

PRESS RELEASE

For immediate release

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Government must end the use of indefinite and arbitrary immigration detention

Immigration detention policy is in urgent need of reform, specialist charity *Bail for Immigration Detainees (BID)*, said today. The organisation has called for urgent action by the government to respond to the findings of the report of HM Inspectorate of Prisons, published today.

BID welcomes the findings of the Inspectorate, in particular that children should not be detained for more than seven days, but urged ministers to react swiftly to tackle the underlying issues.

Sarah Cutler of BID commented;

"The Inspectorate identifies an array of issues which clearly demonstrate that detention in this country is a cause for shame and deep concern. Asylum seekers are deprived of their liberty for indefinite periods, yet they have committed no crime. Many of the problems identified by the inspection would be tackled if detention was used only for short periods, only where absolutely necessary.

Many thousands of people every year endure the conditions described in the reports, on the basis that an Immigration Officer thinks that they may abscond, yet the Home Office admit that they have done no research into levels of absconding¹. Several independent reports have identified the arbitrary way in which detention decisions are made, and suggested alternatives². Yet the government continue to operate this inhumane, disproportionate, immoral and expensive policy."

BID also expressed concern about a shift towards widespread use of administrative detention. The Home Office does not collate or publish statistics to show how many detainees are removable, but in BID's experience, significant numbers of detainees are not 'failed asylum seekers' but are waiting for decisions in their case to remain in the UK.

"Over the past year, the government has pursued policies which will expand the use of administrative detention, and have legislated to remove a vital mechanism for independent review of detention. Those people who are held before a final decision on their case are restricted from pursuing that case by the very fact of being detained."

BID recommend an immediate end to the detention of children, the mentally and physically ill and those who have been tortured. In order for detention not to be arbitrary, BID calls for provision for all those detained to have prompt and automatic access to a court to consider lawfulness and necessity of detention.

ENDS

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¹ Letter from the Home Office to BID, May 2002

² For example, 'Deciding to Detain: how decisions to detain asylum-seekers are made at points of entry', Weber, L & Gelsthorpe, Cambridge Institute of Criminology, 2000

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. In 2001 BID was awarded the Liberty/Justice Human Rights Award. Further information can be found at www.biduk.org
2. BID's concerns about detention policy have been compounded by the repeal of part III of the 1999 Immigration and Asylum Act, by the 2002 Nationality, Immigration and Asylum Act. Part III of the 1999 Act made provision for automatic bail hearings after 7 and 35 days. In BID's view this would have provided some safeguards against indefinite detention resulting from administrative and procedural delays and errors, and some degree of judicial scrutiny of detention. This is a requirement under Article 5 of the European Convention on Human Rights. The evidence provided by the Minister, Beverley Hughes MP, to the Home Affairs Committee on 4th March 2003 claimed that a mechanism for automatic bail was unnecessary and that the existing mechanism provided adequate recourse to the courts to challenge detention. The comment by the Minister that independent review by a court is "*an unnecessarily stringent safeguard and one that is actually unnecessary*" demonstrates an alarming complacency on behalf of the government whose current policy and practice in relation to detention disregards protection of the fundamental principle of liberty. There are serious inadequacies in the rights to apply for bail under existing legislation, which result in significant numbers of detainees being unable to access judicial oversight of detention. Three of the principal obstacles are the merits test for the use of public funds, the requirement for sureties and the lack of accommodation for detainees to be released to.
3. The UK policy on detention 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).
4. The model of Oakington reception centre is being expanded to include detention through the appeals process at Harmondsworth removal centre. (See Home Office Press Release, Tuesday 18th March 2003, New Fast Track Pilot for Asylum Claims.) This process is supposed to apply to those "*with straightforward claims*" who also fit the detention criteria. BID is aware that detention criteria are not properly applied, and in some cases have included "fast tracking" as a reason for detention. This procedure is likely to result in victims of torture and rape being detained from arrival until their "straightforward" claims are decided and they are removed, without independent medical or psychological evidence of their claims.
5. The use of detention is extremely costly (the weekly costs per detention place range from £364 at Haslar to £1620 at Oakington (*HoC Deb, 25 Oct 01, C 333 W*). There are alternatives to detention, namely reporting and/or residence restrictions. The UNHCR's Guidelines on applicable Criteria and Standards relating to the detention of Asylum seekers states that "*Alternatives to the detention of an asylum seeker until status is determined should be considered*" and suggests options including reporting and residency requirements.