

Access to courts and lawyers urgently needed to diffuse tensions in immigration detention centres

The charity Bail for Immigration Detainees has called on the government to take immediate action to ensure that asylum seekers and migrants are not detained unnecessarily, or for long periods.

In response to two recent deaths of immigration detainees, disturbances at Harmondsworth and the publication of HM Inspectorate of Prisons reports on Dover and Haslar, BID has highlighted the need for limits on the powers of detention.

“As an absolute minimum, all detained asylum seekers and migrants should have their detention automatically subject to independent review by a court. There is currently no time limit on detention, and no requirement for it to be sanctioned by a court. Detainees have the right to make an application for release on bail, yet many are not aware of this right, or are not able to exercise it because they do not have a lawyer,” said Sarah Cutler, Policy Officer at BID.

Reports by HMIP about Dover and Haslar published on July 27 show that the recent cuts in immigration and asylum legal aid are leaving many detained without representation, and that people are languishing in unsafe detention centres because of the inefficiencies and chaos of the Home Office.

HMIP stated that a problem common to all centres was that *“Access to competent and independent legal advice is becoming more, not less, difficult as fewer private practitioners offer legally aided advice and representation”*.

At Dover, the inspectors found that *“Monthly reviews of detention... were often not supplied or were late and provided little evidence of effective review”* and that on-site immigration officers who were trying to progress the cases of detainees were *“...frustrated and impeded by the delays, inefficiencies and limited information provided by their colleagues in the central case-working sections of IND.”*

Commenting, Sarah Cutler said

“The danger is that the government response to unrest and suicides will be to introduce ever more punitive and restrictive systems to control people inside the centres. But, the simple fact is that if you lock people up without good reason for long periods without access to good quality, free, independent legal advice, they are likely to become frustrated, depressed and angry, particularly if they are terrified of being sent back to a dangerous country.

The use of detention should be minimised, and in each case it must be proportionate and necessary. Detention should be in line with international and domestic law and should be automatically subject to independent scrutiny by a court. The government must also play by their own rules and ensure that people with mental health problems who are at risk of suicide or self harm are not detained.

The same protection of access to the courts for reviews of detention must be afforded to those people who are detained in Fast Track systems. In BID’s experience, people can be detained for long periods at the end of the Fast Track because they cannot be removed. They are often dropped by their lawyers at this point and are stuck in detention without the Home Office ever being required to justify depriving them of their liberty.”

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Notes to Editors

1. BID is an independent charity that prepares and presents bail applications on behalf of those detained under Immigration Act powers. BID also carries out information and research work on the policy and practice of immigration detention in the UK. BID has offices in London, Portsmouth (for Haslar) and Oxford (for Campsfield) and makes bail applications for those held at any of the detention centres in the UK. We also support people to make their own applications for release on bail, without a legal representative using our Notebook on Bail. In 2001 BID was awarded the Liberty/Justice Human Rights Award. Further information can be found at www.biduk.org
2. A man died in Harmondsworth on Monday 19 July 2004, and another man died in Dungavel on Friday 23 July 2004. In both cases, it is thought that the men took their own lives.
3. BID have represented a significant number of detainees who have attempted suicide and self-harm. Many of those we represent have serious medical and psychological needs, which, in our experience, are not adequately met in detention centres.
4. Detention policy is mostly contained in the Operational Enforcement Manual (OEM), chapters 38 and 39. The OEM applies to enforcement departments of the Home Office. The Operational Enforcement Manual ("OEM") sets out, at paragraph 38.8, categories of people "*normally considered suitable for detention in only very exceptional circumstances*". These categories include "*Those suffering from serious medical conditions or the mentally ill*" and "*Those where there is independent evidence that they have been tortured*".
5. Immigration is without time limit and can be maintained for long periods. In a recent case, BID obtained release for a man detained for seventeen months. Statistics from IND published quarterly show that detention may be for many months. The most recent statistics, from the first quarter of 2004 show that of 1660 detainees, 130 were detained for between 6 months and 1 year and 80 were detained for 1 year or more (www.homeoffice.gov.uk/rds/immigration1.html)
6. In May 2004, changes to publicly funded asylum and immigration advice and representation were implemented by the Department for Constitutional Affairs (DCA) and the Legal Services Commission (LSC). They impose a 'financial threshold' equivalent to five hours work for an asylum application and four hours work for an appeal. Extensions may be granted in exceptional cases.
7. HMIP has statutory responsibility for inspecting immigration removal centres. Reports of an unannounced inspection of Haslar and an announced inspection of Dover were published on 27 July 2004.
8. A Fast Track process has been in operation at Harmondsworth. People whose case is deemed straightforward and capable of being decided quickly are detained for the duration of their asylum claim and appeals.
9. In BID's view, the current use of detention in the UK is in violation of internationally recognised human rights standards, notably, Article 5 of the European Convention on Human Rights and Article 9 of the United Nations Declaration. The use of detention in the UK also gives rise to situations of arbitrary detention as defined by the United Nations Working Group on Arbitrary Detention (see BID Submission to the UN WGAD, September 2002).

Bail for Immigration Detainees

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