

Immigration Act 2016

Factsheet – Vulnerable people in detention (Section 59)

What are we going to do?

- We are going to put a new policy (the “adults at risk” policy) in place which will change the way in which the Home Office makes decisions on the immigration detention, for the purposes of removal, of vulnerable people.
- Before we do this we are going to lay the guidance before Parliament so that Parliament has the opportunity to scrutinise it.

How will we do it?

- Once Parliament has had the opportunity to view the guidance we will be training our staff in its use and we will put the new policy into effect later in the year.

Immigration Minister James Brokenshire said:

“The new adults at risk policy ... will recognise the dynamic nature of vulnerability and introduce a new focus on decision making with regard to immigration detention. Building on the current legal framework, it will strengthen the existing presumption against the detention of those who are particularly vulnerable to harm in detention.”

Background

- The Government expects people who do not have the right to stay here to leave voluntarily. We are able to offer support to those who choose to leave voluntarily to ensure that individuals are able to exercise control over their departure and can leave the UK with dignity.
- However, we need to ensure that we are able to effectively manage returns for those who do not depart voluntarily.
- The adults at risk policy is part of the Government's response to recommendations from the report by Stephen Shaw on the welfare of vulnerable people in detention, set out in a Written Ministerial Statement on 14 January.
- In each case, caseworkers will make an evidence-based decision, against a number of indicators, on whether an individual is an "adult at risk". If the individual is considered to be at risk, the Home Office will consider the risk against the relevant immigration considerations. Only when the immigration considerations outweigh the risk factors will the individual be detained.
- The Government believes that this new policy, combined with wider reforms, strikes the right balance between protecting vulnerable individuals and maintaining effective and proportionate immigration control.
- The Government intends to invite Stephen Shaw to, in due course, carry out a short review in order to assess progress against the key actions from his previous report.

Key Questions and Answers

What do you hope to achieve with this policy?

The policy will recognise the dynamic nature of vulnerability and will introduce a new focus on decision making with regard to immigration detention. Building on the current legal framework, it will strengthen the existing presumption against the detention of those who are particularly vulnerable to harm in detention.

From when will the policy be effective?

In line with the provisions of the Immigration Act, the policy must be laid before Parliament before it is issued and comes into force. We expect to lay the policy before Parliament in July, when the relevant powers of the Act have been commenced. The policy will be put into effect shortly afterwards.

How many people will be affected by the new policy?

It is not possible to make such a forecast. The policy is part of a wider programme of work which aims to improve the way in which vulnerable people in detention are managed. We expect the policy to have the greatest impact in the cases of individuals who are most at risk.

What gives you confidence that fewer vulnerable people will be detained?

The new adults at risk policy introduces a more holistic approach to the consideration of individual circumstances in order to ensure that vulnerable people are not detained inappropriately. This will be a consistent approach across the whole business which, combined with a greater emphasis on safeguarding as part of current and planned improvements to the caseworking process – including a new gatekeeper function – will mean that cases of vulnerability should be picked up and acted on more quickly. We expect this to result in a reduction in the number of the most vulnerable who are detained.

Will the Government commit to another review of the detention of vulnerable people?

In due course the Government intends to ask Stephen Shaw to carry out a short review next year in order to assess progress against the key actions from his previous report.

Home Office

July 2016