

## Time Limit for Immigration Detention

The Detention Forum is a network of over 40 organisations challenging the use of immigration detention in the UK. This briefing paper makes the case for **the introduction of a time limit on detention**.

*The UK is the only country in Europe to detain migrants indefinitely – a human rights abuse that undermines the whole immigration system. It allows staff to act with impunity, as though they have licence to assault and abuse. It is psychological torture: even people who go in without mental health issues come out traumatised.*  
*Freed Voices, a group of experts-by-experience, The Guardian 5 September 2017*

Currently there is no limit on the length of time that people can be detained for immigration purposes in the UK. People can and do have their liberty taken away from them indefinitely.

Detention must always be the last resort and for the shortest time, in practice as well as in theory. We welcome the Government's significant reduction in the use and scale of detention during 2019. But this progress should be strengthened with the introduction of a 28 day time limit for immigration detention.

### Indefinite detention in the UK

Immigration statistics<sup>1</sup> show that 26 per cent of people had been detained for more than 28 days in the 12 months up to 31 December 2019. Two per cent – 517 people – had been held for more than 6 months. This has huge financial and human costs.

During the Covid-19 crisis, with greater public health risk and minimal chance of removal to many countries, the Home Office has released hundreds of people held in detention. Campaigning organisations have secured the release of dozens more. But at the start of May 2020, 313 people<sup>2</sup> were detained in detention centres. Additionally, at the end of March 2020 340 people<sup>3</sup> were detained under immigration powers in prison.

1 Source: <https://www.gov.uk/government/publications/immigration-statistics-year-ending-december-2019/how-many-people-are-detained-or-returned>

2

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/887808/statistics-relating-to-covid-19-and-the-immigration-system-may-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887808/statistics-relating-to-covid-19-and-the-immigration-system-may-2020.pdf)

3 <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-march-2020>

A report by Chief Inspector of Prisons<sup>4</sup> found almost 40% of people held in IRCs in mid-May are vulnerable, classified as 'adults at risk'. More than 20 per cent have been held for more than 6 months, and 12 for more than a year.

Britain has a long tradition of legal protection for civil liberties. This tradition is undermined each day that migrants are detained without a time limit. Many people experience long-term damage to their physical and mental health. Their families also experience the distress of separation. Detention without time limit damages the UK's international reputation for defending human rights.

## **The case for a time limit**

### **Health**

Detention's damaging impact on mental health is widely recognised<sup>5</sup>, and after 30 days of incarceration there is a rise in the severity of harm<sup>6</sup>. Setting a time limit under 30 days can protect people in detention from this significant level of harm.

### **Logistics**

The Home Office's Enforcement Instructions and Guidance<sup>7</sup> indicates it can predict that removals can take place within a time period of 28 days (four weeks) when certain conditions are met. This applies even in complex cases dealt with by the Criminal Case Directorate.

### **Justice**

In the public health, counter-terror and criminal justice systems, where individuals face the possibility of detention without charge, 28 days or lower is considered an acceptable upper limit. 28 days provides sufficient time for the government to achieve its aims while recognising that there should be limits on its power to deprive individuals of their liberty.

### **Economic**

The UK has one of the largest detention estates in Europe. We are the only country in Europe not to have a limit on how long someone can be detained. It costs about £30,000 to detain someone for a year.

4 Chief Inspector of Prisons IRC report, 2 June 2020  
<https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2020/06/IRC-SSVweb-2020.pdf>

5 <https://www.bma.org.uk/advice-and-support/ethics/working-in-detention-settings/health-and-human-rights-in-immigration-detention>

6 K. Robjant, I. Robbins and V. Senior (2009), 'Psychological distress amongst immigration detainees: A cross-sectional questionnaire study', *British Journal of Clinical Psychology*48: 275-286, p.282.

7 <https://www.gov.uk/government/collections/enforcement-instructions-and-guidance>

Research by Liberty found that a 28-day time limit could save the tax payer up to £35m per year<sup>8</sup> net.

## There are alternatives

[Alternatives to detention](#)<sup>9</sup> are cheaper, more effective and avoid the harm of detention. States that work with migrants in the community to resolve their cases have found that most comply with immigration requirements, for a fraction of the cost of detention.

Over the past few years, a campaign has been building wide ranging support across society to reform unjust, ineffective immigration rules and introduce a time limit for immigration detention.

## Increasing support in Parliament

MPs have long been concerned with indefinite detention. In 2006/07, the Joint Committee on Human Rights recommended that “*where detention is considered unavoidable to facilitate the removal of asylum seekers who are at the end of the process, subject to judicial oversight the maximum period of detention should be 28 days.*”

In 2014/15, a Joint Inquiry by the All Party Parliamentary Group on Refugees and the All Party Parliamentary Group on Migration into the Use of Immigration Detention in the United Kingdom recommended “*that a maximum time limit of 28 days should be introduced and that this should be set in statute ... the Government should introduce a robust system for reviewing the decision to detain early in the period of detention ... the Government will need to introduce a much wider range of alternatives to detention.*”

In January 2019 the Joint Committee on Human Rights concluded that:

*Detention should be used only where it is necessary and proportionate. Indefinite detention causes distress and anxiety and can trigger mental illness and exacerbate mental health conditions where they already exist. Moreover, the lack of a time limit on immigration detention reduces the incentive for the Home Office to progress cases promptly which would reduce both the impact on detainees, and detention costs.*

*We recommend that where all other alternatives have been explored and considered unsuitable and detention is considered necessary, the maximum cumulative period for detention should be 28 days.*

*The only exception to the 28 day limit should be that in exceptional circumstances—for example, when there are no barriers to removal and the detainee is seeking*

8 [http://www.camecon.com/wp-content/uploads/2019/05/Immigration-detention-reform\\_Final-report.pdf](http://www.camecon.com/wp-content/uploads/2019/05/Immigration-detention-reform_Final-report.pdf)

9 See [http://www.detentionforum.org.uk/wp-content/uploads/2019/02/AlternativestoDetention\\_A4\\_5.pdf](http://www.detentionforum.org.uk/wp-content/uploads/2019/02/AlternativestoDetention_A4_5.pdf)

*unreasonably to frustrate the removal process—the period of 28 days could be extended by a further period of up to 28 days on the decision of a judge. The decision on whether the 28 day period should be extended should be a judicial one, to be considered on application from the Home Office.*

In March 2019 the Home Affairs Select Committee concluded:

*It is time to implement radical change. In line with the Joint Committee on Human Rights, we urge the Government to bring an end to indefinite immigration detention and to implement a maximum 28-day time limit with immediate effect. We strongly believe that 28 days would be a reasonable statutory immigration detention time limit to enforce, given that the Home Office's own Enforcement Instructions and Guidance stipulate that detention should only be maintained when removal is imminent (i.e. within 28 days (four weeks)).*

## **The time limit amendment in 2020**

David Davis MP (Conservative, Haltemprice and Howden) tabled amendments to the Immigration Bill to introduce a time limit for immigration detention. These are the amendments, which came so close to succeeding in the last Parliament. His amendments received strong cross party support across the House of Commons.

The proposed new law would:

- Make sure that no one is detained for longer than 28 days
- Put independent judges in charge not Home Office staff
- Protect vulnerable people like torture and trafficking survivors from prolonged detention

With this wide-ranging cross party support and in the current very uncertain political climate, we feel that this is a great opportunity to push once again for a time limit to be introduced for immigration detention in the UK.

## **Next steps**

As Detention Forum, we are urging all of our member organisations and supporters to contact **Members of Parliament and Peers** to ask them to support these Time Limit amendments as the Immigration Bill works its way through Parliament.