

# Inquiry into the Use of Immigration Detention

Submission by Jesuit Refugee Service UK

October 2014



## **Jesuit Refugee Service UK**

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1. Jesuit Refugee Service is an international Catholic NGO with programmes in 50 countries. Jesuit Refugee Service UK (JRS-UK) accompanies refugees and forced migrants, our brothers and sisters, serving them as companions and advocating their cause in an uncaring world. We have a particular concern for those who are detained under the immigration rules or who are left destitute in the UK.
2. JRS-UK relies on a committed group of volunteers coordinated by one member of staff to accompany, serve and advocate on behalf of people detained at both Harmondsworth and Colnbrook Immigration Removal Centres (IRCs). Staff and volunteers provide pastoral care and run regular surgeries in Colnbrook IRC. We also have a small team of volunteer pen-befrienders. Our submission is based on our experience of accompanying and serving people detained in Harmondsworth and Colnbrook IRCs.
3. JRS-UK also accompanies and serves people left destitute by the asylum process in the UK, in the main through our weekly day centre and associated activities. Many of the people who attend the day centre and participate in the activities are former detainees. The majority of people we accompany and serve, who are destitute, report regularly to the immigration services. Comments on alternatives to detention are based on their experiences.

#### Current Conditions in IRCs

4. Privacy. Rooms are shared; this brings a potential for tension and conflict to arise and which may be increased, due to language and cultural misunderstandings in addition to disturbance brought about by one or other room companion experiencing sleep deprivation due to nightmares. Individuals with poor mental health can find sharing a room particularly difficult. There is little opportunity for privacy or quiet in the IRCs. Detainees are regularly locked in their rooms.
5. We receive frequent complaints about poor quality of food in both IRCs. Occasionally detainees complain that the food is completely inedible (uncooked or overcooked, tasteless) And lacking variety. JRS-UK staff and volunteers who eat on site can also confirm the poor quality of food served in the canteen. Hygiene and basic food safety issues have been raised by detainees who have worked in the kitchens. In addition complaints have been made that special diets (for medical purposes) have not always been followed.
6. There is poor ventilation in both IRCs and limited access to outside spaces. This has a negative impact on a general sense of wellbeing.

7. Women's unit in Colnbrook IRC. The surroundings of the unit appear to be bright and pleasant. However, there is often a heavy atmosphere of uncertainty and fear as women brace themselves for removal while new arrivals find themselves perplexed, confused and fearful to be locked away. While women are only held for a short period of time in this unit (around 7 days), anxiety and stress levels in the unit are more pronounced than in the rest of Colnbrook. They have little opportunity to leave the unit because of safeguarding measures to keep them away from the male detainees. Access to their respective prayer rooms are restrictive and room sharing can deny them valuable time alone to think and pray. This acts to increase the sense of claustrophobia and anxiety they experience. Many of them feel very insecure being in a small female unit surrounded by male detainees. They also feel doubly isolated as they are in a secure unit in an IRC, so even more cut off from the rest of the world.

#### Healthcare

8. One of the more frequent complaints we have is around access to adequate healthcare. Detainees tell us that they feel that they are neither listened to properly nor are they treated with respect or dignity by the healthcare staff.

9. Unsurprisingly, due to the high levels of anxiety and stress, many detainees suffer from depression, find it difficult to sleep and complain of headaches and various malaises. The most frequent complaint regarding healthcare is the lack of proper assessment and that basic clinical procedures are not followed and consequently basic standards of healthcare are not met. Countless detainees have told us that if they go to healthcare because they feel unwell the staff there give them paracetamol and send them away, without listening to them or conducting basic health checks, even if the detainee presents with potentially serious problems such as chest pains. Apart from having potentially serious implications for the person's health, this behaviour has led to the widespread breakdown of trust between detainees and healthcare staff.

10. Detainees with serious health issues complain of medication not being administered properly or at the correct intervals (e.g. those with diabetes needing medication in a certain time frame before they eat). Again this can have potentially serious consequences.

11. Healthcare provision in the IRCs is under-resourced. It can take detainees weeks or sometimes months to see a doctor rather than a nurse despite daily visits by doctors. Dentistry services are also scarce, as are opticians.

#### Access to legal advice

12. It is very difficult for detainees to get good legal advice. Legal advice and representation is difficult to access even for those claiming asylum who are not detained; and legal aid is now not available in non-asylum immigration cases. Many

good immigration and asylum law practitioners no longer provide such services or no longer have legal aid contracts. Detainees are very isolated by the mere fact of their detention and rely on legal surgeries at the IRCs; or on NGOs to refer them to appropriate legal representatives. Many more of the people we accompany and serve are left to represent themselves.

13. There is at times a lengthy waiting list to see the advisers who run the legal surgeries in the IRCs. Once assessed by the adviser problems arise in maintaining contact or seeing the representative afterwards. It can be difficult for the legal representative to contact the detainee as well as for the detainee to contact his/her representative. Again this adds to stress levels and to feelings of isolation and crucially it creates obstacles to access to justice.

14. A critical barrier to access to justice is lack of information. Many of the detainees tell us that they either are not told what is happening in their case (whether because their Home Office case worker has not been in touch for a long time or because of difficulties in maintaining contact with their legal representatives). Many have not had the legal process in their particular case explained to them.

15. Many detainees do not speak good English and so face a language barrier. There is a general mistrust of the interpreters used, particularly where these services are provided by the Home Office. Detainees tell us that not enough care and attention is paid to the particular variants of languages they may speak (e.g. Arabic). Occasionally the impartiality of the interpreter has been questioned by the detainees who tell us that the interpreter was from a rival clan, tribe or ethnic group or may have been of the opposing political opinion.

Vulnerable detainees

16. JRS-UK has serious concerns over the Rule 35<sup>i</sup> procedures which appear to be ineffective. Rule 35 is supposed to “ensure that particularly vulnerable detainees are brought to the attention of those with direct responsibility for authorising, maintaining and reviewing detention. The information contained in the report needs to be considered in deciding whether continued detention is appropriate in each case”<sup>ii</sup>. There are three sorts of reports under Rule 35: where there are concerns that the detainee may have been tortured; where there are health concerns; and where there is a suicide risk. Most of the cases under Rule 35 are in respect of torture, but the other two are important and too often forgotten.

17. JRS-UK has seen men in wheelchairs detained. The IRCs are not designed for people with serious mobility problems (for example, there are stairs everywhere and difficulty in accessing toilets and showers). While staff may do what they can to assist, that does not mitigate the additional distress and anxiety caused, nor does it mitigate the potential risk of injury from inappropriate living conditions.

18. Given concerns over access to healthcare it is questionable whether anyone with ongoing potentially serious health problems ought to be detained at all. For example, we know of particular problems around the ongoing treatment of diabetes, particularly

for those who are insulin dependent. In cases where the timeliness of taking medication is critical, we have grave concerns whether healthcare provision as it currently stands is able to manage the appropriate ongoing treatment. For some medical conditions regular review by specialists is essential, sometimes on a quarterly basis. Detention often interrupts ongoing care or treatment under a consultant and this can cause further harm. Some hospital outpatient appointments have had to be cancelled due to IRC staffing issues or lack of availability of interpreters.

19. Many detainees suffer from mental health problems, some of them serious ones including paranoia, PTSD, and psychosis. Staff in the IRCs have little understanding of mental health issues. There is little, if any, professional healthcare expertise in these issues. Counsellors can be overwhelmed by numbers awaiting therapy. Some detainees are ridiculed (by other detainees and by staff members) for exhibiting behaviour e.g. a detainee who is paranoid carrying all of his possessions in loose bundles around with him. IRCs cannot be a suitable place to hold anyone with such problems. Conditions within the IRCs do not help. The general lack of awareness of mental health issues and the ridicule some detainees face do not foster conditions of respect and dignity and therefore can only make mental health problems worse.

20. Healthcare staff do not have sufficient expertise in identifying and dealing with possible torture cases. If not for small organisations such as Medical Justice many torture survivors who have been detained would not be identified and as a consequence released. That is not to say that these procedures are easy to follow – they are not. Medical Justice and similar voluntary organisations do not have the capacity or resources to deal with all of the referrals they receive in a timely fashion – despite their best efforts and dedication there can be a significant wait before a detainee is seen and assessed.

21. There is a perception that healthcare staff are not impartial in identifying Rule 35 cases and this is reflected in their written reports on these cases for the Home Office's consideration.

#### Impact of immigration detention

22. Impact on families. Immigration detention has a wider impact on families. Often a detainee can be held many miles away from a spouse or partner or from his children. This makes it very difficult for them to maintain a relationship with family members and can cause further stress and distress in an already difficult circumstance. Children may find it difficult to understand why a parent is missing, which then has an impact on their emotional health. If family members are on a low income or are reliant on asylum support or indeed have no recourse to public funds, it is impossible for them to visit a detainee. The location of IRCs can make travel arrangements more difficult and sometimes necessitating an overnight stay,

increasing costs and making visits much less likely. This then in turn increases the isolation of detainees, who may feel even less supported and much lonelier.

23. Isolation/Loneliness. Many detainees tell us that they feel lonely or isolated, or in some way cut off from the world. They value contact with people outside the IRC (visitors, pen befrienders). This contact helps them feel valued and cared for.

24. Indefinite detention. One of the worst aspects of detention in the UK is the fact that it is indefinite (no upper time limit). The anxiety this causes is acute particularly as detainees do not know really if they will eventually be released back into the UK or will be removed. Lack of information feeds into the anxiety that indefinite detention causes. Unfortunately it is not uncommon for us to accompany people who have been detained for over a year and in some cases for three or four years, often across several IRCs. It appears that as a consequence of being moved within the detention estate they may not show up in the statistics of people who have been detained for more than a year.

25. In June 2010, JRS Europe published a research report entitled “Becoming Vulnerable in Detention”<sup>iii</sup>. The findings were based on interviews with 685 asylum seekers and migrants across 23 countries. The main conclusion is that detention deteriorates the physical and mental health of nearly everyone who experiences it. Symptoms related to severe depression and anxiety, as well as insomnia, loss of appetite and migraines, are frequently reported. The negative effects of detention are found to be related to how well one is informed about immigration procedures, detainees' connections to support in the outside world, and the time length of detention. As a consequence, JRS-UK strongly believes that an upper time limit to detention is essential and, in fact, the shorter the better; and that measures should be taken to support detainees' connections.

#### Financial and human costs of detention

26. Immigration detention costs an average of £37,230 per person per year<sup>iv</sup>. That is, around £102 per person per night. The number of people detained in the year ending March 2014 was 30,113. 56% of detainees were removed from the UK in that year. A further 37% were granted temporary admission or release<sup>v</sup>. So many people being released back into the UK. We also come across so many people being held for excessively long periods of time (indicating that removal really has not been imminent) suggests that detention is not being used appropriately. The costs in human terms are much more, a cost of human misery: distress, anxiety, lack of access to justice, the stripping of dignity and respect from people. Any system which strips dignity and respect from one group of people demeans and debases British society as a whole because it legitimises a sense that it is acceptable to treat some people differently because somehow they are not as valuable as the rest of us. Ultimately that is to no one's benefit.

## Alternatives to detention

27. The most commonly cited alternative to detention in the UK is a system of regular reporting to immigration services. It is debatable whether this is being used as a legitimate alternative to detention as it does not appear to be reducing the use of detention. 5% more people were detained in the year ending March 2014 than in the previous year.<sup>vi</sup>

28. Unfortunately reporting to immigration services is not without its stresses and problems. One of the main issues frequently raised with us is the struggle finding the money to travel to the reporting centres. In fact much of the financial assistance we offer the people who attend our day centre is in the form of money for bus passes in order to report to immigration or to attend other essential medical and legal appointments. Those attending our day centre are fully aware of the importance of meeting their reporting requirements. It seems unreasonable that the Home Office does not reimburse basic travel costs to report regularly unless the person has asylum support and lives more than three miles away from the reporting centre. Many of the people we accompany at JRS-UK would find it very difficult to walk such distances due to health problems, age or having young children.

29. Reporting is a stressful experience. There are real fears about being arrested and detained when going to report. The people we accompany have told us that they are often treated disrespectfully when they report (staff are rude or off-hand). They can be repeatedly asked the same questions. There is a perception that the staff at the desks, processing the reporting, are unwilling to share information until it suits them (i.e. at the point that someone is about to be detained). This is partly fuelled by the fact that staff at the desks state that they do not know what is happening in the progress of the asylum or immigration claim of the person who is reporting, but they know when someone has a refusal and should be detained. Many of the people we accompany have over the years told us that they do not trust the Immigration Staff at the reporting centres and believe that they are lying when they say they don't know what is happening in their case. Bureaucratic inefficiencies also abound – with files and documents going missing and almost or actually leading to detention as a consequence. Recently in the case of one woman, she was almost detained when she went to report despite having a two year old daughter because the Home Office had lost all records they had of her having a daughter.

30. Reporting conditions can be poor. When understaffed, there can be long delays in reporting. It is not uncommon for us to be told that someone has had to queue for several hours. This is problematic if they have to get to another appointment (e.g. counselling or medical or picking children up at the end of a school day). Often people have to queue outside for the large part of the time – in all weathers, regardless of mobility or other problems. In the past there have been problems about access to toilets during this waiting time, or even having the opportunity to have some water. If conditions were more welcoming it would go a long way to re-establishing some of the trust that has been lost<sup>vii</sup>.

31. A small number of people we accompany have been electronically tagged in addition to having to fulfil reporting requirements. Tagging adds extra anxiety. Some women we know who have been tagged feel forced to only wear trousers (which is not always culturally appropriate) due to embarrassment. Most people we know are embarrassed about wearing a tag, as they feel that they have been criminalised. Extra stress is caused as those people who are tagged are generally anxious about being home in good time as tagging conditions often come with the requirement to be at the place of residence between certain hours.

32. In December 2011, JRS Europe published the report of a research project, "From Deprivation to Liberty: Alternatives to detention in Belgium, Germany and the United Kingdom".<sup>viii</sup> The intention was to capture the perspective of the migrants and asylum seekers subject to alternatives to detention programmes. The three countries were chosen as they had distinct alternatives to detention.

33. Several factors which were found to contribute to the good functioning of alternatives to detention were identified as a result of the research:

- Community based measures must provide security of accommodation
- Regular, up-to-date information about their immigration/asylum claim is essential
- Support, good quality state funded legal advice and medical care are essential
- Alternatives to detention which have a return-only focus tend to perform poorly as compared to measures that explore all possible outcomes for case conclusion
- Support should be front-loaded. It was noted that if all of the above were provided at the beginning of a person's asylum or immigration claim there is more likelihood of trust in the process.

34. Recommendations

- **Detention should not be considered the norm, as it causes harm to those detained. To this end no asylum seeker should be detained during his or her asylum seeker; and detention of irregular migrants should be avoided to the utmost extent possible.**
- **The use of detention as a deterrent measure is not acceptable.**
- All detainees should be treated with respect and dignity at all times.
- There should be an upper time limit to detention. Based on our experience as part of the JRS Europe network, we recommend that a person only be detained if there has been a prior decision by an independent judicial authority. If that is not possible, the decision to detain should be subject to a review by a judicial authority within 48 hours. There should be further automatic judicial reviews every 30 days. Given the impact of detention in increasing vulnerability in the majority of detainees we recommend that detention should last no longer than 2 months.
- Rule 35 reporting and consideration procedures should be reviewed as a matter of urgency, with a view to gauging and improving effectiveness

- All staff in detention centres should have at least basic awareness training in mental health issues
- It is essential to have well-funded good quality legal representation for detainees
- If we must have an immigration detention estate it should be adequately funded so that there are no concerns over basic conditions (ventilation, quality of food, provision of services, hygiene, access to outside space)
- Alternatives to detention should be meaningful and should provide the necessary conditions to allow the migrant or asylum seeker to properly consider all of his/her options.

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<sup>i</sup> Detention Centre Rules 2001. These rules state that:

- 1.) The medical practitioner shall report to the manager on the case of any detained person whose health is likely to be injuriously affected by continued detention or any conditions of detention;
- 2.) The medical practitioner shall report to the manager on the case of any detained person he suspects of having suicidal intentions, and the detained person shall be placed under special observation for so long as those suspicions remain, and a record of his treatment and condition shall be kept throughout that time in a manner to be determined by the Secretary of State;
- 3.) The medical practitioner shall report to the manager on the case of any detained person who he is concerned may have been the victim of torture.

<sup>ii</sup> Section 55.8A of Enforcement Instructions and Guidance

<sup>iii</sup> Downloadable from [https://jrseurope.org/assets/Publications/File/JRS-Europe\\_Becoming%20Vulnerable%20In%20Detention\\_June%202010\\_PUBLIC.pdf](https://jrseurope.org/assets/Publications/File/JRS-Europe_Becoming%20Vulnerable%20In%20Detention_June%202010_PUBLIC.pdf)

<sup>iv</sup> For the year 2013-2014. Written answer to question by Sarah Teather MP. Hansard, 31 October 2013: Col.538W

<sup>v</sup> Immigration Statistics, January-March 2014, para 12.2 Downloadable at:

<https://www.gov.uk/government/publications/immigration-statistics-january-to-march-2014/immigration-statistics-january-to-march-2014#detention-1>

<sup>vi</sup> Ibid.

<sup>vii</sup> JRS-UK was part of the South London Citizens campaigns to improve reporting conditions at Beckett House. The negotiations, which included some of the migrants who were reporting at that site, and then the implementation of improvements in reporting conditions changed the way those reporting are treated by staff on site. There were fewer complaints about not being treated respectfully. Access to toilets, water and umbrellas when it was raining improved relations and led to normal conversations. Managers on site did their best to ensure sufficient staff were on duty to keep queues to a minimum. Unfortunately, since then conditions have deteriorated again, though still not as badly as they once were. The point is that it is possible to make a change with sufficient will.

<sup>viii</sup> The report is downloadable from

[https://jrseurope.org/assets/Publications/File/JRS%20EUR%20ATD%20report\\_FINAL\\_13Dec2011.pdf](https://jrseurope.org/assets/Publications/File/JRS%20EUR%20ATD%20report_FINAL_13Dec2011.pdf)