

# INTRODUCTION TO IMMIGRATION DETENTION IN THE UK

## BRIEFING 1: WHAT IS IMMIGRATION DETENTION AND WHO IS DETAINED?



Immigration detention is the practice of holding people in closed and prison-like facilities, while their immigration status is resolved.<sup>1</sup> There is consistent evidence that detention is harmful to people's health<sup>2</sup> and the Home Office accepts that certain people are especially vulnerable to this harm.<sup>3</sup> (Further details can be found in Briefing 3 in this series.)

The government has broad statutory powers<sup>4</sup> to detain people who are not British citizens. These are:

1. In order to remove or deport someone from the UK, including during the often lengthy period when that decision is being made;
2. To examine a person arriving in the UK and while considering whether to grant them entry.

**In the UK, the term 'deportation' is used to refer to those who, following the completion of a prison sentence, are required by domestic law to leave the UK.<sup>5</sup> The term 'removal' is used to refer to other situations in which an individual is required to leave the UK, such as when someone does not have permission to enter or remain in the UK. Removal may be voluntary or by force.**

The decision to detain is administrative and made by an immigration official or the Home Secretary. Unlike in criminal proceedings, decisions to detain are not made by a judge. There is no fixed limit on the length of time someone can be detained (other than for children and pregnant women) and the period of detention is not predetermined or estimated by the Home Office, meaning that detention can be indefinite.

The use of immigration detention is allowed in limited circumstances under Article 5(1) of the European Convention on Human Rights (ECHR), including when action to deport or remove is being taken. However, the use of detention must be proportionate to achieving removal and is only permitted while removal is being progressed with due diligence. People in detention may apply for release on Immigration Bail on a number of grounds, either from the Home Secretary or the First-tier Tribunal (FTT). (See Briefing 2 in this series.)

## WHERE ARE PEOPLE DETAINED?

There are currently seven Immigration Removal Centres (IRCs) in the UK, 15 Short-Term Holding Facilities (STHFs) and one Pre-Departure Accommodation (PDA) site. At any one time, the total capacity of UK detention centres is around 2,500.



### Map of existing and proposed IRCs:

- 1) Dungavel IRC, South Lanarkshire
- 2) Derwentside IRC, County Durham
- 3) Yarl's Wood IRC, Bedfordshire
- 4) Colnbrook IRC & Harmondsworth IRC Heathrow Airport, London
- 5) Brook House IRC & Tinsley House IRC Gatwick Airport, West Sussex
- 6) Northeye IRC, East Sussex (Proposed)
- 7) Haslar IRC, Hampshire (Proposed)
- 8) Campsfield IRC, Oxfordshire (Proposed)

In 2024, the government committed to reopening two former detention centres in England: Haslar IRC and Campsfield IRC.

In 2022, plans were announced to build a new IRC at the former prison site at Northeye, near Bexhill-on-Sea. If completed, these facilities would double the UK's detention capacity.

People can also be held in prisons under immigration detention powers, usually following the end of a criminal sentence.



In the UK, IRCs are prison-like, with people held for weeks, months, or in some cases, years at a time. People are made to sleep in small cells, in which they are routinely locked for up to 12 hours a day.<sup>6</sup>

## IS THERE A TIME LIMIT ON DETENTION?

The UK does not currently have a fixed statutory time limit on immigration detention for the vast majority of people detained. In addition, section 12 of the Illegal Migration Act (which is currently in force), allows for detention for a period considered reasonably necessary by the Secretary of State. This introduces a risk of people being detained for longer periods.<sup>7</sup> Without a general statutory time limit, people in immigration detention do not know how long they will be detained for. The indefinite nature of detention exacerbates the harm that it causes. (See Briefings 3 and 4 in this series.)

The exceptions to this are for the detention of unaccompanied children (who can only be detained for 24 hours), children in family groups (72 hours or seven days if personally authorised by a Minister) and pregnant women (72 hours or seven days if personally authorised by a Minister).

## WHO IS DETAINED?

In the year ending June 2024, the Home Office detained 18,918 people.<sup>8</sup> This is a 12% reduction on the previous year. In that period, 16,993 people detained (89%) were adult men and 1,875 (10%) were adult women. Home Office statistics record 10 children detained during that time, but the true figure may be higher as problems with age assessments may lead to children being incorrectly recorded as adults. Since 2015, the number of people entering immigration detention year on year has reduced by 41% from 32,446.<sup>9</sup>

Those held in immigration detention include - but are not limited to - people who are not British citizens who received sentences of at least 12 months in prison. After people have served their criminal sentence, they are automatically selected for deportation, regardless of how long they have lived in the UK or whether they have British children. Once selected for deportation they may be detained. Those selected for deportation and detained include people forced into offending by traffickers. At the end of June 2024 there were also 94 people detained in prisons under immigration powers. This is a 63% reduction from the end of June 2023.

While immigration detention is inherently harmful, law and policy recognise that some individuals are particularly vulnerable to harm from detention. However, consistent failures in the processes meant to identify and safeguard these individuals mean that the detention population continues to include those who have suffered torture, lack mental capacity and who the Home Office itself accepts are not fit to be detained. (See Briefing 3 in this series.)

38% of people entering detention in the year ending June 2024 had made a claim for asylum prior to or after being detained.

1. Immigration detention is used to hold people 'subject to immigration control', which includes people who: need official permission to enter or remain in the UK but do not have it; have permission to enter or remain in the UK only on the basis that they do not have recourse to public funds (such as financial support); or have leave to enter or remain in the UK on the basis that another person is responsible for their maintenance, accommodation and care.

2. M von Werthern, K Robjant, Z Chui et al. (2018) The impact of immigration detention on mental health: a systematic review, *BMC Psychiatry* 18: 382; Home Office (2024) Adults at risk in immigration detention: Statutory Guidance, updated 21 May 2024

3. Home Office (2024) Adults at risk in immigration detention: Statutory Guidance, updated 21 May 2024, para 13

4. Powers to detain are set out in schedule 2 (paragraph 16) and schedule 3 (paragraph 2) of the Immigration Act 1971, section 36 of the UK Borders Act 2007, section 62 of the Nationality, Immigration and Asylum Act 2002, section 10 of the Immigration and Asylum Act 1999 and regulation 32 of the Immigration (European Economic Area) Regulations 2016.

5. Currently, the law requires the Secretary of State to make a deportation order when an individual is convicted of a crime and sentenced to 12 months or more in prison. An exception can be made if deportation would breach a Convention right, including the right to private and family life.

6. Council of Europe (2024) Report on the visit to the United Kingdom carried out by the CPT from 27 March to 6 April 2023

7. For information on the principle of a "reasonable period of detention" prior to section 12 of the Illegal Migration Act coming into force, see Briefing 2 in this series.

8. All statistics listed exclude people detained at the Manston Short-Term Holding Facility in Kent. People arriving by boat, the majority of whom are seeking asylum, are detained at Manston. The Home Office no longer releases statistics on this facility.

9. Home Office (2015) Immigration Statistics, October to December 2015 (Detention)