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Sarah Teather MP  
Chair – Inquiry into the use of immigration detention in the United Kingdom  
House of Commons  
London, SW1P 0AA

*Dear Sarah,*

24 MAR 2015

**Response to the report into the use of immigration detention, following a joint inquiry by the All Party Parliamentary Group on Refugees and the All Party Parliamentary Group on Migration.**

I am grateful for the work that both the All Party Parliamentary Group on Refugees and the All Party Parliamentary Group on Migration have undertaken in considering the use of immigration detention in the UK. The points you make in relation to detainee welfare are timely in light of the independent review currently being undertaken by Stephen Shaw.

Your report primarily considers detainees through the prism of asylum – however, it is important to note that over 50% of those detained have never entered the asylum system - they are detained because, for example, they are foreign national offenders who the government is seeking to deport because of their criminality; or because they have entered the UK illegally, or have remained in the UK illegally once their leave has expired.

*Part 1 – the use of immigration detention*

It is not possible to detain indefinitely using immigration powers. Detention must comply with the European Convention on Human Rights. Coupled with this, domestic case law is clear that the detention power can only be exercised if there is a reasonable prospect of removal within a reasonable timeframe.

It is not true to suggest that large numbers of detainees are being held for long periods. Around 30,000 are detained each year, with around 3,000 in detention at any one time. The majority – 63% – leave detention within 28 days, and the overwhelming majority – 93% – leave within 4 months.

We do wish to minimise detention periods, in accordance with our guidance which makes clear there is a presumption of liberty. However, the Courts have found that it

is appropriate to consider risk to the public, and risk of abscond when deciding if there is a reasonable prospect of removal within a reasonable timescale. This means that, for example, it may be appropriate to detain a foreign national criminal for a longer period pending deportation.

The legality of detention can be considered before the courts by way of judicial review – this is an important check to ensure that the Executive does not exercise its power in an arbitrary way. There is intense judicial scrutiny of detention decisions and judges can and do find against the Home Office, despite our rigorous framework to ensure lawful detention.

Your group's report recommends a statutory limit on the time an individual can be detained using immigration powers, suggesting a limit of 28 days. Parliament voted on an amendment to limit detention under immigration powers to 60 days during the passage of the Immigration Act. This amendment was rejected with a majority of over 300 against imposing such a limit. Given Parliament's recent and clear view that an upper limit on immigration detention is not necessary, coupled with the judicial protections that are already in place for those held in immigration detention, the Government does not currently intend to return with a proposal to time limit immigration detention in statute.

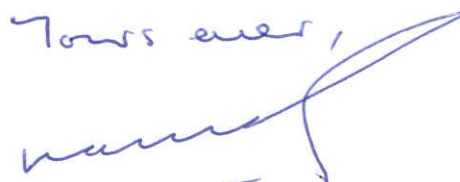
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#### *Part 2 – conditions in detention*

The UK has a long tradition of tolerance and respect for human rights. We do not take the decision to remove someone's liberty lightly. Detaining those with no right to remain here and who refuse to leave voluntarily is key to maintaining an effective immigration system. But we are clear that all detainees must be treated with dignity and respect. We will accept nothing but the highest standards from those to whom we entrust the responsibility of their care.

As you will know, the Home Secretary commissioned Stephen Shaw, the former prisons and probation ombudsman for England and Wales, to lead an independent review of welfare in the whole immigration detention estate. I have invited Stephen to consider the recommendations contained in part 2 of the report as part of his independent review.

I am aware your office has made enquires regarding the content of the letter I sent to Nicola Blackwood on 11 March regarding the withdrawal of the Campsfield planning application. The Home Secretary has asked officials to look into the requirements of the detention estate and whether it is configured appropriately in line with the changes introduced as part of the Immigration Act 2014. As I mentioned during Home Office Orals, Stephen Shaw's review will also inform this piece of work.



**James Brokenshire**