

United Kingdom Immigration Detention Profile

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INTRODUCTION

The United Kingdom has one of the largest immigration detention systems in Europe, confining up to 4,000 people—including children—in detention every day under Immigration Act powers.¹ As of October 2016, the country's immigration detention estate included nine "immigration removal centres" (IRCs) and a small number of residential immigration detention holding facilities.² In addition, several hundred people are kept in prisons under Immigration Act powers awaiting deportation after having finished their criminal sentences.³

According to Home Office statistics, during the year ending in March 2016, 32,163 persons entered immigration detention, of whom 32,610 left detention and 2,925 remained in detention (these numbers do not include the 363 people held in the prison system under Immigration Act powers).⁴ There has been a marked increase in detention

¹ The GDP would like to acknowledge the helpful comments it received from several external reviewers of early drafts of this profile.

² In mid-2016, the government announced that it intended to close one of the nine IRCs (Dungavel) as well as the "pre-departure" family facility at Cedars.

³ For an overview of the UK detention estate, see Mary Bosworth, "Border Criminologies: Assessing the Changing Architecture of Crime and Punishment," Global Detention Project Working Paper, February 2016, <http://www.globaldetentionproject.org/publications/border-criminologies-assessing-changing-architecture-crime-and-punishment>.

⁴ The Home Office explains on its detention statistics page that the figures "relate to the number of people entering, leaving or in detention, solely under Immigration Act powers, at immigration removal centres (IRCs), short-term holding facilities (STHFs) and pre-departure accommodation (PDA)." See Home Office, National Statistics – Detention, updated 3 March 2016, <https://www.gov.uk/government/publications/immigration-statistics-january-to-march-2016/detention>.

numbers over the years. In the year ending March 2012, 27,594 entered detention.⁵ The increasing numbers largely parallel increases in the UK's detention capacity, which has risen sharply since 1993, when total capacity was only 250.⁶

As immigration detention has grown in the UK it has come under increasing public scrutiny, a point that was underscored with the January 2016 release of an independent review of the welfare of vulnerable people in detention commissioned by the Home Office. Commonly referred to as the "[Shaw Review](#)," the landmark report called for reducing "boldly and without delay" the detention of certain populations, an overhaul of the management of immigration casework, as well as a host of additional reforms.⁷

Among the vulnerable groups highlighted in the review were pregnant women and children. It called for banning the detention of women. It also contended that the Cedars family "pre-departure" facility was too expensive for the purposes it served, although the report did not call for ending the detention of children. Shortly after the release of the report, the Home Office announced a number of reforms, but it pushed back against a complete ban on the detention of pregnant women.⁸ It also later announced that it would replace the Cedars facility with a "discrete unit" within the Tinsley House IRC near Gatwick Airport.⁹

Other issues that have attracted criticism include: the role of private security companies in managing detention centres, the increasing instances of detention of ex-criminal foreigners after they have served their criminal sentences, and the lack of limits on the length of detention. Many of these issues were highlighted in an important 2015 report titled the "[Report of the Inquiry into the Use of Immigration Detention in the United Kingdom](#)," part of a joint inquiry by the All Party Parliamentary Group on Refugees & the All Party Parliamentary Group on Migration (APPGs). Among its key conclusions were that the country should cease indefinite detention and impose a time limit of 28 days.¹⁰

Observers frequently point to the prison-like features of immigration detention in the UK, including both architectural similarities and "conceptual parities," which make it arguably

⁵ Home Office, National Statistics – Detention, updated 3 March 2016,

<https://www.gov.uk/government/publications/immigration-statistics-january-to-march-2016/detention>.

⁶ Hindpal Singh Bhui, "The changing approach to child detention and its implications for immigration detention in the UK," Prison Service Journal, January 2013,

<https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20January%202013%20No.%20205.pdf>.

⁷ Stephen Shaw, *Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office*, January 2016, UK Home Office,

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf.

⁸ The Guardian, "Theresa May to put 72-hour limit on detention of pregnant asylum seekers," 17 April 2016, <http://www.theguardian.com/uk-news/2016/apr/17/pregnant-asylum-seekers-detention>.

⁹ Parliament, "Cedars pre-departure accommodation: Written statement - HCWS114," 21 July 2016, <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-07-21/HCWS114/>.

¹⁰ All Party Parliamentary Group on Refugees & the All Party Parliamentary Group on Migration, "Report of the Inquiry into the Use of Immigration Detention in the United Kingdom," March 2016, <https://detentioninquiry.files.wordpress.com/2015/03/immigration-detention-inquiry-report.pdf>.

a form of punishment even if officially it is not recognized as such. As one scholar writes, “Staff and detainees regularly refer to IRCs as prisons. For detainees, confinement is punitive, even though it is an administrative measure.”¹¹

The UK has also received criticism from UN monitoring bodies that have called for a statutory limit on the duration of immigration detention, for detention to be a measure of last resort, and for reforms to the now-defunct Detained Fast Track system.¹² The Detained Fast Track System was initially implemented in 2005 with the aim of accelerating asylum applications and appeals.¹³ The system received widespread criticism because of its application of accelerated procedures, failure to identify vulnerable asylum seekers, and an asylum refusal rate of 99 per cent. After successful legal challenges by [Detention Action](#) and other groups, the Minister for Immigration announced the suspension of the system in July 2015.¹⁴

The growing notoriety of these detention policies has helped spur the adoption of important changes to detention procedures, which are provided in the [Immigration Act 2016](#), and “[detention service orders](#)” that provide guidance to Home Office. Staff. Two key changes are the provision of automatic bail hearings after four months in detention and limiting the detention of pregnant women to 72 hours, though subject to extension.

Many observers, however, expressed disappointment that the new law did not go far enough in its reforms. In a statement released shortly after the Immigration Act received “royal assent” in May 2016, the APPGs said: “We are disappointed that the Government continues in its opposition to an overall time limit, despite the growing evidence that indefinite detention has an extremely negative mental health impact, costs more to the public purse and is less effective than alternative immigration enforcement models. We are also disappointed that the Government has not accepted our case for an absolute exclusion of pregnant women from detention.”¹⁵

LAWS, POLICIES, PRACTICES

¹¹ Mary Bosworth, “Border Criminologies: Assessing the Changing Architecture of Crime and Punishment,” Global Detention Project Working Paper No. 10, February 2016, <http://www.globaldetentionproject.org/publications/border-criminologies-assessing-changing-architecture-crime-and-punishment>.

¹² Human Rights Committee Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland, 17 August 2015, <file:///Users/mariettegdp/Downloads/G1518229.pdf> and Committee against Torture, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, adopted by the Committee at its fiftieth session (6-31 May 2013), 24 June 2013, [file:///Users/mariettegdp/Downloads/G1344743%20\(1\).pdf](file:///Users/mariettegdp/Downloads/G1344743%20(1).pdf)

¹³ Immigration Law Practitioners’ Association, *The Detained Fast Track Process: A Best Practice Guide*, January 2008.

¹⁴ Detention Action, “The Legal Challenge,” <http://detentionaction.org.uk/campaigns/end-the-fast-track-to-despair/legal-challenge>.

¹⁵ Inquiry into the use of Immigration Detention, “Detention Inquiry Panel Members Statement on the Immigration Act 2016 becoming law,” 17 May 2016, <https://detentioninquiry.com/2016/05/17/detention-inquiry-panel-members-statement-on-the-immigration-act-2016-becoming-law/>.

Key norms. An expert with the UK Prison Inspectorate writes that detention “is a relatively recent part of the state’s response to unwanted migration.”¹⁶ A series of immigration-related laws, beginning with the 1905 Aliens Act, have provided detention measures. However, it is only since the 1962 Aliens Act “that attempts to limit immigration have become more serious and systematic, with the first immigration detention centres opening in the 1970s.”¹⁷

The 1971 Immigration Act first introduced administrative detention for those denied entry to the country.¹⁸ The Nationality, Immigration and Asylum Act 2002 includes a long section on detention and removal. More recently, in May 2016, the [Immigration Act 2016](#) became law. It provides a number of previously non-existent safeguards, including automatic bail hearings and limits to the length of detention of pregnant women.

The 1984 judgment in *Hardial Singh* is considered to be a critical legal case concerning immigration detention. The Shaw Review states, “In broad terms, this says that the power to detain is to be strictly and narrowly understood: that is, if detention is not for a statutory purpose it is unlawful, and the power is limited to such period that is reasonably necessary for that purpose to be achieved.”¹⁹

Immigration Act 2016. In May 2015, a new Immigration Bill implementing various policies of the Conservative Party and proposals from UK Prime Minister David Cameron was announced. Building on the Immigration Act 2014, the 2015 bill aimed to restrict access to services for undocumented migrants. In addition, support for migrants whose asylum claims have been unconfirmed would be restricted to only those who are “poor and face a genuine problem in leaving the UK.”²⁰ On the other hand, the bill proposed some important reforms in response to criticism of the country’s detention system. In May 2016, a text of the Immigration Bill that had been agreed on by both Houses of Parliament received “royal assent” and became law, the [Immigration Act 2016](#).²¹

¹⁶ Hindpal Singh Bhui, “The changing approach to child detention and its implications for immigration detention in the UK,” Prison Service Journal, January 2013, <https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20January%202013%20No.%200205.pdf>.

¹⁷ Hindpal Singh Bhui, “The changing approach to child detention and its implications for immigration detention in the UK,” Prison Service Journal, January 2013, <https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20January%202013%20No.%200205.pdf>.

¹⁸ Christine Bacon, RSC Working Paper No. 27: The Evolution of Immigration Detention in the UK: The Involvement of Private Prison Companies, Working Paper Series, Refugee Studies Centre, Department of International Development, Queen Elizabeth House, University of Oxford, September 2005.

¹⁹ Stephen Shaw, *Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office*, January 2016, UK Home Office, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf.

²⁰ UK Home Office, Visas and Immigration, Immigration Bill: Overview, Guidance, 9 December 2015, <https://www.gov.uk/government/publications/immigration-bill-2015-overarching-documents/immigration-bill-201516-overview-factsheet>.

²¹ UK Parliament, Immigration Bill 2015-16: Progress of the Bill, last updated 10 May 2016, <http://services.parliament.uk/bills/2015-16/immigration.html>.

Numerous critics have argued that the law victimizes immigrants and reveals a lack of official understanding regarding the undocumented migrant population in the UK.²² The Migrants' Rights Network has argued that it could lead to "an unprecedented expansion of the powers of immigration officials to detain individuals, to seize property, and to otherwise interfere with everyday activities."²³

Removals, detention, and UK Visas and Immigration. The Home Office is the authority with legal custody over immigration detainees, although operations at detention centres are contracted to various governmental and private entities.²⁴ Previously, the Home Office's UK Border Agency (UKBA) was primarily responsible for immigration detention. In 2013, UKBA was closed and its responsibilities taken over by two directorates, Immigration Enforcement and UK Visas and Immigration (UKVI), both of which are part of the Home Office.²⁵ UKVI describes itself as being "responsible for making millions of decisions every year about who has the right to visit or stay in the country, with a firm emphasis on national security and a culture of customer satisfaction for people who come here legally." Immigration Enforcement is "responsible for preventing abuse, tracking immigration offenders and increasing compliance with immigration law. It works with partners such as the police to regulate migration in line with government policy, while supporting economic growth."

Unauthorized immigrants who are not in detention are given the option to depart the country voluntarily, either independently or with the support of an assisted voluntary return programme (AVR). AVR was overseen by Refugee Action until November 2015, when the Home Office decided to take it over.²⁶ The decision was criticized by Refugee Action and other organisations because many migrants claim that they do not trust a government-run service.²⁷

Detention under Immigration Act powers is administrative and, therefore, should not be punitive.²⁸ According to the UK Visa and Immigration's Enforcement Instructions and

²² Joint Council for the Welfare of Immigrants, Hostile Environment Renewed with Full Force with New Immigration Bill 2015, 22 September 2015, <https://www.jcwi.org.uk/blog/2015/09/22/hostile-environment-renewed-full-force-new-immigration-bill-2015>.

²³ Chai Patel, Immigration Bill 2015 – What You Need to Know, Migrants' Rights Network, 18 September 2015, <http://www.migrantsrights.org.uk/blog/2015/09/immigration-bill-2015-what-you-need-know>.

²⁴ Mary Bosworth, Perrie Lectures 2008: Foreign Nationals in Prison and Detention, Prison Service Journal, Issue 180; Scottish Government, Legislative Consent Memorandum: Borders, Citizenship and Immigration Bill, January 2009, <http://www.scotland.gov.uk/About/Sewel/SessionThree/BordersCitizenship>.

²⁵ UK National Audit Office, Reforming the UK Border and Immigration System, 2014, <https://www.nao.org.uk/report/reforming-uk-border-immigration-system-2/>.

²⁶ Refugee Action, Goodbye to Choices, Our Assisted Voluntary Return Service, 25 November 2015, http://www.refugee-action.org.uk/about/blog/2451_goodbye_to_choices_our_assisted_voluntary_return_service.

²⁷ Refugee Action, Goodbye to Choices, Our Assisted Voluntary Return Service, 25 November 2015, http://www.refugee-action.org.uk/about/blog/2451_goodbye_to_choices_our_assisted_voluntary_return_service.

²⁸ Bail for Immigration Detainees, A Nice Judge on a Good Day: Immigration Bail and the Right to Liberty, July 2010, http://www.irr.org.uk/pdf2/bid_good_judge.pdf.

Guidance, “Detention must be used sparingly, and for the shortest period necessary.”²⁹ Nevertheless, the United Kingdom is the only European Union member state not to have imposed limits on the length of time a person can spend in immigration detention. However, the statutory power of detention has been somewhat limited through jurisprudence, most significantly in the *Hardial Singh* decision, which provides that the power to detain should be strictly and narrowly understood. This means that if the detention is not for a statutory purpose then it is unlawful and the power to detain is limited to the period reasonably necessary for the statutory purpose to be achieved.³⁰ *Hardial Singh* further provides that, “Where there is no prospect of removing the deportee within a reasonable time, then detention becomes arbitrary and consequently unlawful ... and the deportee must be released immediately.”³¹

Since 2009, the High Court has found that long-term detention breaches the principles outlined in the *Hardial Singh* decision, but the threshold has been set very high and it is nearly impossible for migrants to know when their detention will become unlawful. For example, despite these principles the High Court has held that detention for multiple years can be lawful in certain cases.³²

Grounds for detention. Citing Article 16 of the Immigration Act 1971, the Home Office states that “detention is most usually appropriate: to effect removal; initially to establish a person's identity or basis of claim; or where there is reason to believe that the person will fail to comply with any conditions attached to the grant of temporary admission or release.”³³ Articles 16 (2) and 30 of the 1971 act also include provisions for detention for failing to respect non-custodial measures. Article 10 of the Immigration and Asylum Act 1999 provides for detention for unlawful stay and various rules and instructions provide for detention prior to deportation for unauthorised stay and following a criminal conviction.³⁴

Criminalisation. The Immigration Act provides a number of offences that are subject to criminal procedures and penalties, including several (under Section 24) that are related specifically to status-related violations. Penalties under Section 24 include a fine of up to £5,000 or a six-month prison term.³⁵ The Asylum and Immigration Act of 2004 also

²⁹ UK Visas and Immigration, Enforcement Instructions and Guidance: Detention and Removals, Chapter 55.1, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/470593/2015-10-23_Ch55_v19.pdf.

³⁰ Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf.

³¹ *R v. Governor of Durham Prison ex parte Hardial Singh* [1984] 1 WLR 704.

³² Detention Action, The State of Detention: Immigration Detention in the UK in 2014, October 2014, http://detentionaction.org.uk/wordpress/wp-content/uploads/2014/10/The.State_of_Detention.pdf.

³³ UK Visas and Immigration, Manual on Enforcement Instructions and Guidance, Chapter 55 : detention and temporary release, 12 September 2016, <https://www.gov.uk/government/collections/enforcement-instructions-and-guidance>.

³⁴ See Global Detention Project, United Kingdom, Domestic Law, <https://www.globaldetentionproject.org/countries/europe/united-kingdom>

³⁵ Immigration Act 1971, UK Statutes Crown Copyright, Reproduced by permission of the Controller of Her Majesty's Stationery Office, http://www.opsi.gov.uk/acts/acts1971/pdf/ukpga_19710077_en.pdf.

introduced criminal penalties for non-citizens who do not cooperate with efforts to obtain travel documents necessary for removal procedures.

Discussing the catalogue of offenses in UK immigration law, a briefing paper by the Migration Observatory at the University of Oxford states: “The period between 1999 and 2009 witnessed the fastest and largest expansion of the list of immigration crimes since 1905. Since 1999 new legislation has created 84 new immigration offences, more than double the number of offences that had been created since 1905.”³⁶

However, recent statistics about the application of criminal measures are sparse, possibly in part because the Office for National Statistics has declined to provide updated versions of its Control of Immigration reports since 2006, which provided statistics on the numbers of “persons proceeded against” for Immigration Act offenses.³⁷

The most recent figures reported by the Migration Observatory (in 2013) come from 2011, when 490 people were convicted of immigration offences in magistrate courts and crown courts.³⁸ According to this report, 261 people were convicted of “assisting unlawful immigration to member state”; 145 for “seeking leave to enter or remain or postponement of revocation by deception”; 84 for “begin unable to produce an immigration document at a leave or asylum interview”; and 69 for unspecified other offenses.

According to the 2006 ONS Control of Immigration report, “Provisional data for January to October 2006 show that 868 persons were proceeded against at magistrates’ courts for offences under the Immigration Acts 1971 to 2004. ... 676 (78 per cent) of the defendants at magistrates’ courts were found guilty of immigration offences by these courts between January and October 2006.”³⁹

According to separate statistics provided by the Ministry of Justice, during the period 2004-2008 there were nearly 3,800 convictions for offences under the Immigration Acts

³⁶ Ana Aliverti (The Migration Observatory), “Immigration Offences: Trends in Legislation and Criminal and Civil Enforcement,” 9 July 2013, <http://www.migrationobservatory.ox.ac.uk/resources/briefings/immigration-offences-trends-in-legislation-and-criminal-and-civil-enforcement/>.

³⁷ See correspondence provided in Office for National Statistics Freedom of Information page, “Control of Immigration Statistics,” 14 April 2016, <https://www.ons.gov.uk/aboutus/transparencyandgovernance/freedomofinformationfoi/controlofimmigrationstatistics>. Responding to a request about whether it would provide an update for the period 2006-2016, the ONS replied: “The ONS has no plans to produce an updated version of the Control of Immigration 2006 report at present. However, the majority of the core summary statistics in the report are regularly updated and can be found in the links below.”

³⁸ Ana Aliverti (The Migration Observatory), “Immigration Offences: Trends in Legislation and Criminal and Civil Enforcement,” 9 July 2013, <http://www.migrationobservatory.ox.ac.uk/resources/briefings/immigration-offences-trends-in-legislation-and-criminal-and-civil-enforcement/>.

³⁹ Office for National Statistics, “Control of Immigration 2006,” https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228967/7197.pdf.

(including cases in both the crown courts and the magistrates courts). Of these, only a few hundred involved status-related violations.⁴⁰

In a 2010 update of its online legal guidance, the Crown Prosecution Service stated, “In cases where the offence is trivial and action has or will be taken by the immigration authorities, the public interest may not be served by a prosecution.” It also highlighted the “need to balance questions of delay, remands in custody, and likely sentence against the gravity of the offence and any other compelling public interest consideration that may require a prosecution.”⁴¹

In 2010, the Ministry of Justice and UKBA introduced a pilot policy on “simple cautions for foreign national offenders” that was aimed at “divert[ing] from prosecution foreign national offenders who commit specified offences relating to their immigration status and agree to be administratively removed from the UK.” According to a policy statement about the pilot project, one of the aims of the policy was to “reduce the burden on the criminal justice system and UKBA from dealing with foreign national offenders who commit specified offences and are liable to be removed from the UK.”⁴²

In a 2011 comment on the policy, Bail for Immigration Detainees (BID) raised a number of concerns about the “scheme,” which was initially introduced at Heathrow and Stanstead airports and targeted people using false documents. Stated BID: “We agree with the basic sentiment of diverting foreign nationals from prosecution and the prison estate for certain document fraud offences. For those that have no legal basis to remain here and as a result face administrative removal from the UK it appears sensible to remove a period of imprisonment, which comes with a financial cost to the state and a personal cost to the individual. However, this diversion scheme appears to involve a significant risk of bypassing due process.”⁴³

Detention of children. The immigration detention of children has undergone reforms in recent years, which have led to significant decreases in the number of child detainees. According to Home Office statistics, 1,119 children were placed in detention in 2009, while in the year ending in March 2016 only 110 children entered detention.⁴⁴

In 2010, the government announced to great fanfare that it would end the detention of children and established a new policy for the treatment of families.⁴⁵ Despite the claims

⁴⁰ UK Home Office, Control of Immigration: Quarterly Statistical Summary, United Kingdom, National Statistics, October – December 2008 (second edition), <http://www.homeoffice.gov.uk/rds/pdfs09/immiq408.pdf>.

⁴¹ Crown Prosecution Service, Legal Guidance: Immigration, 2 August 2010, http://www.cps.gov.uk/legal/h_to_k/immigration/#eentering.

⁴² Ministry of Justice, Simple Cautions for Foreign National Offenders: Pilot Policy Statement, http://www.irr.org.uk/pdf2/MOJ_061210.pdf.

⁴³ Bail for Immigration Detainees, Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders, March 2011.

⁴⁴ Home Office, National Statistics – Detention, updated 3 March 2016, <https://www.gov.uk/government/publications/immigration-statistics-january-to-march-2016/detention>.

⁴⁵ For a detailed assessment of this policy and its impacts, see Hindpal Singh Bhui, “The changing approach to child detention and its implications for immigration detention in the UK,” Prison Service Journal, January 2013,

about ending the detention of children, the practice has persisted, prompting criticism at both the national and international levels. In 2016, the UN Committee on the Rights of the Child called on the UK to “cease the detention of asylum-seeking and migrant children.”⁴⁶

As part of the 2010 reforms, families with an irregular status are dealt with under a separate regime, which includes an Independent Family Returns Panel that advises on removal proceedings for families and children as well as specialized family caseworkers.⁴⁷

Also, in 2011, in an effort to accommodate families without detaining children, the government announced the opening of Cedars pre-departure facility and the expansion and renovation of Tinsley House.⁴⁸ Cedars and Tinsley House would be able to hold families for up to 72 hours, but with a ministerial declaration the confinement period could extend to a week in exceptional cases.⁴⁹ Observers contended at the time that this still constituted detention. Commented an analyst at the Centre for Migration Policy Research, “If the Government has decided, as it appears to have done, that it cannot end the detention of children—or is unwilling to do so—then it should acknowledge that this is the case and be prepared to be challenged. ... To repackage detention as ‘pre-departure accommodation’ is disingenuous.”⁵⁰

In July 2016, the government announced that it would close the Cedars facility, citing the Shaw Review’s conclusion that it was not cost-effective. It said that Cedars would be replaced with a “new pre-departure accommodation near Gatwick Airport, as a discrete unit at Tinsley House immigration removal centre.”⁵¹

The private charity Barnardo’s, which operated within Cedars, working alongside Immigration Officers and G4S, opposed the decision, saying in a statement that it did “not feel that the new proposed accommodation is in the best interests of the children.”⁵² Observers noted that Tinsley House is “a secure detention centre surrounded by a

<https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20January%202013%20No.%20205.pdf>

⁴⁶ Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, 12 July 2016

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/149/88/PDF/G1614988.pdf?OpenElement>

⁴⁷ UK Border Agency, New Family Returns Process Begins, 28 February 2011, <https://www.gov.uk/government/news/new-family-returns-process-begins>.

⁴⁸ Stephanie J. Silverman & Ruchi Hajela, Briefing: Immigration Detention in the UK, The Migration Observatory at the University of Oxford, 6 February 2015.

⁴⁹ Stephanie J. Silverman & Ruchi Hajela, Briefing: Immigration Detention in the UK, The Migration Observatory at the University of Oxford, 6 February 2015.

⁵⁰ Crawley, Heaven. 2011. “Detention by another name?” Migrants’ Rights Network. 10 March 2011.

⁵¹ Minister of State for Immigration, “Cedars pre-departure accommodation: Written statement - HCWS114,” Parliament, 21 July 2016, <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-07-21/HCWS114>.

⁵² Barnardo’s, “Barnardo’s statement on Cedars accommodation,” 21 July 2016, http://www.barnardos.org.uk/news/Barnardos-statement-on-Cedars-accommodation/press_releases.htm?ref=117378.

chain-link fence, run by G4S that resembles a prison.”⁵³ A Labour MP, noting that the announcement was made on the day before Parliament recessed for summer, commented: “On the last day of Parliament, Ministers quietly abandoned the promise to end the immigration detention of children. Totally indefensible.”⁵⁴

Under the Immigration Act 2014, unaccompanied children may only be held for a maximum of 24 hours at a short-term holding facility and only if the following two conditions are met: (1) directions are in force that require the child to be removed from the short-term holding facility within the relevant 24 hour period, or a decision on whether or not to give directions is likely to result in such directions; and (2) the immigration officer with the authority to detain the child reasonably believes that the child will be removed from the short-term holding facility within the relevant 24-hour period.⁵⁵

The government has explored a range of alternative measures for families who “have no right to be in the UK” but “refuse to depart” and thus qualify for “ensured return.”⁵⁶ These alternatives include “open accommodation,” semi-secure “pre-departure accommodation,” and several pilot projects that seek to make use of existing accommodation schemes that house asylum seekers in the community.⁵⁷ Observers have criticised some of these “alternatives” as amounting to detention.⁵⁸ (For more about the various facilities used for these cases, see “Detention Infrastructure” below.)

On the other hand, some analysts have highlighted the positive impact of the 2010 policy. An inspector for HMIP wrote in 2013, “While families with children continue to be detained, fewer children are held for shorter periods, and in better conditions. The number of children entering detention was 53 in the first quarter of 2012, which is a substantial reduction on the many hundreds of children routinely held each quarter under the old system.”⁵⁹

⁵³ Jon Stone, “Government accused of scrapping pledge to end child detention in prison-style immigration removal centres,” *The Independent*, 22 July 2016, <http://www.independent.co.uk/news/uk/politics/child-detention-immigration-centres-scrapped-broken-promise-tinsley-house-cedars-barnados-home-a7149981.html>

⁵⁴ Jon Stone, “Government accused of scrapping pledge to end child detention in prison-style immigration removal centres,” *The Independent*, 22 July 2016, <http://www.independent.co.uk/news/uk/politics/child-detention-immigration-centres-scrapped-broken-promise-tinsley-house-cedars-barnados-home-a7149981.html>

⁵⁵ Immigration Act 2014, Section 5, <http://www.legislation.gov.uk/ukpga/2014/22/section/5>.

⁵⁶ UK Border Agency, New Family Returns Process Begins, 28 February 2011, <https://www.gov.uk/government/news/new-family-returns-process-begins>.

⁵⁷ Isra Hussain (Freedom of Information Team, UKBA), Freedom of Information Request ref : 17978, 31 March 2011, <http://www.whatdotheyknow.com/request/64249/response/163683/attach/2/FOI%2017978%20AE.pdf>; BBC News, Glasgow Offers Alternative to Child Detention, 7 August 2010, <http://www.bbc.co.uk/news/uk-10903378>.

⁵⁸ Simon Parker, The UK Continues to Detain Children, a Year after the Coalition's Pledge to End It, *Open Democracy*, 11 May 2011, <http://www.opendemocracy.net/ourkingdom/simon-parker/uk-continues-to-detain-children-year-after-coalitions-pledge-to-end-it>.

⁵⁹ Hindpal Singh Bhui, “The changing approach to child detention and its implications for immigration detention in the UK,” *Prison Service Journal*, January 2013, <https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20January%202013%20No.%20205.pdf>

The Bureau of Investigative Journalism reported in 2015 that children, particularly those arriving from war-torn countries like Syria and Afghanistan, are routinely misclassified by border and asylum officers as being adults and are subsequently detained in adult detention centres despite clear evidence that they are children and without referring their cases to social services, as provided for in government guidelines. The Refugee Council found that at least 127 children had been found misclassified as adults since 2010, although some believe that number to represent “merely the tip of the iceberg.”⁶⁰

Upon arriving in the UK, asylum seekers are assessed by immigration officers in an initial screening interview, during which government guidelines provide that children should be referred to social services for an official age assessment. If a person’s appearance or demeanour “very strongly suggests that they are significantly over 18 years of age” then immigration officials can decide to send them to a detention centre.⁶¹ However, the Bureau of Investigative Journalism found that only one in 10 immigration officers had sufficient child safety training.⁶²

As of January 2016, families were being detained in Tinsley House, Cedars, Dover Dock, Heathrow Terminal 2, and Cayley House.⁶³

Detention of asylum seekers. Asylum seekers may be detained “pending examination, pending a decision whether to remove, and pending removal.”⁶⁴ In addition, those asylum seekers who have passed through other European countries on their way to the United Kingdom may be detained awaiting return to their first country of entry in the European Union (EU), in accordance with the Dublin regulation, which provides that asylum seekers must make their claims in the first country of entry in the EU.⁶⁵

In 1998, the UK government issued a white paper titled “Fairer, Faster and Firmer—A Modern Approach to Immigration and Asylum,” which sought to distinguish between the detention of unauthorized immigrants and asylum seekers. It stressed that temporary admission or release was the preferred measure for asylum applicants, and that

⁶⁰ Maeve McClenaghan, Vulnerable Children Locked Up in Immigration Detention Centres for Adults Due to Home Office Blunders, The Bureau of Investigative Journalism, 22 June 2015, <https://www.thebureauinvestigates.com/2015/06/22/asylum-seeking-children-locked-up-adult-immigration-detention-centre-due-to-home-office-blunders/>.

⁶¹ UK Visas and Immigration, Assessing Age, 15 June 2011, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257462/assessing-age.pdf.

⁶² Maeve McClenaghan, Vulnerable Children Locked Up in Immigration Detention Centres for Adults Due to Home Office Blunders, The Bureau of Investigative Journalism, 22 June 2015, <https://www.thebureauinvestigates.com/2015/06/22/asylum-seeking-children-locked-up-adult-immigration-detention-centre-due-to-home-office-blunders/>.

⁶³ Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf.

⁶⁴ Gina Clayton, Textbook on Immigration and Asylum Law, 2008, Oxford University Press.

⁶⁵ Human Rights Watch, Fast-Tracked Unfairness: Detention and Denial of Woman Asylum Seekers in the UK, 2010, <http://www.hrw.org/en/node/88666/section/2>.

detention should be used only as a last resort—after alternatives to detention have been considered.⁶⁶

However, in 2014, a total of 14,056 asylum seekers were detained.⁶⁷ Further, observers estimate⁶⁸ that people claiming asylum accounted for some 60 percent of the immigration detainee population in 2013.⁶⁹ According to Bail for Immigration Detainees (BID), “42 percent of asylum seekers detained in the UK go on to be released, their detention having served no purpose other than wasting human lives and taxpayers’ money.”⁷⁰

In 2005, the UK government announced that it would process 30 percent of new asylum claims through a “detained fast track” system.⁷¹ The system received enormous criticism, including from UNHCR, which stated that “inappropriate cases are being routed to and remaining within the detained fast track.”⁷² In its 2011 publication “Fast Track to Despair,” Detention Action reported that 99 percent of asylum seekers processed through Detained Fast Track were refused asylum. This compared to an overall refusal rate in the UK system of 72 percent. Additionally, “while 22 days are allocated for the process to be completed, in reality, asylum seekers on the Detained Fast Track usually spend substantially longer in detention.”⁷³ In both 2015 and 2013, the UK came under criticism from two authoritative UN monitoring bodies that called for reforms of the Detained Fast Track system and for vulnerable persons and torture survivors not to be routed through the system.⁷⁴

⁶⁶ UK Home Office, *Fairer, Faster, and Firmer – A Modern Approach to Immigration and Asylum*, 27 July 1998, <https://www.gov.uk/government/publications/fairer-faster-and-firmer-a-modern-approach-to-immigration-and-asylum>.

⁶⁷ Asylum Aid, *Country Report: United Kingdom*, Asylum Information Database, edited by the European Council on Refugees and Exiles, November 2015.

⁶⁸ Stephanie J. Silverman & Ruchi Hajela, *Briefing: Immigration Detention in the UK*, The Migration Observatory at the University of Oxford, 6 February 2015.

⁶⁹ A reviewer of an early draft of this profile commented that statistics on the numbers of detained asylum seekers in the UK can be “difficult to interpret as asylum is now one of the only ways people can seek relief from deportation.”

⁷⁰ Bail for Immigration Detainees, *Out of Sight, out of Mind: Experiences of Immigration Detention in the UK*, July 2009, <http://www.biduk.org/163/bid-research-reports/out-of-sight-out-of-mind-experiences-of-immigration-detention-in-the-uk.html>.

⁷¹ UK Visas and Immigration, *Detained Fast Track Processes*, 11 June 2013, <https://www.gov.uk/government/publications/detained-fast-track-processes-instruction>.

⁷² Bail for Immigration Detainees, *Out of Sight, out of Mind: Experiences of Immigration Detention in the UK*, July 2009, <http://www.biduk.org/163/bid-research-reports/out-of-sight-out-of-mind-experiences-of-immigration-detention-in-the-uk.html>.

⁷³ Detention Action, *Fast Track to Despair: The Unnecessary Detention of Asylum Seekers*, 12 May 2011, <http://www.detentionaction.org.uk/files/uploads/FastTracktoDespair.pdf>.

⁷⁴ Human Rights Committee Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland, 17 August 2015, <file:///Users/mariettegdp/Downloads/G1518229.pdf> and Committee against Torture, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, adopted by the Committee at its fiftieth session (6-31 May 2013), 24 June 2013, [file:///Users/mariettegdp/Downloads/G1344743%20\(1\).pdf](file:///Users/mariettegdp/Downloads/G1344743%20(1).pdf)

Detention Action legally challenged the detained fast track system in 2014.⁷⁵ In this case, the UK Court of Appeal held that the practice of detaining asylum seekers while their appeals were pending was unlawful because the decision to continue detention was based only on considerations of speed and convenience without considering a risk of absconding.⁷⁶ In a second case brought by Detention Action in 2015, the Court of Appeal held that the detained fast track system was structurally unfair and unjust.⁷⁷

On 2 July 2015, the Minister of State for Immigration announced the temporary suspension of the system.⁷⁸ The Secretary of State for the Home Department requested permission to appeal the 2015 decision of the Court of Appeal to the Supreme Court. However, on 12 November 2015, the Supreme Court denied the government's permission to appeal, rendering the Court of Appeal's judgment definitive.⁷⁹

Detention of women. Women held in immigration detention in the UK represent a particularly vulnerable group. Issues faced by women in detention include depression, miscarriages, and sexual abuse. Most women are detained at Yarl's Wood IRC, with small numbers held for up to a week in Colnbrook IRC in a separate unit, and for longer at Dungavel IRC where they mix with men.⁸⁰

An unannounced visit to Yarl's Wood IRC by the HM Inspectorate of Prisons (HMIP) in 2015 revealed that 45 percent of women feel unsafe at the detention centre, in part because the number of violent incidents had increased since 2013.⁸¹ A study conducted by Women for Refugee Women found that 93 percent of women interviewed felt depressed in detention and more than half had considered committing suicide.⁸²

More than 85 percent of the women interviewed by Women for Refugee Women also reported having been raped or tortured, with many describing sexual harassment at Yarl's Wood as widespread.⁸³ During a visit to the UK in 2014, the UN Special Rapporteur (SR) on Violence against Women was prevented from visiting Yarl's Wood IRC, which has been managed by the private prison company Serco since 2007.

⁷⁵ Detention Action, The Legal Challenge, <http://detentionaction.org.uk/campaigns/end-the-fast-track-to-despair/legal-challenge>.

⁷⁶ Asylum Aid, Overview of the Main Changes since the Previous Report Update, Asylum Information Database, December 2014.

⁷⁷ Detention Action, The Legal Challenge, <http://detentionaction.org.uk/campaigns/end-the-fast-track-to-despair/legal-challenge>.

⁷⁸ Minister of State for Immigration (James Brokenshire), Asylum, House of Commons: Written Statement (HCWS83), 2 July 2015, <http://www.parliament.uk/documents/commons-vote-office/July%202015/2%20July/6-Home-Asylum.pdf>.

⁷⁹ Asylum Aid, Overview of the Main Changes since the Previous Report Update, Asylum Information Database, December 2014.

⁸⁰ Melanie Gower, Immigration Detention in the UK: An Overview, House of Commons Library, 7 September 2015.

⁸¹ HM Chief Inspector of Prisons, Report on an Unannounced Inspection of Yarl's Wood Immigration Removal Centre, 13 April-1 May 2015, <http://www.justiceinspectrates.gov.uk/hmiprison/wp-content/uploads/sites/4/2015/08/Yarls-Wood-web-2015.pdf>.

⁸² Women for Refugee Women, Detained: Women asylum-seekers locked up in the UK, January 2014, <http://www.refugeewomen.co.uk/wp-content/uploads/2014/01/WRWDetained.pdf>.

⁸³ Women for Refugee Women, Detained: Women asylum-seekers locked up in the UK, January 2014, <http://www.refugeewomen.co.uk/wp-content/uploads/2014/01/WRWDetained.pdf>.

Despite the SR's repeated requests, the UK government failed to comply with the terms of reference for UN fact-finding missions and the SR was informed by the centre's director that "instructions had been received to deny entry" to her.⁸⁴

Many women feel that those working at the detention centres do not fully understand their needs as detainees. The HMIP's visit to Yarl's Wood IRC found that there were too many men on staff, which resulted in men being used inappropriately, such as to fill healthcare roles, or certain processes being delayed until female staff were available.⁸⁵ Healthcare for women in detention was repeatedly criticised as deficient. Women interviewed by the HMIP were "overwhelmingly negative about access, quality of care and delayed medication." In addition, "Care planning for women with complex needs was so poor it put them at risk."⁸⁶ Pregnant women in particular have experienced stillbirths, miscarriages, and acute psychosis while being held in detention.⁸⁷

The detention of pregnant women has been the subject of widespread opprobrium. The UK government has argued that it is vital for the Home Office to have the ability to detain pregnant women for short periods of time and as a last resort in order to be able to quickly remove them or if they present a risk to the public.⁸⁸ There must be exceptional reasons to justify the detention of a pregnant woman, unless there is a clear prospect of early removal and medical advice suggests no question of confinement prior to detention, although "there is little to suggest that pregnant women are being detained only in exceptional circumstances."⁸⁹

On 18 April 2016, the UK Home Office announced that it would adopt a 72-hour time limit on the detention of pregnant women, which could be extended up to a week in total with ministerial authorisation.⁹⁰ The government claims this proposed change will "provide an additional safeguard in any case involving a pregnant woman being held at

⁸⁴ Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, Addendum Mission to the United Kingdom of Great Britain and Northern Ireland, Human Rights Council, 19 May 2015, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/100/77/PDF/G1510077.pdf?OpenElement> .

⁸⁵ HM Chief Inspector of Prisons, Report on an Unannounced Inspection of Yarl's Wood Immigration Removal Centre, 13 April-1 May 2015, <http://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/08/Yarls-Wood-web-2015.pdf>.

⁸⁶ HM Chief Inspector of Prisons, Report on an Unannounced Inspection of Yarl's Wood Immigration Removal Centre, 13 April-1 May 2015, <http://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/08/Yarls-Wood-web-2015.pdf>.

⁸⁷ Natasha Tsangarides, Miscarriage, Stillbirth, Psychosis: Pregnant in UK Immigration Detention, Open Democracy UK, 11 June 2013, <https://www.opendemocracy.net/ourkingdom/natasha-tsangarides/miscarriage-stillbirth-psychosis-pregnant-in-uk-immigration-detention>.

⁸⁸ UK Home Office, New Time Limit Planned for Pregnant Women in Detention, 18 April 2016, <https://www.gov.uk/government/news/new-time-limit-planned-for-pregnant-women-in-detention>.

⁸⁹ Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf.

⁹⁰ UK Home Office, New Time Limit Planned for Pregnant Women in Detention, 18 April 2016, <https://www.gov.uk/government/news/new-time-limit-planned-for-pregnant-women-in-detention>.

an immigration detention centre, before their removal from the country.”⁹¹ However, one review found that the vast majority of pregnant detainees were ultimately released, suggesting that those women may not have been correctly detained in the first place.⁹²

Judicial review and bail. According to schedule 10 of the Immigration Act 2016 immigration bail may be granted in cases of “detention of persons liable to examination or removal”, and “detention pending deportation.” Although the Act provides for automatic bail hearings after four months in detention, there is no direct or automatic judicial oversight of the detention process. Detainees must actively challenge the lawfulness of their detention through judicial review and habeas corpus.⁹³ Limited availability of legal aid and funds combined with movement between detention centres can make high quality legal advice inaccessible for many detainees.⁹⁴ Detention Action notes that this legal advice can be crucial, as “14 percent of appeals were allowed where the asylum-seeker was represented, as opposed to 2 percent where they were unrepresented.”⁹⁵

The Home Office has an obligation to review the reasons for detention each month, which has been described by the Supreme Court of the UK as an active safeguard against unlawful detention. An independent review of immigration detention commissioned on behalf of the Home Secretary found that, in practice, this review may be neglected, conducted hastily, or omitted entirely.⁹⁶ In this regard, the Home Office has been urged by the HMIP and the Independent Chief Inspector of Borders and Immigration to address these issues by completing proper reviews of the basis for detention and granting release when it is found to be warranted.⁹⁷

However, all detainees have the right to apply for bail at any time by submitting an application to the Chief Immigration Officer, who is part of the Home Office, or the First-

⁹¹ UK Home Office, New Time Limit Planned for Pregnant Women in Detention, 18 April 2016, <https://www.gov.uk/government/news/new-time-limit-planned-for-pregnant-women-in-detention>.

⁹² Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf.

⁹³ European Migration Network, Ad Hoc Query on Criminal Penalties against Illegally Entering or Staying Third-Country Nationals, 21 September 2009, <http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do;jsessionid=A9DB66690A242F88DC809B093089FC8B?entryTitle=illegal%20Immigration>.

⁹⁴ Bail for Immigration Detainees, Out of Sight, out of Mind: Experiences of Immigration Detention in the UK, July 2009, <http://www.biduk.org/163/bid-research-reports/out-of-sight-out-of-mind-experiences-of-immigration-detention-in-the-uk.html>.

⁹⁵ Detention Action, Fast Track to Despair: The Unnecessary Detention of Asylum Seekers, 12 May 2011, <http://www.detentionaction.org.uk/files/uploads/FastTracktoDespair.pdf>.

⁹⁶ Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf.

⁹⁷ Her Majesty's Inspectorate of Prisons, The Effectiveness and Impact of Immigration Detention Casework, A Joint Thematic Review by HM Inspectorate of Prisons and the Independent Chief Inspector of Borders and Immigration, December 2012, <http://icspector.independent.gov.uk/wp-content/uploads/2012/12/Immigration-detention-casework-2012-FINAL.pdf>.

Tier Tribunal Immigration and Asylum Chamber.⁹⁸ Release rates, though, are low, particularly for detainees with criminal convictions.⁹⁹

Applications for bail represent the only direct way that detainees can challenge their detention. The process is intended to allow detainees to access an independent judge with the power to overrule a detention order. In theory, this judge is required to presume in favour of defence, and the Home Office is required to justify the detention.¹⁰⁰ However, Asylum Aid reports that, in practice, the Home Office's summary of the reasons for opposing bail is occasionally late or non-existent. A more significant issue is a reliance on standard reasons for opposing an individual's bail without additional evidence showing that the reasons apply to the particular individual.¹⁰¹

A number of concerns have been raised about the UK bail process, including the lack of information about the system provided to detainees and limited access to professional legal assistance.¹⁰² Detainees interviewed by the LDSG universally noted that they felt the bail courts to be "hostile" and that "their refusal was decided in advance."¹⁰³ Concerns have also been raised over the routine use of video conference systems in bail hearings, allowing detainees to remain at the detention centre and attend their hearing remotely.¹⁰⁴ Although the use of video links avoids long journeys for detainees, issues such as lack of personal contact with the judge and problems with sound and visuals are considered to present obstacles to an effective hearing. Further, when video conference systems are used, the lawyer is allowed only 10 minutes to speak with the detainee prior to the hearing, which advocates argue is insufficient.¹⁰⁵

Length of detention. The United Kingdom is the only EU member state without a legal limit on the period of immigration detention. The country opted out of the EU Return Directive, which includes an absolute maximum of 18 months for immigration detention.

While there is supposed to be an absolute time limit of five consecutive days for people detained in immigration offices at ports of entry, Short-term Holding Facilities (STHFs),

⁹⁸ Asylum Aid, Country Report: United Kingdom, Asylum Information Database, edited by the European Council on Refugees and Exiles, November 2015.

⁹⁹ London Detainee Support Group, Detained Lives: The Real Cost of Indefinite Immigration Detention, January 2009, <http://www.detainedlives.org/wp-content/uploads/detainedlives.pdf>.

¹⁰⁰ London Detainee Support Group, Detained Lives: The Real Cost of Indefinite Immigration Detention, January 2009, <http://www.detainedlives.org/wp-content/uploads/detainedlives.pdf>.

¹⁰¹ Asylum Aid, Country Report: United Kingdom, Asylum Information Database, edited by the European Council on Refugees and Exiles, November 2015.

¹⁰² Bail for Immigration Detainees, A Nice Judge on a Good Day: Immigration Bail and the Right to Liberty, July 2010, http://www.irr.org.uk/pdf2/bid_good_judge.pdf.

¹⁰³ London Detainee Support Group, Detained Lives: The Real Cost of Indefinite Immigration Detention, January 2009, <http://www.detainedlives.org/wp-content/uploads/detainedlives.pdf>.

¹⁰⁴ Asylum Aid, Country Report: United Kingdom, Asylum Information Database, edited by the European Council on Refugees and Exiles, November 2015.

¹⁰⁵ Asylum Aid, Country Report: United Kingdom, Asylum Information Database, edited by the European Council on Refugees and Exiles, November 2015.

police stations, or mobile detention facility vehicles,¹⁰⁶ there is no limit on the duration of detention in Immigration Removal Centres.

Concerns about UK's indefinite detention policy were highlighted in an important 2015 report titled the "[Report of the Inquiry into the Use of Immigration Detention in the United Kingdom](#)," which was the result of a joint inquiry by the All Party Parliamentary Group on Refugees & the All Party Parliamentary Group on Migration (APPGs). The report concluded that the country should cease indefinite detention and impose a time limit of 28 days.¹⁰⁷

Indefinite detention in the UK has also long been condemned by international human rights monitoring bodies, including the UN Human Rights Committee in 2015 and the UN Committee against Torture in 2013.¹⁰⁸ In his report on his June 2009 mission to the UK, the UN Special Rapporteur on the Human Rights of Migrants recommended that the UK "take all necessary steps to prevent cases of de facto indefinite detention."¹⁰⁹

Re-entry ban. Breaches of UK's immigration law can be sanctioned by re-entry ban for up to 10 years, including for: (a) overstaying; (b) breaching a condition attached to their leave; (c) being an "Illegal Entrant"; and (d) using deception in an application for entry clearance, leave to enter or remain (whether successful or not).¹¹⁰

Non-deportable detainees and indefinite detention. Detainees may remain in detention because removal to their home country is impossible due to risk of refoulement. Detainees with countries of origin such as Iraq and Somalia may only be returned to certain areas in their homeland, and are often reluctant to accept voluntary return given the significant safety concerns. Many of these detainees remain in detention indefinitely.¹¹¹

Some detainees face problems with documentation because their embassies are slow in returning documentation or demand evidence of documents such as birth certificates,

¹⁰⁶ UK Secretary of State, The Immigration (Places of Detention) Direction 2014 (No. 2), 28 July 2014, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338585/detention_direction-2014-07-23.pdf.

¹⁰⁷ All Party Parliamentary Group on Refugees & the All Party Parliamentary Group on Migration, "Report of the Inquiry into the Use of Immigration Detention in the United Kingdom," March 2016, <https://detentioninquiry.files.wordpress.com/2015/03/immigration-detention-inquiry-report.pdf>.

¹⁰⁸ Human Rights Committee Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland, 17 August 2015, <file:///Users/mariettegdp/Downloads/G1518229.pdf> and Committee against Torture, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, adopted by the Committee at its fiftieth session (6-31 May 2013), 24 June 2013, [file:///Users/mariettegdp/Downloads/G1344743%20\(1\).pdf](file:///Users/mariettegdp/Downloads/G1344743%20(1).pdf)

¹⁰⁹ UN Commission on Human Rights, Report of the Special Rapporteur on the Human Rights of Migrants: Mission to the United Kingdom of Great Britain and Northern Ireland, 16 March 2010, A/HRC/14/30/Add.3. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/120/95/PDF/G1012095.pdf?OpenElement>.

¹¹⁰ UK Visas and Immigration, Enforcement Instructions and Guidance, Chapter 62 : Re-entry Bans, 12 September 2016, <https://www.gov.uk/government/publications/chapters-46-to-62-detention-and-removals>

¹¹¹ London Detainee Support Group, Detained Lives: The Real Cost of Indefinite Immigration Detention, January 2009, <http://www.detainedlives.org/wp-content/uploads/detainedlives.pdf>.

which detainees may not have access to. The LDSG notes that these difficulties render these detainees effectively “stateless,” and although they may be willing to accept voluntary return it is impossible for them to do so.¹¹² The Equal Rights Trust notes that “the practical inability to return to a country of origin has no effect on the individual’s immigration status in the UK.”¹¹³

Health concerns. Research has demonstrated that people placed in UK immigration-related detention often suffer serious mental health deterioration, including increased post-traumatic stress disorder and depression.¹¹⁴ The 2016 Shaw Review contains an appendix written by a well-known Oxford criminologist who comprehensively reviewed available literature concerning the “impact of immigration detention on mental health.” The Shaw Review points to two key findings: (1) “There is a consistent finding from all the studies carried out across the globe and from different academic viewpoints that immigration detention has a negative impact upon detainees’ mental health”; (2) “The impact on mental health increases the longer detention continues.”¹¹⁵

A 2009 study by the London Detainee Support Group (LDSG) revealed significant numbers of indefinite detainees developing mental health problems, self-harming, or attempting suicide.¹¹⁶ From July to September 2014, there were 97 incidents of self-harm requiring medical attention in the UK’s immigration removal centres (IRCs).¹¹⁷

BID has noted a significant increase in suicides among immigration detainees. Whereas in the 14-year period 1989-2003 there were four self-inflicted deaths in custody, in the two-year period 2003-2005 there were seven.¹¹⁸ In 2015, there were 393 suicide attempts in detention centres and a total of 2,957 detainees, including 11 children, were on suicide watch.¹¹⁹

¹¹² London Detainee Support Group, *Detained Lives: The Real Cost of Indefinite Immigration Detention*, January 2009, <http://www.detainedlives.org/wp-content/uploads/detainedlives.pdf>.

¹¹³ The Equal Rights Trust, *Unraveling Anomaly: Detention, Discrimination and the Protection Needs of Stateless Persons*, 19 July 2010, <http://www.equalrightstrust.org/view-subdocument/index.htm?id=748>.

¹¹⁴ London Detainee Support Group, *Detained Lives: The Real Cost of Indefinite Immigration Detention*, January 2009, <http://www.detainedlives.org/wp-content/uploads/detainedlives.pdf>; Birnberg Peirce & Partners, *Medical Justice and the National Coalition of Anti-Deportation Campaigns, Outsourcing Abuse: The Use and Misuse of State-Sanctioned Force During the Detention and Removal of Asylum Seekers*, 14 July 2008, <http://www.medicaljustice.org.uk/content/view/411/88/>.

¹¹⁵ Stephen Shaw, *Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office*, January 2016, UK Home Office, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf.

¹¹⁶ London Detainee Support Group, *Detained Lives: The Real Cost of Indefinite Immigration Detention*, January 2009, <http://www.detainedlives.org/wp-content/uploads/detainedlives.pdf>.

¹¹⁷ Joint Inquiry by the All Party Parliamentary Group on Refugees & the All Parliamentary Group on Migration, *The Report of the Inquiry into the Use of Immigration Detention in the United Kingdom*, 3 March 2015, <https://detentioninquiry.files.wordpress.com/2015/03/immigration-detention-inquiry-report.pdf>.

¹¹⁸ Bail for Immigration Detainees, *Self-Inflicted Deaths of Immigration Detainees (Briefing Paper)*, October 2005, <http://www.biduk.org/148/briefing-papers/briefing-papers.html>.

¹¹⁹ No Deportations, *IRCs ‘Self Harm (Attempted Suicide) and Those on ‘Self-Harm Watch’ (At Risk of Suicide) 2015*, 24 March 2016, <http://www.no-deportations.org.uk/Media-2014/Self-Harm2015.html>.

Individuals with serious medical conditions, serious mental illness, or serious disabilities are detained unless the relevant condition cannot be satisfactorily managed in detention. However, many detention centres are not equipped to hold elderly people or individuals with disabilities and only a few IRCs have 24-hour healthcare available.¹²⁰ The UN Committee against Torture has expressed concern about this policy of detaining migrants with serious mental disabilities in particular.¹²¹

Rule 35 is a mechanism in the UK Detention Centre Rules that is meant to protect detainees whose health is likely to be “injuriously affected” by detention, survivors of torture, and detainees thought to have suicidal intentions.¹²² Rule 35 requires IRC medical practitioners to inform the Home Office when these detainees are being held. Upon receipt of this information, the Home Office is obliged to review the individual’s detention and determine if release is appropriate.¹²³

However, the Rule 35 process has faced criticism and its failings have been documented over time. HMIP has regularly criticised these failings and has found that “reports often fail to offer meaningful commentary and replies are dismissive.”¹²⁴ HMIP also expressed concern over the safeguard failing to protect individuals detained in prisons by being available only to those detainees held in IRCs.¹²⁵ Detention Action has noted that the common conclusion regarding the Rule 35 process is that it “simply does not work.”¹²⁶ In a 2013 report on the mental health of immigrants in detention, Medical Justice found that Rule 35 fails in practice because “forms are often not initiated when they would be appropriate, and then the majority appear ignored by the UKBA anyway.”¹²⁷ An audit of Rule 35 use in detention centres by the former UKBA found that only nine percent of Rule 35 reports led to the release of the detainee.¹²⁸

A joint inquiry by the All Party Parliamentary Group on Refugees and the All Parliamentary Group on Migration found that the screening interviews that are

¹²⁰ Asylum Aid, Country Report: United Kingdom, Asylum Information Database, edited by the European Council on Refugees and Exiles, November 2015.

¹²¹ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of the United Kingdom, Adopted by the Committee at its Fiftieth Session (6-31 May 2013).

¹²² Detention Action, The State of Detention: Immigration Detention in the UK in 2014, October 2014, http://detentionaction.org.uk/wordpress/wp-content/uploads/2014/10/The.State_of_.Detention.pdf.

¹²³ UK Visas and Immigration, Detention Rule 35 Process, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257437/rule35reports.pdf.

¹²⁴ HM Inspectorate of Prisons, People in Prison: Immigration Detainees, Her Majesty’s Inspectorate of Prisons, November 2015, <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/11/HMIP-Immigration-detainees-findings-paper-web-2015.pdf>.

¹²⁵ HM Inspectorate of Prisons, People in Prison: Immigration Detainees, Her Majesty’s Inspectorate of Prisons, November 2015, <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/11/HMIP-Immigration-detainees-findings-paper-web-2015.pdf>.

¹²⁶ Detention Action, The State of Detention: Immigration Detention in the UK in 2014, October 2014, http://detentionaction.org.uk/wordpress/wp-content/uploads/2014/10/The.State_of_.Detention.pdf.

¹²⁷ Medical Justice, Mental Health in Immigration Detention Action Group: Initial Report 2013, <http://www.medicaljustice.org.uk/wp-content/uploads/2016/03/Mental-Health-in-Immigration-Detention-Working-Group.pdf>.

¹²⁸ UK Border Agency, Detention Centre Rule 35 Audit, 4 February 2011, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257174/det-centre-rule-35-audit.pdf.

conducted at the start of detention and meant to gain information about any health issues are “routinely tick-box processes that do not allow detainees to talk about possible concerns.” The inquiry also found that detainees describe the healthcare they receive in detention as inadequate.¹²⁹

Detainees interviewed by BID reported that “the only health care on offer is painkillers”; one detainee noted “the difficulty ... is getting a doctor to attend to your concerns, because most times you complain about something you’re only given paracetamol anyway.”¹³⁰ Discontent amongst inmates has also been displayed through riots and protests in detention centres. These protests have focused on issues such as limited access to legal advice and medical care.¹³¹

Children have exhibited severe and lasting psychological and physical trauma after being placed in UK detention centres. A 2010 report by the UK charity Medical Justice found that of 141 children studied during the period 2004-2010, “74 children were reported to have been psychologically harmed as a result of being detained. Symptoms included bed wetting and loss of bowel control, heightened anxiety, food refusal, withdrawal and disinterest, and persistent crying. 34 children exhibited signs of developmental regression, and six children expressed suicidal ideation either whilst or after they were detained. Three girls attempted to end their own lives. ... 92 children were reported to have physical health problems which were either exacerbated, or caused by immigration detention. These problems included fever, vomiting, abdominal pains, diarrhoea, musculoskeletal pain, coughing up blood, and injuries as a result of violence.”¹³²

Experts have also noted the negative psychological impact resulting from the UK practice of transferring detainees between removal centres. Discussing this practice, one scholar writes that an important “source of forced mobility associated with Removal Centres is the transfer of detainees from one Removal Centre to another for a variety of reasons, from the practical constraints imposed by the capacities of various centres, to differences in the conditions of centres themselves, which are used to form a reward and sanction mechanism among the detainee population.”¹³³ While these transfers still take place, sources in the UK told the GDP that they appear to have become less frequent in recent years.

Foreign national offenders. In 2006, the Home Office introduced a policy of “presumption of detention” for people awaiting deportation after serving prison sentences. “As a result, detention was no longer used primarily for people about to be

¹²⁹ <https://detentioninquiry.files.wordpress.com/2015/03/immigration-detention-inquiry-report.pdf>

¹³⁰ Bail for Immigration Detainees, *Out of Sight, Out of Mind: Experiences of Immigration Detention in the UK*, July 2009, <http://www.biduk.org/163/bid-research-reports/out-of-sight-out-of-mind-experiences-of-immigration-detention-in-the-uk.html>.

¹³¹ Gina Clayton, *Textbook on Immigration and Asylum Law*, 2008, Oxford University Press.

¹³² Birnberg Peirce & Partners, *Medical Justice and the National Coalition of Anti-Deportation Campaigns, Outsourcing Abuse: The Use and Misuse of State-Sanctioned Force During the Detention and Removal of Asylum Seekers*, 14 July 2008, <http://www.medicaljustice.org.uk/content/view/411/88/>.

¹³³ Nicholas Gill, *Longing for Stillness: The Forced Movement of Asylum Seekers*, *M/C Journal*, Vol 12, No 1, 2009, <http://journal.media-culture.org.au/index.php/mcjournal/article/viewArticle/123>.

removed; instead, the priority became to detain ex-offenders, even where intractable obstacles to removal existed.”¹³⁴

Unless they fall under one of the six exceptions provided in the UK Borders Act, foreign national prisoners (FNPs) who have been sentenced to a period of imprisonment of at least 12 months are subject to deportation. Although these foreign offenders remain in prison under Immigration Act powers, they are not included in official detention statistics.¹³⁵

The Shaw Review revealed that the 20 longest stayers in IRC detention were ex-offenders. One man interviewed for the report had been in immigration detention since March 2010 after he was sentenced to four years imprisonment and his effective sentence expired two years later. A list provided by the UK National Offender Management Service showing establishments in which former foreign national offenders, held under immigration powers, were detained provided that on one day in Spring 2015, “there were 62 prisons in the list holding a total of 399 detainees.”¹³⁶

The government argues that these detention measures are designed to protect the public against re-offences and absconding. Immigration detainees are also moved to prisons if they are deemed particularly violent or disruptive. The LDSG, however, argues that ex-offenders—in addition to losing their status in the UK and being detained under immigration law for periods that go far beyond their original criminal sentences—are denied “meaningful dialogue” with the government and are frequently embroiled in complicated processes that have little bearing on the resolution of their cases.¹³⁷ This can result in detainees remaining in prisons after finishing their custodial sentences.¹³⁸ Under the 2009 Borders, Citizenship and Immigration Act, those people detained solely for immigration violations may be detained alongside criminal detainees.

Privatisation. The earliest UK immigration detention centres, opened in the 1970s, were run by the private sector. This decision was made with the view to ensure that non-prisoners would not be subject to the oppressive treatment criminals faced under the guard of prison or police officers.¹³⁹ Today, seven of the country’s immigration removal centres are managed by one of four private contractors: G4S, Serco, Mitie PLC, or GEO

¹³⁴ London Detainee Support Group, *Detained Lives: The Real Cost of Indefinite Immigration Detention*, January 2009, <http://www.detainedlives.org/wp-content/uploads/detainedlives.pdf>.

¹³⁵ Stephanie J. Silverman & Ruchi Hajela, *Briefing: Immigration Detention in the UK*, The Migration Observatory at the University of Oxford, 6 February 2015.

¹³⁶ Stephen Shaw, *Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office* by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf.

¹³⁷ London Detainee Support Group, *Detained Lives: The Real Cost of Indefinite Immigration Detention*, January 2009, <http://www.detainedlives.org/wp-content/uploads/detainedlives.pdf>.

¹³⁸ Bail for Immigration Detainees, *Out of Sight, Out of Mind: Experiences of Immigration Detention in the UK*, July 2009, <http://www.biduk.org/163/bid-research-reports/out-of-sight-out-of-mind-experiences-of-immigration-detention-in-the-uk.html>.

¹³⁹ Christine Bacon, RSC Working Paper No. 27: *The Evolution of Immigration Detention in the UK: The Involvement of Private Prison Companies*, Working Paper Series, Refugee Studies Centre, Department of International Development, Queen Elizabeth House, University of Oxford, September 2005.

Group. The National Offender Management Service operates the two remaining facilities. In 2011, the contract for managing holding rooms, the non-residential short term holding facility, and the three residential short term holding facilities passed to Tascor.¹⁴⁰

The privatisation of immigration detention in the UK has been the subject of widespread criticism, which has been spurred in part by the numerous official and media reports regarding assaults and beatings of detainees at the hands of private security guards during the detention and removal process. For example, in August 2015, two staff members at Yarl's Wood detention centre, which is operated by Serco, were suspended following allegations of verbal abuse towards female detainees.¹⁴¹

In 2008, a coalition of NGOs detailed some 300 cases of alleged assaults that took place during 2004-2008. The allegations came from people from more than 41 countries, with the majority being made by African migrants. The report raised concerns about the complaints procedure within the centres, stating that the current procedure was largely ineffective.¹⁴²

The death of an Angolan deportee Jimmy Mubenga in October 2010 led to rumours that Scotland Yard was considering filing corporate manslaughter charges against G4S, a security firm that operates two IRCs (Brook House and Tinsley House). Mubenga died while being deported and after being restrained by G4S guards, leading to allegations of "excessive force."¹⁴³ Three guards were initially for the death on manslaughter charges.¹⁴⁴ The 2014 trial of the guards resulted in a not guilty verdict for all three even though an earlier inquest jury had concluded that Mubenga was unlawfully killed¹⁴⁵ and a coroner's report that was withheld from the jury found that "endemic racism" among G4S staff was a factor.¹⁴⁶

¹⁴⁰ Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf.

¹⁴¹ Gill Plimmer, Outsourcers Running UK Immigration Centres Put to the Test, Financial Times, 9 August 2015, <http://www.ft.com/cms/s/0/97e025d6-3128-11e5-91ac-a5e17d9b4cff.html#axzz48ASAZyf0>.

¹⁴² Birnberg Peirce & Partners, Medical Justice and the National Coalition of Anti-Deportation Campaigns, Outsourcing Abuse: The Use and Misuse of State-Sanctioned Force During the Detention and Removal of Asylum Seekers, 14 July 2008, <http://www.medicaljustice.org.uk/content/view/411/88/>.

¹⁴³ Deborah Coles, Emma Ginn, Adalberto Miranda, Harriet Wistrich, Victoria Brittain, Liz Fekete, Frances Webber, Herman Ouseley, David Edgar, Dr Richard Stone, David Lammy MP, Tragedy of Mubenga, Letter to The Guardian, 12 November 2010, <http://www.guardian.co.uk/uk/2010/nov/12/tragedy-of-mubenga>.

¹⁴⁴ Matthew Taylor & Paul Lewis, UN Asked to Investigate Death of Angolan Deportee Jimmy Mubenga, The Guardian, 29 April 2011, <http://www.guardian.co.uk/uk/2011/apr/29/jimmy-mubenga-campaign-un-investigation>.

¹⁴⁵ The Daily Mail, "Three G4S guards CLEARED of killing Angolan deportee by restraining him on a plane with banned 'carpet karaoke' technique that blocked his breathing for 36 minutes," 16 December 2014.

¹⁴⁶ OpenDemocracy, "The racist texts. What the Mubenga trial jury was not told," 17 December 2014, <https://www.opendemocracy.net/ourkingdom/clare-sambrook/racist-texts-what-mubenga-trial-jury-was-not-told>.

The UK government has tried to use the privately operated nature of facilities as a shield to protect itself from liability in cases concerning alleged unlawful detentions at such facilities. In the 2005 case of *ID and others v. The Home Office*, “The Home Office sought to argue that although an immigration officer (and the Home Office which has vicarious liability) had authorised the detentions of the D family it was not liable for false imprisonment for the detention as the physical detainer was a private contractor. The Court of Appeal ... dealt with this matter quickly. It concluded that the detentions were caused by the immigration officers who authorised them and, although this authority protected the private contractor which detained, it did not protect the immigration officer if the giving of his/her authority was an unlawful act.”¹⁴⁷

Importantly, the Court of Appeal also found in this case “that foreign nationals did not fall into a special category, emphasising the particular importance that the law attached to the liberty of the person and that it was beyond doubt that the rule of law extended not simply to British nationals but also to immigrants subject to administrative detention.”¹⁴⁸

A 2005 study published by the University of Oxford Refugee Studies Centre reported that private companies that also operate prisons in other countries were persistent lobbyists in the arena of detention policy. Private contractors are provided with a fee per inmate per day, rendering immigration detention a lucrative business. According to study, “The growth of the detention regime is not based solely on ever-restrictive asylum laws and policies. Its growth can also be attributed to the involvement [of] private contractors, whose logic of response to asylum seekers has very little to do with the logic of the government’s response, concerned as they are with winning and maintaining contracts and keeping their facilities full.”¹⁴⁹

In 2005, the UKBA issued the Detention Services Operating Standards Manual for Immigration Service Removal Centres in an effort to improve the performance of private contractors and bring them into compliance with UK policy. The standards, which build on the Detention Centre Rules, include details on the provision of legal services, accommodation, activities for detainees, admission and discharge protocol, the detention of female detainees, the provision of health care and a number of other areas of concern for detainees.¹⁵⁰

Private companies have also been criticised for their management of non-secure asylum housing facilities where people awaiting decisions on their asylum claims can be accommodated. In 2013, a Home Office committee was convened “to investigate why

¹⁴⁷ Mark Scott & Harriet Wistrich, *ID and Others and Unlawful Detention: The Issues Explained*, Legal Action, September 2005.

¹⁴⁸ Bhatt Murphy Solicitors, *Timeline—Immigration Detention*, <http://www.bhattmurphy.co.uk/bhatt-murphy-89.html>.

¹⁴⁹ Christine Bacon, *RSC Working Paper No. 27: The Evolution of Immigration Detention in the UK: The Involvement of Private Prison Companies*, Working Paper Series, Refugee Studies Centre, Department of International Development, Queen Elizabeth House, University of Oxford, September 2005.

¹⁵⁰ UK Border Agency, *Detention Services Operating Standards Manual for Immigration Service Removal Centres*, January 2005, http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/immigrationremovalcentres/operatingstandards/operatingstandards_manual.pdf?view=Binary.

G4S and Serco had not fulfilled their contract to provide decent housing, while allowing subcontractors to bully tenants.”¹⁵¹

Monitoring and inspection. Her Majesty’s Inspectorate of Prisons (HMIP), a government appointed human rights-based monitoring institution and coordinator of the the UK’s National Preventive Mechanism,¹⁵² has the main responsibility for inspecting immigration detention centres and short-term holding facilities in the UK. The HMIP’s [website](#) provides access to detailed reports of its inspections. Every IRC is subject to an unannounced inspection at last once every four years.

According to a 2016 [Working Paper](#) for the Global Detention Project written by an HMIP inspector, the inspectorate’s duties “are laid out in the Criminal Justice Act 1982 and include reporting on the treatment of prisoners and conditions in prisons, and submitting an annual report to Parliament. These duties were extended to immigration detention centres by the Immigration and Asylum Act 1999, and to short-term immigration holding facilities and escort arrangements by the Immigration, Asylum and Nationality Act 2006. The first inspections of immigration detention took place in 2002, although routine inspections began only in 2004.” (For an account of HMIPs work, see Hindpal Singh Bhui, “[Can Inspection Produce Meaningful Change in Immigration Detention?](#)” GDP Working Paper No. 12, May 2016.)

According to the Immigration and Asylum Act of 1999, an Independent Board must also monitor each IRC. These boards are composed of volunteers and draw from the communities in which the detention centres are located.¹⁵³

DETENTION INFRASTRUCTURE

As of September 2016, there were more than a dozen facilities in operation in the UK that met the GDP’s criteria for being listed as immigration detention sites: Nine long-term facilities called “Immigration Removal Centres”; three residential “Short-Term Holding Facilities” that can be used to confine people for up to seven days; and one “pre-departure” facility for families.¹⁵⁴ To this list one could add the various prisons that

¹⁵¹ Jennifer Tighe, The Disastrous Outsourcing of Immigrant Housing in the UK, Verso Books – Blog, 18 November 2015, <http://www.versobooks.com/blogs/2348-the-disastrous-outsourcing-of-immigrant-housing-in-the-uk-antony-lowenstein>.

¹⁵² The Optional Protocol to the UN Convention against Torture (OPCAT) requires Member States to designate a “national preventive mechanism” (NPM) to carry out visits to places of detention, to monitor the treatment of and conditions for detainees, and to make recommendations regarding the prevention of ill-treatment.

¹⁵³ Independent Monitoring Boards, Annual Report of the Independent Monitoring Board for Lindholme Immigration Removal Centre, 2010, http://webarchive.nationalarchives.gov.uk/20110206195651/http://www.imb.gov.uk/reports/Lindholme_IRC_2009-2010.pdf.

¹⁵⁴ Short-term facilities that are used for less than 48 hours are generally not included in GDP data unless there are reports indicating that the facilities have been used for longer periods. Thus, for instance, while a holding room at Dover dock is one of the busiest immigration custodial sites in the UK, according to the 2016 “Shaw Review,” an “evaluation of the detention log for May 2015 revealed that a third of those detained that month had been in the facility for more than 24 hours, with 28 of those detained for more

administratively detain non-citizens who have completed criminal sentences and are awaiting deportation.

Two of these facilities were slated for closure at the time of this publication: The Cedars family “pre-departure” facility and the Dungavel immigration removal centre.

The UK administrative immigration detention estate has grown considerably in recent decades. In 1993, it had a total capacity of 250.¹⁵⁵ By 2003, it was operating seven immigration removal centres with an estimated total capacity of 1,600; by 2011, the estate had grown to 15 facilities with a total estimated capacity of 3,500.¹⁵⁶ By 2015, the country’s immigration detention capacity had increased to approximately 4,270.¹⁵⁷ There are an estimated 400 additional spaces used in prisons.¹⁵⁸

Non-citizens can also be held at immigration offices at ports of entry; control zones authorized in the Immigration Act 1971; premises of legal appeal; any police station or hospital; young offender institutions; prison or remand centres; or any vehicle that has been specifically designed or adapted for use as a mobile detention facility and approved by the secretary of state for such use.¹⁵⁹ Many holding facilities at ports of entry that are used for fingerprinting and identify checks have been criticized for detaining people for periods that are deemed excessively long given the nature of the facilities. One such facility is at Dover dock. Experts consider that this facility should be used for less than 24 hours, but evidence suggests many people are held for more than 36 hours.¹⁶⁰

Immigration Removal Centres (IRCs). As of September 2016, the United Kingdom maintained nine IRCs: Brook House IRC (London Gatwick Airport, Gatwick); Campsfield House IRC (Kidlington, Oxon); Colnbrook IRC (Harmondsworth, West Drayton,

than 36 hours.” Thus, the facility is not included as part of the GDP’s list of immigration-related detention facilities.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf. Page 68.

¹⁵⁵ Christine Bacon, RSC Working Paper No. 27: The Evolution of Immigration Detention in the UK: The Involvement of Private Prison Companies, Working Paper Series, Refugee Studies Centre, Department of International Development, Queen Elizabeth House, University of Oxford, September 2005.

¹⁵⁶ Association of Visitors to Immigration Detainees, Immigration Detention: Size of the Detention Estate, 15 June 2011, <http://www.aviddetention.org.uk/>.

¹⁵⁷ Association of Visitors to Immigration Detainees, What is Immigration Detention?, 2015, <http://www.aviddetention.org.uk/immigration-detention/what-immigration-detention>.

¹⁵⁸ HM Inspectorate of Prisons, People in Prison: Immigration Detainees, Her Majesty’s Inspectorate of Prisons, November 2015, <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/11/HMIP-Immigration-detainees-findings-paper-web-2015.pdf>.

¹⁵⁹ UK Secretary of State, The Immigration (Places of Detention) Direction 2014 (No. 2), 28 July 2014, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338585/detention_direction-2014-07-23.pdf.

¹⁶⁰ Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf; Association of Visitors to Immigration Detainees, IRCs and STHFs, 2015, <http://www.aviddetention.org.uk/immigration-detention/find-local-visitor-groups-or-immigration-removal-centers/list-detention>.

Middlesex); Dungavel IRC (Strathaven, South Lanarkshire); Harmondsworth IRC (Harmondsworth, West Drayton); Morton Hall IRC (Swinderby, Lincolnshire); The Verne IRC (Portland, Dorset); Tinsley House IRC (Gatwick Airport, Gatwick); and Yarl's Wood IRC (Clapham, Bedfordshire).¹⁶¹

The UK Home Office has stated that, on average, it costs £92.67 to keep someone in detention for one night, which amounts to nearly £34,000 per detainee/year.¹⁶²

Seven IRCs—Brook House, Campsfield House, Colnbrook, Dungavel, Harmondsworth, Tinsley House, and Yarl's Wood—are managed by one of four private contractors: G4S, Serco, Mitie PLC or GEO Group. The two remaining facilities—Morton Hall and the Verne—are operated by the National Offender Management Service (NOMS).¹⁶³

According to the 2016 Shaw Review, the IRCs “differ in their size and physical security, and these factors have an influence upon the welfare issues that are the focus of this review. Dungavel, Campsfield House, and Tinsley House are relatively small and the perimeter security and internal zoning is relatively unobtrusive. The three NOMS-run centres: Dover [closed in 2015], Morton Hall and The Verne, all have significant open air space. In contrast, Brook House, Colnbrook, and Harmondsworth were constructed to category B prison standards, and are somewhat claustrophobic and have the ‘feel’ and look of contemporary gaols. Yarl's Wood was rebuilt after the 2002 arson and disturbance, and is characterised amongst other things by long corridors and an absence of natural light.”¹⁶⁴

(Detailed accounts on the operations of the IDCs can be found on the [HMIP website](#) as well as in the “[Shaw Review](#).”)

Short-Term Holding Facilities. There are short-term hold facilities (STHFs) throughout the United Kingdom, many of them located in or near airports or other points of transit.¹⁶⁵ These STHFs are designed to facilitate further questioning of incoming passengers

¹⁶¹ Association of Visitors to Immigration Detainees, IRCs and STHFs, <http://www.aviddetention.org.uk/immigration-detention/find-local-visitor-groups-or-immigration-removal-centers/list-detention>.

¹⁶² Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf.

¹⁶³ Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf.

¹⁶⁴ Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf; Association of Visitors to Immigration Detainees, IRCs and STHFs, 2015, <http://www.aviddetention.org.uk/immigration-detention/find-local-visitor-groups-or-immigration-removal-centers/list-detention>.

¹⁶⁵ HM Inspectorate of Prisons, A Review of Short-Term Holding Facilities Inspections, http://www.justice.gov.uk/inspectors/hmi-prisons/docs/STHF_review_Dec_2010_-_FINAL.pdf.

denied immediate entry into the country. Most of these centres are non-residential, and the typical stay is under 12 hours. There are, however, three “residential” STHFs in which people can be held for up to seven days.

There have been numerous complaints about conditions at STHFs, including poor lighting and ventilation, uncomfortable seating arrangements, and inadequate sleeping or washing facilities.¹⁶⁶

The residential STHFs are designed to house people for up to five days, with the possibility of extension to seven days. The residential STHFs include Pennine House STHF (Terminal 2, Manchester Airport, Manchester) and Larne House STHF (Larne, Northern Ireland).¹⁶⁷ The [Shaw Review](#) highlighted that these two facilities operate without “statutory rules,” which it concluded “is not acceptable as a matter of good public administration.”

Non-residential STHFs include those located in or associated with airports, such as Birmingham Airport, London City Airport, Heathrow Airport Terminal 5, Heathrow Airport Terminal 4, and Heathrow Airport Terminal 3. During unannounced inspections by the HMIP, common issues at these non-residential STHFs included unnecessary attention being drawn to detainees as a result of escort staff wearing high visibility vests and escorted detainees being handcuffed regardless of the risk they posed and poor conditions, such as a lack of natural light and inadequate ventilation.¹⁶⁸

Prisons and police stations. Various prisons and police stations in the United Kingdom are used for immigration detention purposes. Immigration detainees may be held in police stations for up to seven days.¹⁶⁹ Non-citizens who have completed criminal sentences can remain confined in prisons pending deportation for a number of reasons.

The government claims that “the routine use of prison accommodation to hold immigration detainees ended in 2002. Prison accommodation continues to be used for

¹⁶⁶ HM Inspectorate of Prisons, . A Review of Short-Term Holding Facilities Inspections, http://www.justice.gov.uk/inspectorates/hmi-prisons/docs/STHF_review_Dec_2010_-_FINAL.pdf.

¹⁶⁷ Association of Visitors to Immigration Detainees, IRCs and STHFs, <http://www.aviddetention.org.uk/immigration-detention/find-local-visitor-groups-or-immigration-removal-centers/list-detention>.

¹⁶⁸ HM Chief Inspector of Prisons, Report on an Unannounced Inspection of the Short-Term Holding Facility at Birmingham Airport, Her Majesty’s Inspectorate of Prisons, 30 November 2015, <https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2016/04/2015-BIRMINGHAM-AIRPORT-final-report.pdf>; HM Chief Inspector of Prisons, Report on an Unannounced Inspection of the Short-Term Holding Facility at London City Airport, Her Majesty’s Inspectorate of Prisons, 11 February 2015, <https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2015/09/London-City-Airport-2015.pdf>; HM Chief Inspector of Prisons, Report on an Unannounced Inspection of the Short-Term Holding Facility at Heathrow Airport Terminal 5, Her Majesty’s Inspectorate of Prisons, 12 May 2015, <https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2015/09/2015-HEATHROW-Terminal-5-Web-2015-1.pdf>.

¹⁶⁹ UK Secretary of State, The Immigration (Places of Detention) Direction 2014 (No. 2), 28 July 2014, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338585/detention_direction-2014-07-23.pdf.

individual detainees, particularly foreign national offenders pending deportation on release from custodial sentences, for reasons of security and control in line with published criteria.”¹⁷⁰

According to an agreement between the National Offender Management Service and the Home Office, there are up to 400 prison beds that can be used for immigration detainees.¹⁷¹ The Association of Visitors to Immigration Detainees estimates that the number of individuals is closer to 600.¹⁷²

During an inspection of Wormwood Scrubs Prison in 2014, HM Inspectorate of Prisons found an immigration detainee who “had been held for 18 months after completing his sentence.” In 2013, inspectors at HMP Lincoln found six prisoners held for over a year, and one for over two years. Foreign prisoners are often informed that they will be detained under immigration powers “at the last minute” or “on the day they expected to be released.”¹⁷³ Further, detainees held in prisons face additional difficulties when compared to those detained in IRCs, including the lack of guaranteed access to legal advisors, severely limited telephone contact, and increased potential to face violent confrontations.¹⁷⁴

Experts in the UK have argued that researching this aspect of immigration detention is hampered by a lack of data provided by government agencies.¹⁷⁵ Thus, it can be difficult to ascertain which prison facilities may be used routinely for immigration-related detention. Previously, scholars noted that the prison service preferred “to group its foreign national prisoners in a few establishments, rather than spread them out evenly across the entire penal estate.”¹⁷⁶ However, an expert reviewer of this profile who provided comments on background told that GDP that although a “hubs and spokes” was intended to concentrate foreign national in fewer prisons, today they are “in fact spread throughout the estate.”

¹⁷⁰ United Kingdom, Consideration of Reports Submitted by States Parties Under Article 40 of the Convention, Seventh Periodic Reports of States Parties due in July 2012, Human Rights Committee; Detention Action, The State of Detention: Immigration Detention in the UK in 2014, October 2014, http://detentionaction.org.uk/wordpress/wp-content/uploads/2014/10/The.State_of_.Detention.pdf.

¹⁷¹ HM Inspectorate of Prisons, People in Prison: Immigration Detainees, Her Majesty’s Inspectorate of Prisons, November 2015, <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/11/HMIP-Immigration-detainees-findings-paper-web-2015.pdf>.

¹⁷² Association of Visitors to Immigration Detainees, Detention in Prison, 2015, <http://www.aviddetention.org.uk/immigration-detention/detention-prison>.

¹⁷³ HM Inspectorate of Prisons, People in Prison: Immigration Detainees, Her Majesty’s Inspectorate of Prisons, November 2015, <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/11/HMIP-Immigration-detainees-findings-paper-web-2015.pdf>.

¹⁷⁴ HM Inspectorate of Prisons, People in Prison: Immigration Detainees, Her Majesty’s Inspectorate of Prisons, November 2015, <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/11/HMIP-Immigration-detainees-findings-paper-web-2015.pdf>.

¹⁷⁵ Silverman, Stephanie J. 2011a. “Immigration Detention in the UK”. The Migration Observatory at the University of Oxford. 8 March 2011. <http://www.migrationobservatory.ox.ac.uk/briefings/immigration-detention-uk> (accessed 17 May 2011).

¹⁷⁶ Mary Bosworth, Perrie Lectures 2008: Foreign Nationals in Prison and Detention, Prison Service Journal, Issue 180.

According to Home Office estimates more than 5,600 “foreign national offenders” were removed in 2015. Numbers have fluctuated between 4,600 and 5,600 since 2009. The Migration Observatory reports that there are gaps in data on deportations and removals, which indicate the number of rejected asylum applicants (5,238 in 2015) and foreign national prisoners, but do not disaggregate by reason for removal.¹⁷⁷

“Accommodation” for children and families. The IRCs were previously equipped to house families. However, since legislative changes in 2010 that were purportedly intended to end the detention of children, families in irregular situations have been channelled to what the UK government deems non-custodial accommodations (see “Detention of children” above). As part of this policy, the government has explored a range of “alternative” forms of accommodation for families who qualify for “ensured return.”¹⁷⁸ These alternatives include “open accommodation,” semi-secure “pre-departure accommodation,” and several pilot projects that seek to make use of existing accommodation schemes which house asylum seekers in the community.¹⁷⁹

One of the more controversial “alternatives” has been the “family friendly” Cedars pre-departure accommodation centre in Pease Pottage. According to immigration authorities, families are only “referred to Cedars on the advice of the Family Returns Panel, an independent body of child welfare experts, and will stay no more than 72 hours before their departure from the UK. In exceptional circumstances, with ministerial authority, this may be extended to 1 week.”¹⁸⁰ The facility is mainly intended for those families who “fail to co-operate with other options to leave the UK, such as the offer of assisted voluntary return.”¹⁸¹

Although the facility was designed as a secure detention facility, the GDP designates it a semi-secure site because it provides the possibility for freedom of movement and temporary exit for certain residents. According to the Home Office, “Families with children who are resident at Cedars can leave the facility for short periods of time to

¹⁷⁷ The Migration Observatory, Deportations, Removals and Voluntary Departures from the UK, 19 August 2016, <http://www.migrationobservatory.ox.ac.uk/resources/briefings/deportations-removals-and-voluntary-departures-from-the-uk/>.

¹⁷⁸ UK Border Agency, New Family Returns Process Begins, 28 February 2011, <https://www.gov.uk/government/news/new-family-returns-process-begins>.

¹⁷⁹ Isra Hussain, (Freedom of Information Team, UKBA), 2011, Freedom of Information Request ref : 17978, 31 March 2011, <http://www.whatdotheyknow.com/request/64249/response/163683/attach/2/FOI%2017978%20AE.pdf>; BBC News, Glasgow Offers Alternative to Child Detention, 7 August 2010, <http://www.bbc.co.uk/news/uk-10903378>.

¹⁸⁰ Immigration Enforcement, Guidance: Cedars Pre-Departure Accommodation Information, 28 February 2014, <https://www.gov.uk/government/publications/guidance-on-cedars-pre-departure-accommodation/cedars-pre-departure-accommodation-information>.

¹⁸¹ Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf; Association of Visitors to Immigration Detainees, IRCs and STHFs, 2015, <http://www.aviddetention.org.uk/immigration-detention/find-local-visitor-groups-or-immigration-removal-centers/list-detention>.

participate in an approved activity, subject to a risk assessment and suitable supervision.”¹⁸²

Regarding conditions at Cedars, the Shaw Review reported that there appeared to be no reason “to doubt HM Chief Inspector of Prisons’s characterisation of Cedars as ‘an exceptional facility’ and ‘an example of best practice in caring for ... some of the most vulnerable people subject to immigration control.’”¹⁸³ According to an official at HMIP “It is also important that other parts of the detention estate learn from Cedars. In particular, its open design and welfare orientation, and the ability to have effective immigration controls based on short periods of detention. It has been recognised that the open ended approach to child detention is not acceptable.”¹⁸⁴

Cedars is privately operated. G4S provides security services, facilities management, and medical services. Barnardo’s—a British charity that cares for vulnerable children and young people—provides welfare and social care services.¹⁸⁵

The Shaw Review called for closing Cedars, contending that it was prohibitively expensive.¹⁸⁶ Total costs for 2014-2015 were estimated to be £6,398,869. The centre held only 14 families that year, making the cost per family more than £450,000.¹⁸⁷ Reported Shaw: “[M]y overriding impression was of a misdirection of public money that could be better used for other purposes. The centre has had no residents on either of the two occasions I have visited.”¹⁸⁸

¹⁸² Bwalya Kankulu (UK Home Office), The Use of Detention and Alternatives to Detention in the Context of Immigration Policies, National Contribution from the United Kingdom for Synthesis Report for European Migration Network Focused Study, UK Home Office, October 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/irregular-migration/28a_uk_use_of_detention_study_en_final.pdf.

¹⁸³ Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf; Association of Visitors to Immigration Detainees, IRCs and STHFs, 2015, <http://www.aviddetention.org.uk/immigration-detention/find-local-visitor-groups-or-immigration-removal-centers/list-detention>.

¹⁸⁴ Hindpal Singh Bhui, “The changing approach to child detention and its implications for immigration detention in the UK,” Prison Service Journal, January 2013, <https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20January%202013%20No.%20205.pdf>.

¹⁸⁵ Immigration Enforcement, Guidance: Cedars Pre-Departure Accommodation Information, 28 February 2014, <https://www.gov.uk/government/publications/guidance-on-cedars-pre-departure-accommodation/cedars-pre-departure-accommodation-information>.

¹⁸⁶ Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf; Association of Visitors to Immigration Detainees, IRCs and STHFs, 2015, <http://www.aviddetention.org.uk/immigration-detention/find-local-visitor-groups-or-immigration-removal-centers/list-detention>.

¹⁸⁷ David Barrett, Asylum Centre Costs More than World’s Most Exclusive Hotels, The Telegraph, 18 January 2016, <http://www.telegraph.co.uk/news/uknews/immigration/12106353/Asylum-centre-costs-more-than-worlds-most-exclusive-hotels.html>.

¹⁸⁸ Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016,

In the summer of 2016, the UK government announced that Cedars pre-departure accommodation was to be closed and that families about to be removed would be held at new accommodations being prepared at the Tinsley House Removal Centre. According to BID, six years after the government's pledge to end the detention of children, not only are children still detained, but housing families in an IRC would be a "fundamental and unacceptable reversal" and would expose children to damage.¹⁸⁹

The planned refurbishment of IRC Tinsley House to serve as a "high security detention facility to accommodate families deemed too 'disruptive'" for a pre-departure accommodation such as Cedars has long been controversial.¹⁹⁰ Families also continue to be detained for short periods at Dover Dock STHF, Heathrow Terminal 2, and Cayley House.¹⁹¹

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf; Association of Visitors to Immigration Detainees, IRCs and STHFs, 2015, <http://www.aviddetention.org.uk/immigration-detention/find-local-visitor-groups-or-immigration-removal-centers/list-detention>.

¹⁸⁹ Bail for Immigration Detainees (BID), Comment- closure of Cedars removal centre, 22 July 2016, <http://www.biduk.org/comment-%E2%80%93-closure-cedars-removal-centre->

¹⁹⁰ Simon Parker, The UK Continues to Detain Children, A Year after the Coalition's Pledge to End It, Open Democracy, 11 May 2011, <http://www.opendemocracy.net/ourkingdom/simon-parker/uk-continues-to-detain-children-year-after-coalitions-pledge-to-end-it>.

¹⁹¹ Stephen Shaw, Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf; HM Chief Inspector of Prisons, Report on an Unannounced Inspection of Yarl's Wood Immigration Removal Centre, 13 April-1 May 2015, <http://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2015/08/Yarls-Wood-web-2015.pdf>.

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