



DEBATE PACK

Number CDP-2018-0143, 12 June 2018

Immigration detention of victims of torture and other vulnerable people

Westminster Hall, Thursday 14 June 2018,
3.00pm

A Westminster Hall debate on Immigration detention of victims of torture and other vulnerable people is scheduled for Thursday 14 June 2018 at 3.00pm. The Member leading the debate is Joan Ryan MP.

The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

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1. Background

1.1 Adults at Risk policy

In September 2016 the Home Office introduced an [‘adults at risk in immigration detention’ policy](#). The policy is intended to ensure that vulnerable cases are consistently identified, “based on a more holistic approach to the consideration of individual circumstances”, and to reduce the number of vulnerable people detained and the length of detention pre-removal.

The policy was part of the [Government’s response](#) to [Stephen Shaw’s 2015 review](#) of the welfare of vulnerable people in immigration detention. The review had found “shortcomings in both the identification of vulnerability and in the policies designed to maintain wellbeing.” It made 64 recommendations for change which were broadly accepted by the Government.

The policy is underpinned by section 59 of the Immigration Act 2016. This requires the Home Secretary to issue guidance for assessing whether an individual would be particularly vulnerable if detained and for making decisions to detain in such cases. The Act requires a draft copy of the guidance to be laid before Parliament and that the guidance be implemented through regulations.

A [response to a PQ](#) issued in January 2018 summarises how the policy operates:

It is based on a case by case assessment of the appropriateness of detention for each individual, depending on the nature and evidence of vulnerability available in their particular case. It involves a balancing of vulnerability considerations against immigration factors (how soon removal is due to take place, public protection concerns, and compliance with immigration law). If an individual is identified as being at risk in the terms of the policy, they will be detained (or their detention continued) only when the immigration factors outweigh the evidence of risk.

As such, the policy strengthens the existing presumption against detention. It does not, however, represent an automatic exclusion from immigration detention for any group of vulnerable, or potentially vulnerable, individuals and the Government has no plans to put in place a framework which fully prohibits the detention of any group of individuals.

The Government asked Stephen Shaw [to conduct a follow-up review](#) of its implementation of his report’s recommendations in autumn 2017. To date, Mr Shaw’s second report has not been published.

Stakeholder criticisms of the policy

The policy guidance [immediately drew criticism](#) from NGOs working with torture survivors and immigration detainees. They raised concerns that it would lead to a worsening of protection from detention for vulnerable individuals, because of the increased evidential burden it placed on vulnerable people and the wide range of factors that would be weighed against evidence of vulnerability.

The policy was also criticised for adopting a narrower definition of torture than the Home Office had previously used when considering (un)suitability for detention. The new definition was based on the UN Convention Against Torture and excluded torture committed by 'non-state' actors.

1.2 High Court challenge to the definition of torture

The charity Medical Justice and seven individuals who had been detained because of the new policy brought judicial reviews against it: [Medical Justice & Ors v Secretary of State for the Home Department](#).

Mr Justice Ouseley's October 2017 judgment found that aspects of the adults at risk policy were unlawful:

Aspects of the AARSG in relation to the definition of "torture" are unlawful: the correct interpretation of "torture" in R35 was ignored; the list of indicators was exclusive; this conflicted with the purpose of s59, and lacked a rational or evidence base. The UNCAT definition of "torture" intended for use in the AARSG and R35 would require medical practitioners to reach conclusions on political issues which they cannot rationally be asked to reach. All this meant that E[quality] A[ct] issues were not considered on the proper basis.

The Home Office reviewed the policy and consulted with relevant stakeholders in light of the High Court's findings, in order to develop new statutory guidance. It had already stopped using the narrower definition of torture in December 2016, pending the outcome of the judicial review.

1.3 The new draft policy guidance

New [draft guidance on adults at risk](#), intended to give effect to the High Court judgment, was laid before the House on 21 March 2018. It is due to come into effect on 2 July.

It is underpinned by related regulations, which were laid before the House on 27 March and subject to the negative approval procedure:

- [Immigration \(Guidance on Detention of Vulnerable Persons\) Regulations 2018 \(SI 2018/410\)](#)
- [Detention Centre \(Amendment\) Rules 2018 \(SI 2018/411\)](#)

Two EDMs praying against the regulations ([EDM 1200](#) and [EDM 1202](#)) have each gathered over 100 signatures.

The Explanatory Memoranda for the regulations summarise the changes being made:

In summary, the Government is amending the Detention Centre Rules 2001 to change the definition of torture. This new definition of torture is also contained in the Short-term Holding Facility Rules 2018

(SI 409/2018), which are being made at the same time. In addition, the statutory guidance is being amended in two ways: to make the cross reference to the new definition of torture in rule 35(6) of the Detention Centre Rules; and to address the judge's observation that the "sweeping-up" provision was not working (as the Government intended) to capture those individuals who may be particularly vulnerable to harm in detention, but not covered by the specific indicators of risk listed.

SI 2018/411 changes Rule 35 of the Detention Centre Rules 2001 (as amended) to provide a new definition of torture:

"(6) For the purposes of paragraph (3), "torture" means any act by which a perpetrator intentionally inflicts severe pain or suffering on a victim in a situation in which—

(a) the perpetrator has control (whether mental or physical) over the victim, and

(b) as a result of that control, the victim is powerless to resist."

SI 2018/410 adds a "sweeping up" paragraph (para 12) to the "indicators of risk" section of the adults at risk in immigration detention guidance:

Indicators of risk

11. The following is a list of conditions or experiences which will indicate that a person may be particularly vulnerable to harm in detention.

- suffering from a mental health condition or impairment (this may include more serious learning difficulties, psychiatric illness or clinical depression, depending on the nature and seriousness of the condition)
- having been a victim of torture³ (individuals with a completed Medico Legal Report from reputable providers will be regarded as meeting level 3 evidence, provided the report meets the required standards)
- having been a victim of sexual or gender based violence, including female genital mutilation
- having been a victim of human trafficking or modern slavery (see paragraph 20 below)
- suffering from post traumatic stress disorder (which may or may not be related to one of the above experiences)
- being pregnant (pregnant women will automatically be regarded as meeting level 3 evidence)⁴
- suffering from a serious physical disability
- suffering from other serious physical health conditions or illnesses
- being aged 70 or over
- being a transsexual or intersex person.

12. The above list is not intended to be exhaustive. Any other relevant condition or experience that may render an individual particularly vulnerable to harm in immigration detention, and which does not fall within the above list, should be considered in the same way as the indicators in that list. In addition, the nature and severity of a condition, as well as the available evidence of a condition or traumatic event, can change over time.

Ongoing criticism of the adults at risk policy

A [recent briefing](#) by the NGOs Medical Justice and Freedom from Torture argues that the revised definition of torture is unnecessary and too complex for medical practitioners and Home Office staff to apply, and will inappropriately exclude people subjected to severe ill-treatment who are not in situations of powerlessness. The charities are concerned that the 'sweeping up' paragraph will not provide an adequate safety net for these types of case.

The briefing goes on to reiterate stakeholder's concerns about broader weaknesses with the adults at risk guidance:

Why is the Adults at Risk safeguard failing to protect torture survivors and other vulnerable people?

- **The Guidance raises the threshold for a decision not to detain, by increasing the evidentiary burden on the vulnerable individual.** Under the previous policy, victims of torture, for example, needed only to show independent evidence of their history of torture to be considered unsuitable for detention except in '*very exceptional circumstances*'. The Guidance introduces an additional requirement to present specific evidence that detention is likely to cause harm in order for release to be seriously considered. This evidence is extremely hard to come by before harm has actually occurred.
- **The Guidance has also weakened the protection offered by introducing a much wider range of 'immigration factors' for consideration before a decision not to detain can be justified.** These factors place a much greater emphasis on non-compliance. This has replaced the previous threshold of '*very exceptional circumstances*' that related principally to the risk of re-offending, inflicting harm or absconding, as well as imminent removal.

Amongst other things, the charities are calling for changes to the guidance to be postponed until after publication of Stephen Shaw's second review and proper consultation with stakeholders.

2. News and blogs

Detention Forum

[Revisiting the first Shaw Review](#)

4 June 2018

Freedom from Torture

[An update on our campaign to end detention of torture survivors](#)

25 May 2018

Politics.co.uk

[Confirmed: torture survivors still imprisoned in immigration detention centres](#)

Dr Juliet Cohen 16 March 2018

Electronic Immigration Network

[Chief Inspector of Prisons releases critical report on Harmondsworth immigration removal centre](#)

13 March 2018

Conservative Home

[The Home Office's Immigration Removal Centres are a dystopian stain on our democracy](#)

Andrew Mitchell 30 November 2017

Medical Justice

[High Court rules Government redefinition of torture in immigration detention policy is unlawful](#)

10 October 2017

Liberty

[Shaw review: immigration detention in urgent need of reform](#)

14 January 2016

2.1 Press

Independent

[Asylum seekers unlawfully held in removal centres for months despite courts ruling they can be released, lawyers warn](#)

27 May 2018

Guardian

[Former immigration detainees can seek public inquiry over abuse claims](#)

22 May 2018

BBC News

[Diane Abbott: Labour would close two immigration detention centres](#)

16 May 2018

Guardian

[End the inhumanity of immigration detention](#)

15 March 2018

Guardian

[Home Office keeping torture victims in detention, inspectors report](#)

13 March 2018

Independent

[Home Office holding torture victims with 'high level' mental health needs in detention, finds watchdog](#)

13 March 2018

Independent

[I'm an MP, and I visited an immigration detention centre undercover – what I discovered was shocking](#)

Kate Osamor 9 December 2017

Guardian

[Torture victims were wrongly imprisoned in UK, high court rules](#)

10 October 2017

Telegraph

[Government wrongly locked up asylum seekers fleeing torture](#)

10 October 2017

Guardian

[New immigration detention policy for 'adults at risk' needs urgent review](#)

11 September 2016

3. Parliamentary Business

3.1 Ministerial Statements

[United Nations Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment \(OPCAT\)](#)

David Gauke (Lord Chancellor and Secretary of State for Justice):

The OPCAT, which the UK ratified in December 2003, requires States Parties to establish a “National Preventive Mechanism” (NPM) to carry out visits to places of detention to prevent torture and other cruel, inhuman or degrading treatment or punishment.

The Government established the independent UK NPM in March 2009, and extended its membership in December 2013, and in January 2017. The UK NPM is currently composed of 21 scrutiny bodies covering the whole of the UK, and prepares annual reports on its activities. It also has an independent website at www.nationalpreventivemechanism.org.uk

Following previous practice, I have presented to Parliament the 8th NPM’s annual report (Command Paper 9563). This report covers the period from 1 April 2016 to 31 March 2017. I commend the important work that the NPM has carried out over this period and the NPM’s independent role in safeguarding the human rights of detainees across the UK. I also note the NPM’s observations around prisons, children in detention, police and court custody, immigration detention, and health and social care detentions.

20 February 2018 | Written statement | HCWS 469

[Immigration detention](#)

Theresa May (The Secretary of State for the Home Department):

The Government plans to end the routine detention of pregnant women. Similar to the arrangements put in place as part of the ending routine detention for families with children in 2014, the Government will table an amendment to the Immigration Bill, when it returns to this House shortly, placing a seventy-two hour time limit on the detention of pregnant women. This will be extendable to up to a week with Ministerial authorisation.

We have already made progress on this and the Government is clear that pregnant women should be detained only in exceptional circumstances. This is a difficult issue - we need to balance the welfare of pregnant women with the need to maintain a robust and workable immigration system and ensure that those with no right to be here leave the UK.

We expect people who do not have the right to stay here to leave voluntarily. As with the family returns process, we will be able to offer support to those who choose to leave voluntarily to ensure that individuals are able to exercise control over their departure.

However, we need to ensure that we are able to effectively manage returns for those who do not depart voluntarily. This new safeguard will ensure

that detention for pregnant women will be used as a last resort and for very short periods – for example: immediately prior to a managed return; to prevent illegal entry at the border where a return can be arranged quickly, or if a pregnant woman presents a public risk.

Wider changes are underway to improve the welfare of all vulnerable people in detention through a series of reforms, including a new policy on “adults at risk.” The Immigration Minister set out details of these reforms in a Written Ministerial Statement on 14 January in response to the recommendations in Stephen Shaw’s report on the welfare of vulnerable people in detention.

The Government has listened carefully to concerns expressed in Parliament and by others and believes that the proposed amendment, combined with the wider reforms, strikes the right balance between protecting vulnerable women and maintaining effective and proportionate immigration control.

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

18 April 2016 | Written statement | HCWS 679

[Immigration Detention: Response to Stephen Shaw’s report into the Welfare in Detention of Vulnerable Persons](#)

James Brokenshire (The Minister of State for Immigration):

The Government is committed to an immigration system that works in Britain’s national interest, and commands the confidence of the British people. Coming to the United Kingdom to work, study or visit is a privilege, not an unqualified right. Accordingly, the Government expects anyone who comes to the UK to comply with their visa conditions and, if they do not, to return home voluntarily at the first opportunity.

We have put in place a robust legal framework, which prevents the abuse of appeals procedures and encourages timely and voluntary departures by denying access to services, such as bank accounts, rental property, the labour market and driving licences, to those with no right to be here. Where individuals nonetheless fail to comply with immigration law, and refuse to leave, we will take enforcement action to remove them from the UK. Where it is necessary for the purposes of removal, and taking into account any risk that an individual may abscond, this will involve a period of detention (which of course can be avoided if the individual departs voluntarily). The Government is clear that in these circumstances it is in the public interest to detain and remove such individuals, and the vast majority of those in detention are, accordingly, those who have made their way to the United Kingdom unlawfully or breached their conditions of entry, have failed to make their case for asylum, or are foreign criminals.

It is a long-established principle, however, that where an individual is detained pending removal there must be a realistic prospect of removal within a reasonable time. Depriving someone of their liberty will always be subject to careful consideration and scrutiny, and will take account of

individual circumstances. It is vital that the system is not only efficient and effective but also treats those within it with dignity and respect, and takes account of the vulnerability of those detained.

It is against this background that in February last year the Home Secretary asked Stephen Shaw to conduct a review of the welfare of vulnerable individuals in detention. His review is being published today (Cmd 9186). It makes recommendations for operational improvements, for changes to the policy on detaining vulnerable people, and for changes to the provision of healthcare services in detention. Copies have been laid in the House. The Government is grateful to Mr Shaw for his review, welcomes this important contribution to the debate about effective detention, and accepts the broad thrust of his recommendations. Consistent with our policies, we will now take forward three key reforms, working across Government and the National Health Service and with private sector providers.

First, the Government accepts Mr Shaw's recommendations to adopt a wider definition of those at risk, including victims of sexual violence, individuals with mental health issues, pregnant women, those with learning difficulties, post-traumatic stress disorder and elderly people, and to recognise the dynamic nature of vulnerabilities. It will introduce a new "adult at risk" concept into decision-making on immigration detention with a clear presumption that people who are at risk should not be detained, building on the existing legal framework. This will strengthen the approach to those whose care and support needs make it particularly likely that they would suffer disproportionate detriment from being detained, and will therefore be considered generally unsuitable for immigration detention unless there is compelling evidence that other factors which relate to immigration abuse and the integrity of the immigration system, such as matters of criminality, compliance history and the imminence of removal, are of such significance as to outweigh the vulnerability factors. Each case will be considered on its individual facts, supported by a new vulnerable persons team. We will also strengthen our processes for dealing with those cases of torture, health issues and self-harm threats that are first notified after the point of detention, including bespoke training to GPs on reporting concerns about the welfare of individuals in detention and how to identify potential victims of torture.

Second, building on the transfer of healthcare commissioning in Immigration Removal Centres to the NHS, and taking account of the concerns expressed by Mr Shaw about mental healthcare provision in detention, the Government will carry out a more detailed mental health needs assessment in Immigration Removal Centres, using the expertise of the Centre for Mental Health. This will report in March 2016, and NHS commissioners will use that assessment to consider and revisit current provision. In the light of the review the Government will also publish a joint Department of Health, NHS and Home Office mental health action plan in April 2016.

Third, to maximise the efficiency and effectiveness of the detention estate, and in response to Mr Shaw's recommendation that the Home Office should examine its processes for carrying out detention reviews, the Government will implement a new approach to the case management of

those detained, replacing the existing detention review process with a clear removal plan for all those in detention. A stronger focus on and momentum towards removal, combined with a more rigorous assessment of who enters detention through a new gate-keeping function, will ensure that the minimum possible time is spent in detention before people leave the country without the potential abuse of the system that arbitrary time limits would create.

The Government expects these reforms, and broader changes in legislation, policy and operational approaches, to lead to a reduction in the number of those detained, and the duration of detention before removal, in turn improving the welfare of those detained. Immigration Enforcement's Business Plan for 2016/17 will say more about the Government's plans for the future shape and size of the detention estate.

More effective detention, complemented by increased voluntary departures and removing without detention, will safeguard the most vulnerable while helping control immigration abuse and reducing costs.

14 January 2016 | Written statement | HCWS 470

3.2 Debates

[G4S: Immigration Removal Centres](#) [Urgent question]

HC Deb 8 May 2018 c555-62

[Yarl's Wood Detention Centre](#)

HC Deb 6 March 2018 c182-9

[Immigration Detention of Victims of Torture and Other Vulnerable People \(Safeguards\)](#) [Bill presentation]

HC Deb 20 December 2017 c1071-3

[Detention of Vulnerable Persons](#)

HC Deb 14 March 2017 c58-84WH

[Torture and the Treatment of Asylum Claims](#)

HC Deb 2 March 2017 c175-96WH

[Immigration: Detention of Pregnant Women](#)

HL Deb 27 October 2016 c 33-46GC

3.3 Parliamentary Questions

[Immigrants: Detainees](#)

Asked by: Baroness Cox

To ask Her Majesty's Government how many people died in UK immigration detention centres from suicide or self-inflicted wounds between 1 March 2017 and 1 March 2018.

Answered by: Baroness Williams of Trafford | Home Office

Any death in immigration detention is subject to investigation by the police, the coroner (or Procurator Fiscal in Scotland) and the independent Prisons and Probation Ombudsman.

In the period 1 March 2017 to 1 March 2018 there have been 8 deaths of individuals while detained in an immigration removal centre under immigration powers or shortly after release. Of these deaths none has yet been determined by a coroner to be a self-inflicted death.

Staff at all immigration removal centres are trained to identify those at risk of self harm so that action can be taken to minimise the risk. All incidents of self harm are treated very seriously and every step is taken to prevent incidents of this nature. Formal risk assessments on initial detention and systems for raising concerns at any subsequent point feed into established self harm procedures in every IRC, which are in turn underpinned by the Home Office Operating Standard on the prevention of self-harm and Detention Services Order 06/2008 Assessment Care in Detention Teamwork (ACDT).

8 June 2018 | Written question | HL 8349

[Torture](#)

Asked by: Paul Sweeney

To ask the Secretary of State for the Home Department, with reference to the High Court Judgment of 10 October 2017, *Medical Justice v. Secretary of State*, what steps her Department is taking to review the guidance in respect of torture; and with which organisations her Department has consulted on that guidance.

Answered by: Caroline Nokes | Home Office

The Government laid draft revised statutory guidance before Parliament on 21 March 2018, and the corresponding statutory instruments on 27 March, to implement a new definition of torture for the purposes of immigration detention. The new definition of torture and the revised statutory guidance give effect to the High Court judgment to which the hon. Member refers. Whilst there was no obligation to consult on these changes, officials have engaged with interested stakeholders, including a range of non-Governmental organisations (NGOs) and inspectorate bodies. Officials will continue this engagement on the corresponding caseworker guidance and training. Additionally, the Detention Centre Rules 2001 will be reviewed

later this year and NGOs and others will be consulted on proposed changes to them. Home Office Ministers have also written to a number of hon. Members and Peers about these issues.

2 May 2018 | Written question | 139044

[Immigrants: Detainees](#)

Asked by: Lord Scriven

To ask Her Majesty's Government, further to the Written Answer by Baroness Williams of Trafford on 16 April (HL6835), whether they will consider implementing a maximum length of time for which vulnerable people, including LGBT asylum seekers, can be detained for immigration purposes.

Answered by: Baroness Williams of Trafford | Home Office

The Government currently has no plans to introduce a maximum time limit on immigration detention, either generally or for particular groups, such as those who identify as LGBT.

A time limit would only encourage individuals, including foreign national offenders who present a risk to the public, to frustrate immigration and asylum procedures until they reach a point at which they would have to be released. This would impact significantly on the Government's ability to enforce immigration controls and maintain public safety.

24 April 2018 | Written question | HL 7014

[Asylum: Torture](#)

Asked by: Lord Hylton

To ask Her Majesty's Government whether they have any plans to change their definition of torture in relation to the treatment of asylum claims and related legal proceedings; and, if so, whether they intend to table debates in both Houses of Parliament on those plans before they are implemented.

Answered by: Baroness Williams of Trafford | Home Office

The Government laid draft revised statutory guidance before Parliament on 21 March 2018, and the corresponding statutory instruments on 27 March, to implement a new definition of torture for the purposes of immigration detention. The statutory instruments and guidance give effect to a recent High Court judgment and are subject to the negative resolution procedure.

24 April 2018 | Written question | HL 6981

[Immigrants: Detainees](#)

Asked by: Afzal Khan

To ask the Secretary of State for the Home Department, pursuant to the Answer of 20 February to Question 127774, whether her Department plans to maintain a central record of people in immigration detention centres

who are (a) survivors of sexual and gender-based violence and (b) otherwise recognised as vulnerable under the adults at risk policy.

Answered by: Caroline Nokes | Home Office

There are no plans to centrally record all specific indicators of vulnerability as set out under the existing Adults at Risk policy. However, we keep our data recording arrangements under regular review.

24 April 2018 | Written question | 136809

[Immigrants: Detainees](#)

Asked by: Afzal Khan

To ask the Secretary of State for the Home Department, how many people held at immigration detention centres were defined as vulnerable under the adults at risk policy in each year since 2016; and the average length of time that it takes to identify such vulnerable people in immigration detention centres.

Answered by: Caroline Nokes | Home Office

This information is not held centrally and could only be obtained at disproportionate cost.

24 April 2018 | Written question | 136808

[Torture](#)

Asked by: David Lammy

To ask the Secretary of State for the Home Department, what plans she has to (a) publish torture guidance protocols and (b) consult (i) human rights organisations and (ii) others on protocols and guidelines relating to the torture of detainees.

Answered by: Caroline Nokes | Home Office

The Government laid draft revised statutory guidance before Parliament on 21 March 2018, and the corresponding statutory instruments on 27 March, to implement a new definition of torture for the purposes of immigration detention. The new definition of torture and the revised statutory guidance give effect to a recent High Court judgment. Whilst there was no obligation to consult on these changes, officials have engaged with interested stakeholders. Officials will continue this engagement on the corresponding caseworker guidance and training. Additionally, the Detention Centre Rules 2001 will be reviewed later this year and NGOs will have an opportunity to comment on the draft then.

18 April 2018 | Written question | 135245

[Asylum: LGBT People](#)

Asked by: Lord Scriven

To ask Her Majesty's Government what is the maximum length of time that an asylum seeker seeking refugee status on grounds of their sexual orientation can be held in an immigration detention centre.

Answered by: Baroness Williams of Trafford | Home Office

There is no general maximum length of time for which someone can be detained for immigration purposes. This applies irrespective of the basis of the individual's detention.

Published Home Office policy, available via the link below, is clear, however, that detention is only ever used for the shortest period necessary, and there must be a realistic prospect of removal within a reasonable timescale. During this time, decisions to maintain detention are reviewed regularly and whenever there is new evidence of removability or vulnerability. Whilst in detention, any health and welfare needs of a detained person are met through the provision of appropriate services.

<https://www.gov.uk/government/publications/offender-management>

16 April 2018 | Written question | HL 6835

[Immigrants: Detainees](#)

Asked by: Afzal Khan

To ask the Secretary of State for the Home Department, what consultation her Department undertook on the definition of torture set out in The Detention Centre (Amendment) Rules 2018 and the Immigration Act 2016: Revised Guidance on adults at risk in immigration detention published on 21st March, S.I No. 411/2018, published on 21 March 2018.

Answered by: Caroline Nokes | Home Office

The new definition of torture and the revised statutory guidance on adults at risk in immigration detention give effect to a recent court judgment. Whilst there was no obligation to consult on these changes, officials have engaged with interested stakeholders. Officials will continue this engagement on the corresponding caseworker guidance and training. Additionally, the Detention Centre Rules 2001 will be reviewed later this year and will be the subject of consultation.

16 April 2018 | Written question | 134809

[Torture](#)

Asked by: Joan Ryan

To ask the Secretary of State for the Home Department, what steps she has taken to review the definition of torture used in the Adults At Risk policy.

Answered by: Caroline Nokes | Home Office

The adults at risk in immigration detention policy came into force in September 2016 and was part of the Government's response to Stephen Shaw's review of the welfare of vulnerable people in immigration detention. It is based on a case by case assessment of the appropriateness of detention for each individual, depending on the nature and evidence of vulnerability available in their particular case. It involves a balancing of vulnerability considerations against immigration factors (how soon removal is due to take place, public protection concerns, and compliance with immigration law). If an individual is identified as being at risk in the terms of the policy, they will be detained (or their detention continued) only when the immigration factors outweigh the evidence of risk.

As such, the policy strengthens the existing presumption against detention. It does not, however, represent an automatic exclusion from immigration detention for any group of vulnerable, or potentially vulnerable, individuals and the Government has no plans to put in place a framework which fully prohibits the detention of any group of individuals.

Victims of sexual or gender based violence already fall explicitly within the scope of the policy. Individuals who have suffered severe physical or psychological violence are not explicitly referenced, but it is highly likely that such individuals would in any case fall within its scope in that they would meet one of the other indicators of risk set out in the policy (for example, suffering from a mental health condition or impairment, or suffering from a serious physical health condition, or suffering from post traumatic stress disorder, or having been a victim of torture).

Following the High Court judgment on 10 October 2017 in the case of *Medical Justice and Others v the Secretary of State for the Home Department*, the Government has been considering how it can best address the Court's findings in relation to the statutory guidance in respect of the adults at risk in immigration detention policy. This includes consideration of the definition of torture that should apply in the policy. On 16 January 2018, Home Office officials wrote to a range of non-governmental organisations, including Medical Justice and Freedom from Torture, to propose a series of meetings in order to elicit their views as part of the process for developing statutory amendments.

25 January 2018 | Written question | 123423

[Immigrants: Detainees](#)

Asked by: Kate Osamor

To ask the Secretary of State for the Home Department, pursuant to the Answer of 15 December 2016 to Question 56463, when in 2017 her Department will ask Stephen Shaw QC to carry out a review of the adults at risk guidance.

Answered by: Robert Goodwill | Home Office

We have invited Stephen Shaw to carry out a short review in autumn 2017 in order to assess progress against the key actions from his previous report. This will not specifically be a review of the adults at risk guidance - Mr

Shaw's previous report covered a range of issues related to vulnerable people in immigration detention.

10 January 2017 | Written question | 59369

3.4 Early Day Motions

[Immigration](#)

Primary sponsor: Joan Ryan

That an humble Address be presented to Her Majesty, praying that the Detention Centre (Amendment) Rules 2018 (S.I., 2018, No. 411), dated 22 March 2018, a copy of which was laid before this House on 27 March, be annulled.

25 April 2018 | EDM | 1202

[Immigration](#)

Primary sponsor: Joan Ryan

That an humble Address be presented to Her Majesty, praying that the Immigration (Guidance on Detention of Vulnerable Persons) Regulations 2018 (S.I., 2018, No. 410), dated 22 March 2018, a copy of which was laid before this House on 27 March, be annulled.

25 April 2018 | EDM | 1200

[Immigration detention of victims of torture and other vulnerable people](#)

Primary sponsor: Joan Ryan

That this House notes with concern the recent High Court judgment against the Government which found that the Home Office 's redefinition of torture in its flagship Adults at Risk immigration detention policy was unlawful; further notes that Mr Justice Ouseley ruled that the Home Office's decision to narrow the definition of torture lacked a rational or evidence base; understands that many victims of torture and other vulnerable people are held in UK immigration detention centres; recognises that legal judgments and medical research have provided extensive evidence that immigration detention can seriously harm the mental health of detainees, particularly those who have suffered previously from ill treatment; calls on the Home Office to ensure its review of the Adults at Risk policy includes consultation with NGO stakeholders; and urges the Government to honour the promises made after the Shaw Report to strengthen and improve the protections for identifying and securing the release of vulnerable adults at risk of harm in immigration detention, as well as requiring that those with evidence of a history of torture or severe physical, psychological or sexual violence or other ill treatment are not detained for immigration purposes except in very exceptional circumstances.

14 December 2017 | EDM | 696

4. Organisations and further reading

[Immigration detention in the UK: an overview](#), Commons Library briefing paper CBP-7294, 13 June 2017

[Adults at risk in immigration detention: statutory guidance](#), UK Visas and Immigration and Immigration Enforcement, 28 March 2018

[Draft revised guidance on adults at risk in immigration detention: policy paper](#), UK Visas and Immigration and Immigration Enforcement, 21 March 2018

HM Inspectorate of Prisons, [Report on an unannounced inspection of Heathrow Immigration Removal Centre Harmondsworth site, 2-20 October 2017](#), 13 March 2018

[Government response to the review on welfare in detention of vulnerable persons \[Stephen Shaw's review\]](#), Home Office, 14 January 2016

[Review into the welfare in detention of vulnerable persons](#): report of an independent review by Stephen Shaw commissioned on behalf of the Home Secretary, 14 January 2016

Home Affairs Committee, [Immigration detention inquiry](#)

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