



ILPA's response to the ICIBI's Call for Evidence: An inspection of the use of hotels and barracks as contingency asylum accommodation

Background

ILPA is a professional association founded in 1984, the majority of whose members are barristers, solicitors and advocates practising in all aspects of immigration, asylum and nationality law. Academics, non-governmental organisations and individuals with a substantial interest in the law are also members. ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law, to act as an information and knowledge resource for members of the immigration law profession and to help ensure a fair and human rights-based immigration and asylum system. ILPA is represented on numerous government, official and non-governmental advisory groups and regularly provides evidence to parliamentary and official enquiries.

Introduction

ILPA recently submitted evidence to the Home Affairs Committee on the Home Office's response to Covid-19 which included a section on the use of institutional accommodation, specifically the barracks. We have expanded on and updated that evidence for this response. We are also providing to the ICIBI, but not publishing publicly with our response, several anonymised witness statements, which are summarised as case studies below.

The rationale behind the use of the barracks

It is well recognised that people seeking asylum should generally be housed in communities, not in institutional settings. This is because asylum seekers represent some of the most

vulnerable members of society.¹ The Grand Chamber of the European Court of Human Rights has specifically recognised that asylum-seekers are members of a particularly underprivileged population group and as such are in need of special protection.² The Home Office started using army barracks last year, purportedly as a response to Covid-19. Barracks represent perhaps the most extreme form of institutional accommodation.

We are concerned that the Home Office is relying on delays in decision making resulting from Covid-19 as a reason for why people are being housed in unsuitable accommodation. Many of these issues existed before the pandemic.

We believe that the Home Office could be doing more to progress the backlog of asylum cases and thereby relieving the pressure on asylum accommodation. As a related issue it should be noted there is ample evidence to show that long term stays in hotels is also completely inappropriate and harmful to people's health. ILPA Members report that cases where decisions could be made are not being progressed by the Home Office. This includes delays on decisions where the interview has taken place, delays on implementing appeal decisions, and deciding cases without an interview where possible (including but not limited to those nationalities that have extremely high grant rates, e.g. the estimated final grant rate in 2019 was 92% for Syria, 95% for Libya, 90% for Eritrea³). These are some of the humane and practical alternatives that are available to reduce the pressure on asylum accommodation. Instead, the government has sought to warehouse people in disused army barracks during a pandemic, causing untold harm and putting lives at risk, all unnecessary.

Further, if people seeking asylum were permitted to work while their claims were being decided then this would reduce the need for asylum support to be provided by the government. This is a simple step to take which would allow people to contribute by paying

¹ See Porter and Haslam (2005), *JAMA* Aug 3;294(5):602-12. '*Predisplacement and postdisplacement factors associated with mental health of refugees and internally displaced persons: a meta-analysis*'; as referred to in Written evidence submitted by Doctors of the World, the Helen Bamber Foundation, Forrest Medico-Legal Services and Freedom from Torture (COR0206).

² *MSS v Belgium and Greece* (Grand Chamber decision of European Court of Human Rights, (Application no. 30696/09), 21 January 2011, §251.

³ Outcome analysis of asylum applications <https://www.gov.uk/government/statistical-data-sets/asylum-and-resettlement-datasets>

tax and NI, instead of requiring support, and would also support integration and give people a sense of dignity.

We, and other charities, have been asking for a meeting with the Home Office to discuss options for progressing claims, but this has not taken place. It is extremely concerning to see that instead the Home Office is piloting the outsourcing of asylum interviews to private contractors. As outlined above, we believe that better options are available.

Case study 1

After fleeing my home country I was detained in Libya by traffickers for three months. I was forced to work for no payment and suffered beatings and torture for approximately three months. I eventually managed to escape and travel to London. Someone gave me money and took me on a bus to the Home Office but when I went there they said they were closed and couldn't help me, so I stayed outside the building overnight and claimed asylum the next day. I was initially put in a hotel and I was not allowed to go out and I was not given a Covid-19 test.

One day, around the end of November/beginning of December I was told that I would be moved and I was taken to Napier barracks. I was told that this would be temporary and I would be moved soon. I was given a room with two beds. Other parts of the camp were shared with hundreds of other people seeking asylum from countries like Sudan, Syria and Yemen.

I was afraid that I would get Covid-19 because of the conditions in the camp and I was one of the first people to get it. I had symptoms in the second week of January and asked for a test, I had to walk to a nearby hospital to have this done. The test was positive. Around a week later a security guard told me to go to the games room which is a big hall where residents would meet. They had moved the chairs and put around eight mattresses on the floor for me and other inmates who had the virus. They locked the doors. At first there was no access to a toilet, but they later brought one and the room never had a shower. There was no furniture except some cupboards and there was no television or radio. I was given Panadol but that was all. I had a headache and my body felt hot and very painful and weak. Another inmate came to my window and asked if I wanted to speak to

a lawyer, and I agreed they could write to the Home Office threatening legal action if I was not moved. I was worried about punishment for complaining, and I still am worried about this.

My mental health has got much worse since I came here and it reminds me of when I was tortured. I have seen bad things here, so many detainees have tried to commit suicide while I have been here, and I have seen the protests outside the camp against us. There is nothing to do here except think of the past. I have given up hope.

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[Access to legal advice](#)

The Home Office did not involve ILPA in any conversations before opening the barracks. As a result of this, the need to facilitate access to lawyers does not appear to have been given any consideration prior to the opening of Penally and Napier, with the result that many men were held there without access to legal advice for lengthy periods of time. Access remains difficult, for example the nearest law firm mentioned in the posters that are up at Penally is approximately one hour 15 minutes' drive away, each way, and the rest are two hours. We understand that the vast majority of people who have managed to be transferred out of Penally and Napier barracks are those who have been assisted by lawyers.

We note that there is provision in section 29(4) of the Nationality, Immigration and Asylum Act 2002 that: *“The Secretary of State shall take reasonable steps to ensure that a resident of an accommodation centre has an opportunity to obtain legal advice before any appointment made by an immigration officer or an official of the Secretary of State for the purpose of obtaining information from the resident to be used in determining his claim for asylum.”* This part of the Act is not in force, however it shows that Parliament has previously recognised the importance of access to legal advice at the earliest stages of a person's asylum claim. The new asylum rules relating to the potential of an asylum claim being deemed inadmissible and not considered substantively in the UK make access to legal advice at an early stage even more crucial.

Case study 2

I claimed asylum in Dover and had a short initial interview with the Home Office where they asked me some very brief questions about myself. After staying elsewhere for a month and a half, I arrived in Napier barracks in September 2020 and I was told by Migrant Help that I would be moved after six weeks. I have now been here for almost four months. I live in a room with 13 other men, with the beds separated by curtains. The room is very cold as there is no heating. Connected to our room is another room with 14 people so there are 28 people in total in our block.

We are not allowed to go outside the camp. There are security staff controlling the outside and the gates are always locked. Security previously allowed us to go outside the camp for two hours at a time. The environment is like a prison and the situation in the camp reminds me of the difficult experiences I have been through, so I stay in my room most of the time.

I have conducted research about Covid-19 as no one in the camp has given us any information about it. I have not seen any leaflets in my own language about it. Since arriving at the camp my mental health has deteriorated and I cannot sleep.

It is very difficult to get legal advice in the camp, there is no help from the Home Office or Migrant Help for people to get asylum solicitors. I have had no news about my asylum claim or when I will be moved from the camp.

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Inadequate screening processes

We are aware that there are issues with the initial assessment of whether or not a person can be accommodated in the barracks under the Home Office's own guidance, 'Suitability for contingency accommodation'. The Home Office checks, purportedly designed to "*help ensure that anyone with indicators of vulnerability, modern slavery or exploitation, or significant health issues are not transferred to the sites*", are deficient. For example, we know that people

who have been identified as potential victims of trafficking have been accommodated in the barracks.⁴

The asylum screening interview is currently being used to decide whether people should be accommodated in the barracks⁵, there are two problems with this. Firstly, the screening interview is designed to obtain preliminary information about a person's asylum claim, not about what form of accommodation may be appropriate for them. Secondly, we are aware that the Home Office was using a truncated screening process for months last year which omitted questions that would identify those who may have been trafficked, until the High Court made an Order that they must resume asking those questions.⁶

It is unclear what processes are in place to identify and relocate to safe accommodation, anyone who has been erroneously transferred to the barracks, for example those who were subjected to this truncated screening process, nor those who develop vulnerabilities due to the trauma of the barracks. The latter example is an important one, we are already aware of such cases existing, and this is why our position is that the barracks should be closed as they are unsuitable for any person, regardless of their current state of health.

Case study 3

I arrived in Dover and applied for asylum. When I had my first interview I told the officials about my experience with torture. I did not have a lawyer at this time. I was originally placed in a single room in a hotel with a private toilet and shower, I felt safe from Covid-19 and my mental health felt good. One day in September 2020 there was a knock on my door and I was told that I was being transferred at 6.30pm that day. I felt scared as I thought my asylum was being refused and I was being deported. A car came and picked up I think five of us. We eventually pulled up at Napier barracks. A staff member took our temperature and asked me for my name and date of birth, nothing else. My room was small with two

⁴ In addition to the case studies, see here: <https://dpglaw.co.uk/asylum-seeker-at-napier-barracks-obtains-court-injunction-that-he-must-be-re-housed/>

⁵ UKVI guidance 'Suitability Assessment for Contingency Accommodation' version 6 December 2020, p2

⁶ *DA & Ors v The Secretary of State for the Home Department* [2020] EWHC 3080 (Admin) (13 November 2020) <https://www.bailii.org/ew/cases/EWHC/Admin/2020/3080.html>

beds, in a block that houses 28 people and has two toilets and one shower. There were six sinks and no soap. When I saw the barracks and the barbed wire around it, I felt very sad and low. I was told that I would be there for up to two months but now it is January and I am still there.

It is extremely cold in my room. The heater has not worked properly the whole time I have been here. The toilets have never had any soap and are used by at least 28 people. The hall where we line up for food often has a large number of people queueing and distancing is impossible. Detainees have lost hope, I have witnessed people trying to commit suicide. I know of four people in the camp who have tried to hang themselves. Someone in my block sliced his neck and wrists with a blade. The ambulance came and took him and he never came back. These are terrible things to witness and I have not been given any support.

I slept outside for six nights in January with around five other detainees, as we were so worried about contracting Covid-19, however I eventually did contract the virus.

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Equality Impact Assessment

The Equality Impact Assessment carried out in respect of the use of Ministry of Defence Sites to accommodate asylum seekers, dated September 2020, states that on page 11 that: *“There is some PHE evidence that has highlighted the potential increased prevalence of Covid-19 in black, Asian and minority ethnic (BAME) communities”*.

The Public Health England (PHE) report ‘Disparities in the risk and outcomes of COVID-19’ dated August 2020 puts it rather more starkly, stating:

People from Black ethnic groups were most likely to be diagnosed. Death rates from COVID-19 were highest among people of Black and Asian ethnic groups. This is the opposite of what is seen in previous years, when the mortality rates were lower in Asian and Black ethnic groups than White ethnic groups. Therefore, the disparity in COVID-

*19 mortality between ethnic groups is the opposite of that seen in previous years. An analysis of survival among confirmed COVID-19 cases and using more detailed ethnic groups, shows that after accounting for the effect of sex, age, deprivation and region, people of Bangladeshi ethnicity had around twice the risk of death than people of White British ethnicity. People of Chinese, Indian, Pakistani, Other Asian, Black Caribbean and Other Black ethnicity had between 10 and 50% higher risk of death when compared to White British.*⁷

In addition to the findings by PHE, the Office for National Statistics has published statistics on Covid-19 related deaths by ethnic group. After adjusting for region, population density, socio-economic and household characteristics, the statistics show “*the raised risk of death involving COVID-19 for people of Black ethnic background of all ages together was 2.0 times greater for males ... compared with those of White ethnic background*” and “*Males of Bangladeshi, Pakistani and Indian ethnic background also had a significantly higher risk of death involving COVID-19 (1.5 and 1.6 times, respectively) than White males*”.⁸ This week, the government has recognised that ethnicity and deprivation are risk factors for severe Covid-19 and as a result are advising almost two million more people to shield.⁹ It is unclear what processes are in place to identify those in the barracks who should be shielding.

The Equality Impact Assessment goes on to state that the PHE evidence: “*needs to be balanced against the evidence that infection rates for those receiving asylum support (predominantly members of the BAME community) appear to be low.*” It is unclear where the supporting evidence for this statement is, we do note however that PHE identifies deprivation as a relevant factor in higher mortality rates for Covid-19 in their report.¹⁰ We do not believe

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/908434/Disparities_in_the_risk_and_outcomes_of_COVID_August_2020_update.pdf

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<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/articles/coronaviruscovid19relateddeathsbyethnicgroupenglandandwales/2march2020to15may2020>

⁹ <https://amp.theguardian.com/world/2021/feb/16/covid-almost-2m-more-people-asked-shield-england>

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/908434/Disparities_in_the_risk_and_outcomes_of_COVID_August_2020_update.pdf

there is any evidence to suggest that the people accommodated in the barracks are any less deprived than those referred to in the PHE report.

At page 7 of the Equality Impact Assessment the Home Office appears to justify its failure to inform or consult the NGO sector about the barracks prior to their opening by claiming that it is analogous to normal initial accommodation: *“The Home Office has remained in discussion with NGOs through the NASF forums about the support arrangements for those in full-board initial accommodation - i.e. accommodation with very similar characteristics to the arrangements that are intended to be put in place in Folkestone and Tenby.”* This is not understood. Our understanding is that at no stage did the Home Office ever inform or consult with the NGO sector about the use of barracks in any NASF forum, before it implemented it. It appears that the Welsh Government was also uninformed at an early stage about the plans, to the extent that they sent an urgent letter to the Home Secretary on 18 September 2020 raising concerns about the suitability of the Penally barracks and asking her to postpone its use.¹¹ The lack of transparency from the Home Office around decisions that are being made on changes to the asylum system is a key and growing area of concern. It is difficult to see how this explanation for the failure to discuss the proposals at an earlier stage can be considered rational, as using remote army barracks is clearly very different to other full-board initial accommodation.

The Equality Impact Assessment also states the following on page 9:

Destitute asylum seekers with protected characteristics are not analogous to British Citizens and other permanent residents with similar characteristics who are in need of welfare assistance from public funds; so to the extent that asylum support is less generous, this is justified by the need to control immigration. Any provision of support over and beyond what is necessary to enable the individuals to meet their housing and subsistence needs could undermine public confidence in the asylum system and hamper wider efforts to tackle prejudice and promote understanding within the general community and amongst other migrant groups.

¹¹ <https://gov.wales/sites/default/files/publications/2020-11/atish14343doc1.pdf>

The proposal results in placing asylum seekers in areas of the country not previously used to house asylum seekers and there may be impacts on community relations that will need to be carefully managed in partnership with the police, local authorities and others. However, similar issues have arisen recently in respect to the use of hotels, which may well be perceived by the general public as a more generous accommodation option than former MoD barracks. The proposal is therefore consistent with the general objective of tackling prejudice and promoting understanding between people with different characteristics.

This is deeply concerning. It suggests that an underlying rationale for the placing of asylum seekers in barracks is not because of practical delays arising out of covid-19, but because of political reasons and a desire to appear tough on asylum seekers. The comments come under the heading 'Foster good relations between people who share a protected characteristic'. It is unclear how providing substandard accommodation to vulnerable people assists in tackling prejudice. Instead it excludes and 'others' those seeking asylum, separating them from the community. This is the opposite of fostering good relations. This is the opposite of providing 'special protection' to a particularly vulnerable population group as required by the European Court of Human Rights.¹²

[Napier Covid-19 outbreak](#)

In relation to the large outbreak of Covid-19 cases at Napier barracks, while the Home Office initially moved people out,¹³ it appears that in the week before the fire they changed their approach such that no-one was to be transferred out, regardless of their circumstances (for example including those identified as potential victims of trafficking) until the end of the new period of enforced self-isolation. This is despite the fact that The Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020 have explicit provision for movement during self-isolation to move to different accommodation provided under

¹² See footnote 2 above

¹³ <https://www.theguardian.com/world/2021/jan/26/asylum-seekers-sent-to-hotels-after-covid-outbreak-at-former-uk-army-barracks>

section 4, 95 or 98 of the Immigration and Asylum Act 1999 where it becomes impracticable to remain where they currently are, or to avoid a risk of harm.¹⁴

Our understanding of the origins of the fire at Napier on 29 January 2021 is that this was the escalation of a protest that started when people were told that they would not be transferred away from the site. People are understandably scared given the vast numbers of Covid-19 infections on site. We have heard of people sleeping outside as they are too fearful of sharing rooms with several others, who it is quite likely may have Covid-19. It is troubling to hear reports of police in anti-riot gear preventing people from leaving Napier during the fire, although staff were permitted to leave. The Home Office has been explicit that the army barracks are not detention,¹⁵ yet not permitting people to leave the site when it was on fire indicates otherwise. People were forced to remain on site despite the ongoing Covid-19 outbreak, the fire, and the resulting lack of electricity, heating and water. We understand that around a dozen men were moved to Tinsley House following the fire, due to their alleged involvement in the protests, so it clearly is possible to move people. All people currently housed in the barracks should be moved to safe and appropriate accommodation as a matter of urgency.

We have seen the statement made by the Home Secretary¹⁶ stating that it was “an insult” to say that the barracks were unsuitable and for people to complain about conditions which were deemed appropriate for army personnel. This is a line that the government continues to take.¹⁷

We refer to comments made by Johnny Mercer MP in 2019 in relation to the state of army barracks (not Napier) *“Animals would not be housed in such dangerous conditions. It is disgraceful how ministers talk up our armed forces at every opportunity, and yet, away from the spotlight, ask our most loyal public servants to endure totally unacceptable and lethal*

¹⁴ Regulation 2(3)(b)(iv) and (viii) <https://www.legislation.gov.uk/uksi/2020/1045/made>

¹⁵ <https://questions-statements.parliament.uk/written-questions/detail/2021-01-25/142956>

¹⁶ <https://twitter.com/pritipatel/status/1355207920091344897>

¹⁷ <https://hansard.parliament.uk/lords/2021-02-11/debates/37B2C3E3-9F96-4B50-AA3C-73D0A3CABF51/RefugeesNapierBarracks>

living environments."¹⁸ The National Audit Office published a report on 3 February 2021 that raises concerns about the conditions of accommodation provided by the Ministry of Defence to service personnel.¹⁹ A report in November 2014 stated "*these buildings were never intended for long-term use*".²⁰ We note that Napier was scheduled for demolition prior to being repurposed.²¹

Further, those being accommodated in the army barracks at present are not fit and healthy army personnel who are staying there for a short and defined period of time, they are traumatised individuals who have fled their home in order to seek safety in the United Kingdom. The situations are simply not comparable.

ILPA's Legal Director attended the hearing on 16 February 2021 at which permission was granted for judicial review to proceed in respect of five people who have been accommodated at Napier. It was notable that the SSHD conceded the matter of permission on all but one of the grounds immediately prior to the hearing.²² At that hearing, we were told that a senior Home Office official is intending to visit Napier on Friday with a view to investigating the issues raised, and that these visits will take place on a weekly basis going forward. This should have been happening a lot sooner and questions should be raised as to why this was not being done and what level of oversight the Home Office is exercising over these sites, particularly given the high level of concern expressed by numerous organisations and that detailed in the media.

We were also told at the hearing by counsel for the SSHD that 63 people remain at Napier. There are many questions outstanding in relation to this outbreak, but it would be useful to know what assessments were made about what the government considers to be a 'safe' number of people to be in Napier during the outbreak, and how and when this advice

¹⁸ <https://www.theguardian.com/uk-news/2019/jan/01/army-barracks-not-fit-for-animals-says-tory-mp-after-leaked-fire-safety-report>

¹⁹ <https://www.nao.org.uk/press-release/improving-single-living-accommodation/>

²⁰ <https://folkestonehythedc.force.com/pr/s/planning-application/a1n2o00002yxz9AAA/y140300sh?tabset-185b1=2> ES Appendix 8.2 – Built Heritage Statement, p 19

²¹ <https://www.kentonline.co.uk/folkestone/news/more-homes-planned-for-mod-land-205150/> and <https://www.kentlive.news/news/kent-news/far-right-mob-make-odd-4533197>

²² <https://dpglaw.co.uk/home-secretary-concedes-that-it-is-arguable-that-napier-barracks-are-inadequate-and-in-breach-of-human-rights-high-court-grants-permission-to-proceed/>

changed. At the end of this submission we have listed documents relevant to the outbreak at Napier, which we are aware of and are seeking disclosure of via various means, but that the ICIBI should certainly request to see if it has not yet done so.

Case study 4

I was told in September 2020 that I would be leaving my accommodation in ten minutes and that I would be going somewhere where my asylum claim would be processed quickly. I have been in Napier for almost four months now, although the staff told me that I would only be there for around two months. I was not asked about my health or background when I arrived. I sleep in a room with 13 other men. Each bed is separated by pieces of wood and a curtain. It is always very cold. I share one shower and two toilets with 28 people. I have not been interviewed by the Home Office or had an update on my asylum claim. The other people in the camp are in the same situation and everyone is upset and frustrated.

Social distancing is impossible here, and there is no procedure for isolating those who test positive for Covid-19 from the rest of us. All the people are still sharing the toilets and showers.

The gates to the camp are kept locked. Before, we could ask security to open the gates and we were allowed outside until 10pm. Now we are not allowed to go outside at all. There are security guards on both sides of the gate and the police are outside. It feels like a detention centre or prison camp.

When you are surrounded by such an environment it makes you feel down all the time. I want to live a normal life somewhere where I can move around freely without guards controlling me. I want to choose how to spend my days, where to go and what to eat. I hope I can be moved out of the camp to stable accommodation and that I never have to come back to this place again.

When I was moved to the camp, a woman helped me find a solicitor for my asylum case. There is no help or information inside the camp, and so without her help I would not have known how to find a solicitor.

January 2021

Clearsprings

We have very serious concerns about the way that Clearsprings has been communicating with people who are accommodated at Napier and Penally.

1. Confusion re: detention

It is unclear how it is being effectively communicated to people that they are not being detained in these barracks. This is a group of often traumatised people who do not have English as a first language, if at all. There are security guards on site and it is surrounded by a large fence, and people were given a curfew. An incident was filmed where police officers forcibly returned someone to the barracks, it does not report who called them.²³

On 16 January 2021, people at Napier were given a letter from Clearsprings headed “COVID-19 ISOLATION”. The letter stated:

*There are now restrictions in place at the site. You are **not** to leave the site under any circumstance. The Police are aware of the situation and if you have been found to disregard this advice, the Police may issue you with a **Fixed Penalty Notice** or you may be arrested.*

It appears from this letter that people were effectively subject to detention in Napier without there being any lawful basis on which to do this. There is nothing in the Covid laws to support such a position, as exceptions are carved out for a variety of reasons which could apply to those in Napier.

²³ <https://www.theguardian.com/uk-news/2021/feb/03/police-filmed-carrying-asylum-seeker-into-kent-barracks-against-his-will>

The SSHD's position is that people are not detained, but it is unclear what action has been taken to ensure that people are not misinformed in such a serious manner. We recommend that the ICIBI should investigate the circumstances around the production of this letter and what action was taken by the Home Office once they became aware of it.

2. Threats to report people to the Home Office

We have had sight of a letter headed "VERBAL WARNING – AGGRESSIVE BEHAVIOUR" issued at Penally by Clearsprings. No details are given of the alleged behaviour, but examples given in the letter of the type of behaviour that Clearsprings considers harassment are:

- violence or threat of violence towards any person
- abuse or insulting words or behaviour
- damage or threats of damage to property belonging to another party
- writing threatening, abusive or insulting graffiti
- any act or omission calculated to interfere with the peace or comfort of any other person or to inconvenience such person

The letter concludes *"Should you commit further breaches of any term of your Occupancy Agreement or covid restrictions per government guidelines, I will report each and any breaches to the Home Office."*

No explanation is given in the letter as to what the Home Office would do with such information, and this is in our view an empty threat, as breaching the Occupancy Agreement or the Covid-19 laws are highly unlikely to have any effect on a person's asylum claim. It is inappropriate to make such threats to people who are not in a position to fully understand their situation or rights. Clearsprings and the Home Office should explain what action will be taken in circumstances where a report such as that referred to in the written verbal warning is made, so that people are able to understand the consequences, if any. It is also unclear as to what extent people have the contents of the Occupancy Agreement or the Covid-19 laws

and guidance (including as and when these are updated) explained to them, and made available in their own language.

3. Use of the Official Secrets Act on staff and visitors

Clearsprings staff have been asking people who visit those being kept in the barracks at both Penally and Napier, including at least one of our Members, to sign non-disclosure agreements which contain references to the Official Secrets Act.²⁴ We have been informed that this was done in error and such requests are no longer being made, but it is unclear how this was ever considered appropriate. It is also unclear what, if any, steps have been taken to inform those who were told they could not see their clients unless they signed the document that they were asked to do so in error and that the agreements will have no legal effect.

The error appears to be that a staff agreement was being used for site visitors. We would therefore query why Clearsprings staff are being asked to sign documents that contain any reference to the Official Secrets Act, and whether this is necessary and proportionate.

Future strategy

On 9 February 2021 we were advised that the Initial Accommodation that was due to open at Yarl's Wood would not be proceeding. We understand that the plans were advanced and had been informed that the site was to open imminently. The intended opening of the site was made public on 16 December 2020, and the initial plan had been to move people in on 24 December.²⁵ The reason given was that they "*do not need to use the additional capacity at this location at this time*". The following day it was reported that the use of Penally is to be extended for a further six months.²⁶ It is therefore difficult to discern a strategy in relation to the use of these type of sites at present, however we have seen various reports of further proposed sites, and we echo the concerns of Lord Dubs that "*Similar detention centres are*

²⁴ In addition to evidence we received directly from a lawyer, this was covered here:

<https://www.theguardian.com/uk-news/2020/nov/23/home-office-accused-of-cover-up-at-camp-for-asylum-seekers>

²⁵ <https://www.theguardian.com/uk-news/2020/dec/16/home-office-criticised-over-plan-to-house-asylum-seekers-at-yarls-wood>

²⁶ <https://www.walesonline.co.uk/news/wales-news/penally-asylum-seekers-camp-run-19813672>

springing up elsewhere, suggesting a new Home Office policy which has neither been fully debated nor subject to adequate parliamentary scrutiny.”²⁷

Summary of areas where further data could usefully be obtained

The following are documents that we are aware of and that in our view should be made public, but at a minimum the ICIBI should see them:

- Notes of the Strategic Migration Partnership meetings for both Kent and Wales. We have made FOI requests for this information but have not yet had even an acknowledgement.
- Kent Clinical Commissioning Group Infection Prevention and Control Assessment for Napier
- The Public Health England advice referred to by Chris Philp MP in response to written parliamentary question 146935 from Holly Lynch MP.²⁸ We believe this is the advice dated 7 September 2020 which apparently states that it is not appropriate to use dormitories during the pandemic.²⁹
- We are aware that the government has carried out a ‘rapid review’ of initial asylum accommodation with a company called Human Applications.³⁰ The full review should be made public as soon as possible.

Summary of recommendations

- Our primary position has been and remains that the barracks are entirely unsuitable to house anyone and they should be closed, and people rehoused in safe accommodation. Any plans to extend the use of this type of accommodation, including the temporary structures that were planned for use at the Yarl’s Wood site should be abandoned.

²⁷ <https://www.politicshome.com/thehouse/article/shocking-conditions-in-military-barracks-housing-asylum-seekers-are-unacceptable-and-must-be-urgently-closed>

²⁸ <https://questions-statements.parliament.uk/written-questions/detail/2021-02-01/146935>

²⁹ <https://www.theguardian.com/politics/2021/feb/16/home-office-were-advised-not-to-house-asylum-seekers-in-napier-barracks>

³⁰ <https://questions-statements.parliament.uk/written-questions/detail/2021-01-12/136619>

- The Home Office should explain the extent to which the evidence referred to above regarding ethnicity and deprivation has been taken into account in their decision making, including what steps have been taken to identify such people in the barracks, and what policy changes have been made as a result of the publication of this new evidence.
- An audit should be carried out to find out how many people in the barracks do not have asylum lawyers, and assistance provided to help anyone who wants a lawyer to find one. The Home Office should discuss this with the Legal Aid Agency, and ILPA would be happy to assist where needed.
- The Home Office should urgently investigate the manner in which Clearsprings is communicating with people residing in and visiting the barracks. In particular the circumstances around the production of the letter dated 16 January 2021 informing people that they were not permitted to leave the site under any circumstances. The Home Office should make public what action they took once they became aware of this serious breach. They should also review all form letters used by Clearsprings to ensure that no further inappropriate communications are issued.

19 February 2021