



## Briefing paper - Call for a moratorium on the detention expansion November 2014

**Executive summary** Over the last 12 months, UK immigration detention capacity has increased by 25%. Over 4,000 detention bed spaces are now available in eleven prison-like Immigration Removal Centres scattered across the country<sup>1</sup>. An extra 800 detention bed spaces have already been created in 2014, and the government has just announced a plan to double the size of Campsfield House Immigration Removal Center in Oxfordshire. This expansion of the detention estate is taking place away from public and political scrutiny. Detention is harmful and expensive. The UK's practice of detention, and the lack of a time limit, has been repeatedly criticised by various national and international observers. There is an ongoing parliamentary inquiry into the use of immigration detention, which is yet to report its recommendations. This is not the time to be expanding the detention estate. We call for a moratorium on the expansion of detention estate.

### Immigration detention – ‘the last resort’?

International and European law state that detention of migrants should be an exceptional measure of last resort. Article 9 of the International Covenant on Civil and Political Rights and Article 5 of the European Convention of Human Rights guarantee the fundamental right to liberty and security of person. In the UK, under the Immigration Act 1971, migrants can be detained under certain circumstances for the purpose of immigration control. Recognising the undesirability of deprivation of liberty for administrative purposes, the Home Office's own [Enforcement Instructions and Guidance Chapter 55](#) states that '(d)etention must be used sparingly, and for the shortest period necessary' (55.1.3.).

The UK's use of detention, however, has been steadily increasing. Between 2011 and 2014, there has been a 10% increase in the number of migrants entering the detention estate (from 26,301 to 29,124). These figures significantly underestimate the true extent of the use of detention, as they exclude a large number of migrants detained in prisons instead of Immigration Removal Centres<sup>2</sup>.

Statistics also suggest that the power to detain is used routinely by the Home Office. In the year ending June 2014, more than one in three (36%) of those leaving detention were granted temporary admission or release, raising the question as to why they had to be detained in the first place. It also shows that the longer the period of detention, less likely that detained migrants are removed or deported: while 60% of those detained less than seven days were removed, only 44% of those detained longer than 12 months were removed. Despite the Home Office's own guidance, many experience lengthy periods of detention. Of 3,079 who were detained at the end of June 2014, 61% were detained longer than a month, 26% were detained longer than three months and 8% were detained longer than six months.

### Harm and costs of detention

The negative impact of detention on the well-being of those incarcerated migrants is well documented and there is a consensus that detention harms migrants.<sup>3</sup>

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<sup>1</sup> <http://www.aviddetention.org.uk/images/uk%20detention%20september%202014.pdf>

<sup>2</sup> A service level agreement between the Home Office and NOMS (Prison Service) was signed in 2012, enabling up to 1,000 prison bed spaces to be used for immigration detention purposes.

<sup>3</sup> See Gatwick Detainees Welfare Group (2012), *A Prison of the Mind: The Mental Health Implications of Detention*; Ali McGinley and Adeline Trude (2012), *Positive Duty of Care? The Mental Health Crisis in Immigration Detention*.

# The Detention Forum



Notwithstanding the work of Her Majesty's Inspectorate of Prisons (HMIP) and other monitoring bodies, detention centres are not an environment where individuals' wellbeing, dignity and human rights are protected. Over the last three years, the High Court found on six separate occasions that the Home Office breached the human rights of immigration detainees who are in their care under Article 3 of the European Convention on Human Rights (freedom from torture, cruel and inhuman or degrading treatment)<sup>4</sup>. The latest case involved unlawful detention of a woman who was detained for seventeen months on entering the UK to join her refugee husband under the family reunion scheme. The court found that detention caused an otherwise healthy woman to experience a mental health collapse; on leaving detention, she was assessed as lacking capacity to instruct a solicitor.

These cases of unlawful detention are the tip of an iceberg of human rights abuses which come to public light because they are investigated and pursued by legal practitioners and NGOs. Only recently, we learnt that three staff members employed by the security company running Yarl's Wood Immigration Removal Centre were dismissed due to sexually inappropriate behaviours with those women held in the centre<sup>5</sup>.

Immigration detention is also expensive. According to the (now disbanded) UKBA annual accounts, the government spent £156m and £171m on detention 2011/12 and 2012/13. Huge sums of money are paid in compensation for unlawful detention cases (£12 million in 2009-10). Independent researchers Matrix Evidence also found that the UK wastes £76 million a year on the unnecessary long-term detention of people who are ultimately released<sup>6</sup>. These cost calculations do not take account of resources spent by civil society organisations and others to support those in detention and the costs of dealing with their long-term after effects of detention, once they are released back to the community.

## **Detention expansion by stealth**

Over the last 12 months, UK's detention estate has increased from 3,423 bed spaces to 4,270, a dramatic increase of 25%. Additionally, 1,000 prison bed spaces can also be used for immigration detention purposes, as a result of the service level agreement between the Home Office and NOMS (Prison Service) signed in 2012.

Over the last year, various extension work was carried out in six existing Immigration Removal Centres, adding a further 267 bed spaces. In September 2014, the Verne, a former prison, was re-launched as the newest Immigration Removal Centre, adding an extra 580 detention bed spaces. Most recently, an application to expand Campsfield House Immigration Removal Centre has been submitted to Cherwell District Council. The plans would more than double the bed spaces from 276 to 556.

The most salient feature of the UK's history of detention expansion is a complete absence of political scrutiny, despite the harm and costs of immigration detention. The size of the detention estate increased from a few hundred in the mid-80s' to 4,270 today. Yet, there has been little parliamentary scrutiny or evaluation of the effectiveness of detention. The Home Office continues to maintain that detention is necessary to remove migrants from the UK. However, between 2008 and 2013, numbers of enforced removals have actually declined by 24%<sup>7</sup> while during the same period, the numbers of migrants in detention have increased by 35%.<sup>8</sup>

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<sup>4</sup> R (BA) v SSHD [2011] EWHC 2748 (Admin), R (HA (Nigeria)) v SSHD [2012] EWHC 979 (Admin), R(S) v SSHD [2012] EWHC 1939 (Admin), R (D) v SSHD [2012] EWHC 2501 (Admin), R (Das) V SSHD (2014) EWCA Civ 45, R(S) v SSHD [2014] EWHC 50 (Admin)

<sup>5</sup> <http://www.theguardian.com/uk-news/2013/sep/14/detainees-yarls-wood-sexual-abuse>

<sup>6</sup> Matrix Evidence (2012), An economic analysis of alternatives to long-term detention

<sup>7</sup> Enforced removals fell from 17,239 in 2008 to 13,051 in 2013

<sup>8</sup> See <https://detentioninquiry.files.wordpress.com/2014/07/detention-action-detention-inquiry-evidence-07141.pdf>

# The Detention Forum



## Global and domestic calls to ‘rethink’ immigration detention

The UK’s plan to expand its detention estate goes against the recommendations made by international human rights bodies, which are alarmed by the harm caused by immigration detention. In 2012, the UN Special Rapporteur on the Human Rights of migrants, François Crépeau, urged states to ‘consider progressively abolishing the administrative detention of migrants’ in an irregular situation and encouraged states to develop more alternatives to detention schemes which fully incorporate a human rights-based approach<sup>9</sup>. This echoed the recommendations of the Commissioner for Human Rights of the Council of Europe, who in 2008 also called on the UK to drastically limit the administrative detention of migrants<sup>10</sup>. Most recently, the United Nations High Commissioner for Refugees (UNHCR) commenced implementation of its global detention strategy, *Beyond Detention*, with UK as one of the 12 focus countries. The strategy’s objectives include ensuring that alternatives to detention are available in law and implemented in practice to achieve the reduction in the use of detention.

In response to a growing concern about the negative impact of immigration detention, the Parliamentary inquiry was launched in July 2014. The inquiry is jointly led by the All Party Parliamentary Groups on Refugees and Migration, and marks the first dedicated Parliamentary inquiry into the impact and implications of the use of immigration detention. It has cross-party support and seeks to involve in its evidence gathering process NGOs, legal practitioners, monitoring bodies and, most importantly, those who lives have been directly affected by detention. During the first two oral evidence sessions, those witnesses who were called to give evidence made it clear that the UK’s immigration detention policy and practice is ripe for fundamental reform on a number of levels.

## Call for a moratorium on the detention expansion

It is ill-advised for Immigration Minister to proceed with plans to expand Campsfield House Immigration Removal Centre before the findings of the detention inquiry are announced next year. Locally, there is strong cross-party opposition to the expansion plan, led by Nicola Blackwood, MP for Oxford West and Abingdon<sup>11</sup>. We call for a moratorium on the detention expansion, urge the Immigration Minister to withdraw the Campsfield House planning application and ask the detention inquiry panel members and others to work towards providing parliamentary scrutiny of the Government’s detention expansion plan. The current system needs a radical reform, not expansion.

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## About the Detention Forum

The Detention Forum is a network of over 30 organisations who are working together to challenge the UK’s use of immigration detention. We have three objectives:

- To put a time limit on immigration detention
- To end the detention of vulnerable people
- To improve the judicial oversight of detention

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<sup>9</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/125/96/PDF/G1212596.pdf?OpenElement>

<sup>10</sup> <https://wcd.coe.int/ViewDoc.jsp?id=1339037&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679>

<sup>11</sup> <http://closecampsfield.wordpress.com/2014/10/23/press-release-campsfield-expansion-wrong-abusive-and-unnecessary-who-benefits%e2%80%8f/>