

Response to Independent Chief Inspector of Borders and Immigration's call for evidence on the 'Adults at Risk' policy

by Her Majesty's Chief Inspector of Prisons

Introduction

1. We welcome the opportunity to submit evidence to the independent chief inspector on adults at risk in immigration detention.
2. Her Majesty's Inspectorate of Prisons (HMI Prisons) is an independent inspectorate whose role is primarily set out in section 5A of the Prison Act 1952. HMI reports on conditions for and treatment of those in prisons, young offender institutions (YOIs) and immigration detention facilities. HMI Prisons also inspects court custody, police custody and customs custody (jointly with HM Inspectorate of Constabulary and Fire & Rescue Services), and secure training centres (STCs) (with Ofsted). HMI Prisons is a member of, the UK's National Preventive Mechanism (NPM), which was established pursuant to the UN Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and which focuses on the prevention of torture and other ill-treatment.
3. Our response to this call for evidence is based on our immigration removal centre (IRC) inspection findings. HMIP have considered outcomes for vulnerable detainees since beginning inspections and have paid particular attention to the effectiveness of the adults at risk policy since its introduction in 2016. All inspections are carried out against our Expectations for immigration detention, which are the independent criteria by which we assess the treatment and conditions of those held in immigration removal centres. Our Expectations were drawn up following extensive consultation and are based on and referenced against international human rights standards.¹
4. Our response focuses on those detained in IRCs. At our IRC inspections, we review a sample of 12 cases to assess case progression and the impact of detention. We do not inspect detention gate keepers and therefore cannot quantify how many vulnerable adults the policy prevents from entering detention. Our evidence is therefore drawn from a small sample of vulnerable adults in detention.

Some at risk adults are still being detained and held for too long

5. The stated aim of the adults at risk policy is, 'a reduction in the number of vulnerable people detained and a reduction in the duration of detention before removal.'² Despite this

¹ The Expectations can be found at <https://www.justiceinspectorates.gov.uk/hmiprison/our-expectations/immigration-detention-expectations/>.

² Paragraph 1, Immigration Act 2016: Guidance on adults at risk in immigration detention July 2018. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721237/Adults_at_risk_in_immigration_detention_-_statutory_guidance__2_.pdf.

intention, we regularly find at-risk adults in detention, some of whom appear to be too vulnerable to remain in detention and have needs that cannot be met while detained:

'Poor casework planning had led to the detention of an elderly disabled couple in September 2017. The husband had poor hearing and diabetes; the wife was partially sighted and used a wheelchair. On their arrival, health care staff immediately assessed them to be unfit for detention and notified the Home Office that they were level three adults at risk. Centre staff provided good care: they opened care plans and housed the couple in the 'disabled room'. Two days after being detained, the Home Office agreed detention was no longer appropriate but it took a further three days to arrange release.'³

6. Home Office caseworkers review detention at least once a month and decisions to maintain detention are authorised by senior managers. Risk information about the impact of detention should be regularly communicated from IRCs to the Home Office. Despite these reviews, we find some at-risk adults held for too long:

'Despite efforts to care for adults at risk, too many were held for long periods. For example, a blind detainee on an ACDT had been detained for over a year ... and a wheelchair user who had tried to set himself on fire had been held for 15 months.'⁴

'Poor Home Office planning had led to the detention of a partially paralysed man who required assistance with washing, dressing and eating. His needs had not been fully assessed at the end of his sentence in HMP Birmingham, before his detention. The centre's health care team was not funded to provide social care and, unlike in prisons, the local authority had no statutory duty to care for the detainee. Despite good efforts by the centre, it did not meet all his needs. An adequate assessment was not made until five weeks after his transfer to Campsfield House. He was assessed as being at level 3 and it was agreed to release him. Social services failed to provide him with supported accommodation and he was detained for a further five weeks before being removed from the UK.'⁵

Poor administration of the policy

7. While the adults at risk policy allows the Home Office to better understand the number of vulnerable adults held, its data are not always accurate. At all our IRC inspections we have found it difficult to obtain accurate data regarding the number of adults at risk being held. Records held by the provider running the centre and those held by the Home Office are often discrepant. This leads to a lack of assurance that at risk adults are being identified, cared for and, if necessary, released.

'According to the centre's record, 28 detainees were considered to be at risk under the policy... The centre's records were not accurate – we found two detainees assessed as being on level 2 who were not on the list.'⁶

'In one case at Harmondsworth, staff had not even been aware of the only detainee on the highest risk level until we raised his case with them.'⁷

³ Paragraph 1.16, Report on an unannounced inspection of Dungavel House Immigration Removal Centre by HM Chief Inspector of Prisons, July 2018

⁴ Paragraph 1.29, Report on an unannounced inspection of Heathrow Immigration Removal Centre Harmondsworth site by HM Chief Inspector of Prisons, October 2017

⁵ Paragraph 1.13, Report on an unannounced inspection of Campsfield House Immigration Removal Centre by HM Chief Inspector of Prisons, September 2018

⁶ Paragraph 1.12, Report on an unannounced inspection of Tinsley House Immigration Removal Centre by HM Chief Inspector of Prisons, April 2018

⁷ Page 74, Annual Report 2017–18 HM Chief Inspector of Prisons for England and Wales.

Detention centre rule 35

8. Rule 35 of the detention centre rules requires the centre's medical practitioner to report to the Home Office any detainees whose health may be injuriously affected by detention; those who are suicidal or those who may be the victim of torture. At our inspections, we review a sample of 10 rule 35 reports. While the sample is small, some repeated concerns arise.
9. We often find that Rule 35 reports are not of sufficient quality to help case workers make fully informed decisions about whether to release a detainee.

'Most reports lacked necessary detail. Although most contained reasonably clear judgements on physical signs of torture, the reasoning for them was not always evident. The assessment of psychological trauma was weak.'⁸

10. We find that very few rule 35 reports are submitted when a detainee suffers suicidal ideation, even when the centre puts them on constant watch to prevent suicide.

'We were not confident that rule 35 reports were submitted when necessary. Seventy-seven reports had been drawn up in the previous six months, all concerning torture. In the same period, 29 detainees ... had been placed on constant observations because staff were concerned about imminent self-harm or suicide attempts. Although the health care team was routinely informed of these cases, no rule 35 reports were drawn up on the basis of a detainee posing a suicide risk'⁹

11. Finally, we also find that the Home Office often maintain detention even when they accept the rule 35 report as evidence of torture, citing immigration history as countervailing factors against release.

'In nine of the 10 cases, the decision-maker accepted the reports as evidence of torture. However, only one of these reports led to release.'¹⁰

What works well

12. Although we make recommendations for improvement, inspections also identify some positive work to support adults at risk. Home Office staff in immigration removal centres often demonstrate good awareness of the National Referral Mechanism and modern slavery. They are also aware of Home Office whistleblowing procedures to report improper practice or abuse. IRC custody staff, however, often have limited knowledge of these mechanisms.¹¹
13. In 2018 we found that IRC custody staff had started to use vulnerable adult care plans. In theory these plans documented needs, explained how they would be met, and involved case reviews. While these were not yet fully effective, they were a potentially useful tool to support and care for at risk adults.
14. At Harmondsworth in 2017, we found that information about some at risk adults was shared and discussed at a weekly multidisciplinary complex cases meeting. Attendance was good and

⁸ Paragraph 1.15, Report on an unannounced inspection of Campsfield House Immigration Removal Centre by HM Chief Inspector of Prisons, September 2018

⁹ Paragraph 1.15, Report on an unannounced inspection of Tinsley House Immigration Removal Centre by HM Chief Inspector of Prisons, April 2018

¹⁰ Paragraph 1.70, Report on an unannounced inspection of Heathrow Immigration Removal Centre Harmondsworth site by HM Chief Inspector of Prisons, October 2017

¹¹ Paragraph 1.18, Paragraph 1.16, Report on an unannounced inspection of Dungavel House Immigration Removal Centre by HM Chief Inspector of Prisons, July 2018

Home Office caseworkers from around the country phoned in to contribute.¹² These meetings potentially helped caseworkers to understand the impact of detention on individuals.

Conclusion

15. Despite efforts by the Home Office, their adults at risk policy is not yet fully effective. HMIP regularly find at risk adults in detention who appear to be too vulnerable to be detained or who are held for long periods of time. The length of detention and poor decision making in some cases may be exacerbated by poor casework planning and inaccurate data recording by the Home Office and their providers. The result is that some at risk adults do not receive the care and support they need.

16. I hope that you find this information useful and should you require anything further, please do not hesitate to contact me.

Peter Clarke CVO OBE QPM
HM Chief Inspector of Prisons

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¹² Paragraph 1.31, Report on an unannounced inspection of Heathrow Immigration Removal Centre Harmondsworth site by HM Chief Inspector of Prisons, October 2017