a person to detention where the option exists for the use of adjournment, directions to parties, and bail in principle.

Specific types of evidence

14. Judicial decision makers in the First-tier Tribunal (IAC) should be provided at the earliest opportunity with expert training on the assessment and management of criminal risk, provided by the National Offender Management Service (NOMS), to include advice on the weight to give to aspects of risk assessment and which order in which to consider them, to ensure adequate risk management on release.

15. Once a detainee's licence period has expired, unless they are being managed under NOMS Multi-Agency Public Protection arrangements or there is an ancillary order in place, their presumed level of risk of re-offending and risk of harm to the public on release should no longer be part of bail decision making without a fresh risk assessment using a recognised structured risk assessment process carried out by a criminal justice professional, at the expense of the Home Office.

16. The First-tier Tribunal and NOMS should jointly determine how offender management information could best be provided to the Tribunal once a NOMS Licence has expired.

17. All agencies must be prepared to work together to put safeguards in place where the genuinely highest risk individuals cannot be removed from the UK within a reasonable

time and *must* therefore be released, since such individuals cannot be held indefinitely.

18. Imminence of removal on its own should never be the sole reason for refusing release on bail. In order for removal to be considered imminent the Tribunal should always require evidence of a flight booking and written confirmation from an embassy or High Commission that they will issue a travel document within a specified time. Both the Tribunal and the SSHD should consider imminent removal only those removals that can take place within four weeks, in line with the Home Office's own guidance.

19. Assertions of high absconding risk made by the Home Office should be substantiated before the Tribunal, and the arguments of both parties in relation to absconding risk should be set out in any written decision.

Moving detention cases towards resolution

20. Written bail decisions should outline what further steps might need to be taken by either party in the case before a subsequent bail hearing or within a set time scale (for example, steps to be taken by either party in relation to a travel document application).

21. Written bail decisions (refusals) should detail arguments presented by the Home Office and the applicant as well as the reasons for refusing bail.

22. The Refusal of Bail notice should be redesigned. At present the notice is structured to prompt inclusion only of negative information about the applicant that has prompted the refusal of bail, yet the Refusal of Bail notice may be relied on by the Home Office or the higher courts without sight of findings during the bail hearing that are advantageous to the applicant.

23. The Tribunal should make greater use of its power to grant bail in principle pending the provision of further information to the Tribunal within 48 hours, especially where this concerns surety paperwork that can easily be provided, and where bail would otherwise be refused.

24. The Tribunal should make greater use of its power to adjourn bail hearings.

25. The Tribunal should make greater use of its power to give directions to parties. Directions should be noted in the Refusal of Bail notice and the judge's record of proceedings.

Other

26. The Legal Aid Agency should ensure that there is no financial disincentive in the legal aid fee structure for providers of immigration advice to continue to act for detainees throughout their detention on the fact of their detention, to adequately explore issues relating to criminal risk, and carry out work to challenge delays in the provision of Home Office Section 4 (1)(c) bail accommodation.

27. The statutory restriction on the grant of bail which relates to the mental health of the bail applicant should be repealed. Immigration detention should never be used for the purpose of medical treatment.

28. The statutory restriction on the grant of bail to prevent future offending is inappropriate and should be repealed.