



Home Office

**The Home Office response to the
Independent Chief Inspector of
Borders and Immigration's report:**

**Annual inspection of Adults at Risk in
Immigration Detention**

(November 2018 - May 2019)

The Home Office thanks the Independent Chief Inspector of Borders and Immigration (ICIBI) for his report.

The Home Office is grateful to the ICIBI for this first inspection of its kind, representing an important milestone from when Stephen Shaw reported on his follow-up review into the welfare of vulnerable persons in immigration detention. The Department is grateful for the effort that the ICIBI and his teams have devoted to this inspection. Work is already underway to take forward the recommendations in this report.

The Department has accepted or partially accepted seven of the ICIBI's eight recommendations. One of the recommendations has not been accepted.

The Home Office response to the recommendations:

The Home Office should:

1. Continue to implement the recommendations from previous reviews and reports relating to vulnerability and the management of non-detained and detained persons, ensuring that this work is properly prioritised, resourced and coordinated, with an overall Action Plan setting out actions, responsibilities, delivery dates, intended outcomes and review/evaluation mechanisms.

1.1 Partially Accepted

1.2 We will continue to implement those recommendations we have accepted from previous reviews and reports, prioritising these accordingly. Well established governance structures already exist both within Immigration Enforcement, and in the wider Home Office, which regularly review progress on the implementation of recommendations. For example, a senior oversight group monitors the implementation of Stephen Shaw's recommendations and this group has recently expanded that remit to include accepted recommendations from the immigration detention reports from the Joint Committee of Human Rights and Home Affairs Committee. The Home Office considers that this governance structure, alongside existing fora such as the Detained Casework, Voluntary Return and Community Engagement Boards, are sufficient in managing the immigration related recommendations made by various organisations (including oversight bodies, inspectorates, Parliamentary committees and other commentators). As such, we are not of the view that there is a need for a single overall action plan and governance structure that plots and tracks every recommendation covering both detained and non-detained persons, in the way described. If created, it would become too broad and unwieldy to report on progression in a timely manner.

1.3 On work being done across the Borders, Immigration and Citizenship System (BICS) to ensure the Home Office can better manage vulnerability: a cross BICS Vulnerability & Safeguarding Strategy is in development which will set the strategic direction for how vulnerability is managed across the Department. The strategy will include a high-level framework to ensure a shared understanding of what we mean by vulnerability and when and how interventions may be needed by staff across the BICS. The Department has dedicated resources leading on this work and the draft Strategy will be fully reviewed in light of the Windrush Lessons Learned Report, to ensure relevant recommendations are reflected.

2. Convene all of the government departments and agencies that have a role in reducing the detained population and, in particular, the number of vulnerable persons and

Foreign National Offenders who are detained and the time they spend in detention and agree a cross-government strategy for achieving this, with roles and responsibilities for delivery, hand-offs, and obstacles and solutions clearly defined.

2.1 Partially Accepted

2.2 The department already has an established approach in place for reforming immigration detention. Activity against that approach depends on cross-Government work, including across handoffs with key representative HMG partners: The Ministry of Justice and Department of Health

2.3 The aims of our approach are: to keep the use of immigration detention to a minimum; to ensure that decisions to detain, and subsequent decisions to maintain detention or release from detention, are well made; to secure greater transparency around immigration detention; and to ensure that people who are detained are treated with dignity and in an estate fit for purpose. At the heart of these aims has been the commitment, over time, to secure a material reduction in the number of people detained and the length of time that they spend in detention.

2.4 Work against these priorities is overseen through a dedicated, cross-Government senior oversight group that monitors the implementation of Stephen Shaw's recommendations, the commitments relating to immigration detention made by the former Home Secretary in July 2018 and more recently, other recommendations from the Joint Committee of Human Rights and Home Affairs Committee.

2.5 In demonstrating our progress, the figures speak for themselves: 95% of those who are liable for detention are managed in the community. As of summer 2019, the immigration detention estate was 40% smaller than it was four years previously. In the year ending September 2019, 3% fewer people entered the detention estate than in the previous year, which represents a fall for the fourth consecutive year. However, we need to keep these trends under review, and look beyond just the headline figures – which the senior oversight group regularly does – and although no issues have yet arisen, it is right we remain conscious of what effect this may have on other areas of the Borders, Immigration and Citizenship System.

2.6 However, we recognise that further work could be done in respect of Foreign National Offenders, as per the Inspectorate's findings. Immigration Enforcement's Criminal Casework Directorate works jointly with HM Prison & Probation Service (HMPPS) in a number of focused, cross-Government boards at both a working and more senior level. Those boards are already taking forward a programme of work; but we accept that a specific action plan, that incorporates the areas that the Inspectorate has commented upon in the context of criminal casework, would be helpful to pinpoint areas of concern and drive further progress.

3. Review the various definitions and indicators of risk and vulnerability used throughout Home Office guidance, processes and forms (not solely related to Adults at Risk guidance) and in the Detention Centre Rules and Detention Services Orders, and (with input from relevant experts) ensure that they clear, consistent and comprehensive, and that all staff (Home Office, supplier and prison) are fully trained to understand and comply with them.

3.1 Partially Accepted

3.2 We have considered this recommendation in relation to the Borders, Immigration and Citizenship System (BICS) and have partially accepted on this basis. In this context, there is

already work under way within BICS to look at vulnerability and safeguarding definitions and indicators. This is a significant undertaking because of the large number of vulnerability indicators used across BICS, and more widely, some of which are only relevant to specific areas. In the first instance, we are seeking to provide a framework for the level of intervention expected from our staff. We are also working on a list of indicators, with a short definition of their meaning which we will seek to get agreed across BICS and implemented to use from Spring 2020 onwards. We will then consider how the framework and the definition apply to any relevant guidance and training, including whether new products are needed, or existing products should be amended.

- 3.3 In relation to Immigration Enforcement and the immigration detention system, the consultation on the Detention Centre Rules, which closed in June 2019, includes considerations around the operation of Rule 35, which is an important element of our safeguarding arrangements. As the Chief Inspector noted in his report, the department is also working to improve the Adults at Risk in Immigration Detention Policy, in response to the recommendations in Stephen Shaw's second review. We see both of these strands as a single cohesive project to improve the operation of the AAR policy overall, and to lay a new instrument (the Immigration Removal Centre Rules), which will include a revised Rule 35. These changes require Parliamentary approval, but our intention is to lay the new Rules by the end of Summer 2020.
- 3.4 Once the Removal Centre Rules are implemented, the IRC Operating Standards and relevant Detention Services Orders will be updated to reflect any changes. In addition, the associated training on adults at risk and assurance frameworks for Home Office staff and staff in IRCs will also be revised.
- 3.5 The Home Office will complete work to consolidate all vulnerability and detained casework training following Stephen Shaw's second review. Delivered by embedded trainers but monitored centrally, this will form the basis of an annual programme for Home Office, partner and supplier training.

4. Review where the authority not to detain/to release should sit, and at what level/grade, at each of the three key stages of detention: prior to admission to an Immigration Removal Centre (or detention under immigration powers in a prison); during the admission process; and once a person has been in detention for more than 24 hours and is into the cycle of reviews.

4.1 Partially Accepted

- 4.2 The Department does not consider that a review of all the elements referred to should be undertaken at this time. However, we accept that there are elements that can and should be reviewed. This includes our current review of the operation of the existing detention arrangements and assurance functions, including the Detention Gatekeeper and Case Progression Panel functions (for which we are currently piloting independence in the latter). This follows scrutiny from Stephen Shaw, the Joint Committee of Human Rights, Home Affairs Committee and commentary made by the Inspectorate during the first inspection, as included in the report. Once that work is complete, we will be able to better understand the requirements for the other elements of the process, in terms of the stage prior to detention, and during detention – we do not consider that those elements should be reviewed until the wider work has been completed. Notwithstanding this, the Home Office is already planning to undertake a review of the process for obtaining Strategic Director authorisation for the release of Foreign National Offenders from detention, who have been assessed as level 3 under the current AAR policy.

5. Produce and implement an improvement plan for the three key stages of detention, including as a minimum:
- a. Prior to admission: i) provide the Detention Gatekeeper (DGK) with real-time access to professional medical advice; and ii) identify in what circumstances and how enhanced screening might work, at least for some of those being considered.
 - b. During the admission process: rationalise the process, with the aim that the detainee is seen by all parties (IRC supplier, healthcare and GP, and embedded Detention Engagement Team (DET)) within 24 hours of arrival, and that the staff who have had contact with the detainee meet and agree a joint report that includes an assessment of whether the person is suitable to be detained and which forms the basis for the 24-hour DGK review (which would also serve as a quality assurance check on the DGK).
 - c. Once in detention (after the 24-hour point): i) ensure that the DETs are adequately resourced, trained and equipped (with effective IT connectivity and immediate access to case owners) to perform the function for which they were created; ii) ensure that case owners engage (directly or through the DETs) with IRC staff, healthcare and GPs regarding 'Part C' and Rule 35 reports, as a minimum providing feedback on their usefulness but also seeking clarification on any points that are not clear; iii) without waiting to see if an independent party will agree to participate, revisit the staffing, functioning and minuting of the Case Progression Panels (CPPs) and ensure that they are operating firstly as effective meetings, before determining whether they are a robust and reliable review mechanism, with sufficient authority.

5.1 Partially Accepted

5.2 Whilst we accept the principle of this recommendation, there are areas that the Department cannot agree to, namely part (a) (i), (b) and (c) (ii).

5.3 We are unable to accept (a) (i) because:

5.4 The provision of real-time medical advice, in the way described, would require a fundamental change in approach by a number of stakeholders, including primary healthcare providers, and their respective systems, at significant cost. As the Inspectorate has noted in its report, the practicalities of such an arrangement would be challenging. We think that the issue can be proportionately addressed through work already under way to scope how we will enhance the screening of those encountered and subject to enforcement action, in part to better identify issues of vulnerability – this is also an area that the Home Affairs Select Committee, in their recent report on Immigration Detention, commented upon.

5.5 We are unable to accept (b) because:

5.6 Where detention is considered to be appropriate, we already have stipulated timeframes for the provision of healthcare assessments for detainees entering detention; within two hours of their arrival by a nurse and then by a General Practitioner within 24 hours. Making fundamental changes to this would require detailed consideration with those contracted to provide primary healthcare services and we would need to work through the cost considerations. We have already improved the interaction between the Home Office and those detained to enable healthcare to have a greater impact. This has been through the introduction of Detention Engagement Teams, improving the IRC induction process and creating even closer links between those that work in IRCs and the Detention Gatekeeper.

5.7 We are unable to accept (c) (ii) because:

5.8 We acknowledge that the recruitment of the Detention Engagement Teams took longer than we would have liked, in part because of the locations of the IRCs, and that the availability of technology to support the teams' work has also presented a challenge. These issues have now been overcome.

5.9 With the creation of now fully resourced in-IRC Detention Engagement Teams, there are now more Home Office staff in IRCs to ensure appropriate communication and progression occurs between those detained and the detained caseworkers located nationally. It will soon be mandatory for all those involved in decisions to detain to have visited an IRC or prison. This, with the newly created central and independent of case owning teams Rule 35 Team, means the Home Office have ensured those involved in detention, understand the effect of detention and that decisions around vulnerability are made separate to those around detention and return.

5.10 Following the Inspectorate's more detailed feedback on Case Progression Panels, improvements have been made in all of the areas identified (including the process, guidance and feedback loops) and recent panel observations by the Inspectorate have confirmed improvements are taking effect. But we recognise that there is still work to do, and that the changes that have been made will take time to bed in fully. Separately, we have now agreed with the United Nations High Commissioner for Refugees and British Red Cross arrangements to provide quarterly assurance of CPPs, to ensure we are benefitting from their challenge, and continually improving the operation of panels. Building on this, on the CPP model itself, we have identified prospective independent panellists to observe panels and participate in a pilot, with a view to informing our future approach to these. They have already attended a number of panels and made recommendations which will further improve their operation.

6. (Without waiting for Atlas) produce and share with stakeholders a statement about the data the Home Office considers is essential to a thorough understanding and assurance of the effectiveness of the Adults at Risk guidance (and any related policies, guidance, processes), and overhaul the forms and other methods by which data and information about the detained population is collected to ensure that this data is collected consistently and comprehensively.

6.1 Not Accepted

6.2 The Department will shortly be consulting on the information we already publish and on what additional information might be published to provide a fuller picture of immigration detention, including on matters concerning vulnerability. Views of partners, including the Inspectorate, will be a valuable insight to this consultation.

6.3 Simultaneously we are reviewing all information published within Immigration Statistics and the Transparency Publication. As part of this review, we are looking to provide clearer information on those held within the detention estate

6.4 We will publish a response to the consultation, which will set out the information that we intend to publish and implementing the changes will include a review on any relevant forms and guidance.

- 6.5 However, much of this work needs to be aligned to Atlas and with the department managing significant risks associated to the delivery of this key IT system, it would be unwise to accept additional development requirements during such a challenging period.
- 6.6 Our long-term intention (under Atlas) is to fully commit to the substance of this recommendation but we are unable to do so prior to the implementation of Atlas.

7. Review the Policy Equality Statement (PES) produced in 2016 to accompany the Adults at Risk guidance and confirm that the statements and assessments in relation to unlawful discrimination remain valid in the light of experience.

7.1 Accepted

- 7.2 The development of a Policy Equality Statement is an integral part of our work, and it is subject to periodic review. The PES for the Adults at Risk in immigration detention policy was published on 28 March 2018 and will be reviewed following the review of the Detention Centre Rules, including in respect of Rule 35. The review will address the Chief Inspector's concerns on unlawful discrimination. The aim is to have reviewed the PES early into the New Year (2020), but progress is dependent on the wider AAR reforms, as set out in our response to recommendation 3. Our intention is to have these changes in place by the end of Summer 2020.

8. Produce a comparative analysis of the treatment and conditions (covering Rules, policies, guidance, and practice) of detainees and of time-served Foreign National Offenders detained in prison under immigration powers and ensure that there is a clear and evidenced justification for any differences, particularly where one group is demonstrably disadvantaged compared to the other.

8.1 Accepted

- 8.2 We agree that the starting point for this work would be to undertake a comparative analysis, in the way that has been described. Some of that work has already commenced, with HMPPS leading work (with the Home Office and NHS England) to implement Stephen Shaw's recommendation 3, which relates to the development of a policy on provision for detainees held under immigration powers in prisons. The aim of that work is, where possible, to provide equivalence of provision between those held in Immigration Removal Centres, and those in prisons under immigration powers. There will, of course, be instances where this is not possible.
- 8.3 The Home Office has created a new role to take this work forward with HMPPS and the NHS. Detail of this work is currently being scoped, but it links to the Home Office policy work around the Adults at Risk Policy and Detention Centre Rule 35 which we intend to implement by April 2020. We hope to have a clearer timetable when resourcing to lead this work is in place by early 2020.