

Medical Justice Briefing on the Detention Provisions of the Illegal Migration Bill 2023
Committee Stage in the House of Commons
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The indefinite immigration detention of people seeking asylum or those with an unsettled immigration status is **for administrative purposes and does not form part of any criminal sentence**. The decision to detain is made administratively by Home Office caseworkers without judicial authorisation. It is recognised as **an exceptional and draconian power**.

There have been **repeated scandals involving abuse and mistreatment of those in detention** – including the shocking events at Brook House Immigration Removal Centre (IRC), currently the subject of a public inquiry.ⁱ

UK courts have made the rare finding of **a breach of Article 3 of the European Convention on Human Rights – protection from inhuman and degrading treatment – on eight occasions in relation to immigration detention**.ⁱⁱ There have been an **alarming number of deaths** in detention and in various cases neglect has found by coroners to have contributed to these.ⁱⁱⁱ

Impact of the Illegal Migration Bill

The Illegal Migration Bill **remarkably and dramatically increases the current powers of immigration detention even further**. It expands who can be detained, including removing current limits on the detention of children and pregnant women. It curtails judicial scrutiny and removes effective remedies to challenge unlawful or unjustified detention. At the same time, **a lack of returns agreements with other countries makes removals difficult**.

It therefore appears **the Bill will result in vastly larger numbers of people, including asylum seekers, children, pregnant women, and survivors of torture and trafficking^{iv}, being detained, for longer periods of time, with significantly fewer safeguards and protections**. A large increase in detention facilities will be required, with **many more people experiencing the devastating suffering and harm that detention is known to inflict**, and which can in some cases be permanent.

Immigration detention damages people's mental health

There is consistent medical evidence that **immigration detention is damaging to the mental health of those detained**.^v As stated by the Royal College of Psychiatrists, Immigration Removal Centres (IRCs) are likely to precipitate a significant deterioration of mental health in most cases.^{vi}

With a high prevalence of pre-existing vulnerabilities, including serious mental health conditions, and histories of trafficking, torture and sexual and gender-based violence, **people-seeking asylum are at particular risk of being harmed by their time in detention**.^{vii}

Existing safeguards^{viii} for vulnerable people in detention are fundamentally flawed. Their failings have consistently been highlighted by parliamentary committees^{ix}, official monitoring bodies^x, and evidence to the Brook House Inquiry investigating abuse of detained people^{xi}. As a result, **many vulnerable people – including those seeking asylum – are neither identified nor routed out of the detention system**, and instead are subjected to the unnecessary and in some cases irrevocable harm it entails.

Despite serious mental health needs, **detained people do not have access to specialist services for complex mental health conditions**. Meanwhile, **the effectiveness of mental health treatment in detention settings is extremely limited**: detention centres are not therapeutic environments and are not conducive to the disclosure of symptoms.^{xii} As the Royal College of Psychiatrists has explained: “a

*background context of basic physical and emotional security, including an assurance of safety and freedom from harm, is a key factor in recovery from most if not all mental disorders. Many people with a mental disorder will not even be able to engage in specialist psychological treatment without this”.*¹¹

Instead, **mental health conditions are often inappropriately ‘managed’ in detention by placing the person into solitary confinement (segregation).**^{xii}

Expanding the powers to detain people, the majority of whom will be asylum seekers and therefore have a high prevalence of mental health conditions, in a setting where treatment is limited and ineffective, is extremely concerning.

Indefinite detention of pregnant women and children

The detention of pregnant women and children was considered so harmful that strict time limits were introduced. The Bill will remove these limits. It is unfathomable that they are being scrapped.

Pregnant women

The Bill will remove the current 72 hour time limit^{xiii} on the detention of pregnant women.

The danger of detention for pregnant women is particularly acute, increasing the likelihood of stress, which can impact their unborn baby’s health, and interrupting their access to maternity care.^{xiv} Prior to the introduction of the time limit in 2016, there was evidence that the healthcare pregnant women received in immigration detention was inadequate.^{xv}

The Royal College of Midwives’ has stated that **“even a 72 hour detention has an adverse effect on the welfare of a pregnant woman”**.^{xvi} For more information, see [our joint briefing with Women for Refugee Women, the Royal College of Midwives, the Royal College of Obstetricians & Gynaecologists and others](#).

Children

The Bill will remove the current time limits on the detention of children and families (72 hours^{xvii}) and unaccompanied children (24 hours).

There is clear evidence that detention of children causes significant harm to their health and wellbeing.^{xviii} A 2009 briefing paper by the Royal College of GPs, Royal College of Psychiatrists, Royal College of Paediatrics and Child Health, and the Faculty of Public Health, argued that the detention of children **“is unacceptable and should cease without delay”**.^{xix} It cited **“evidence of harm, especially to psychological wellbeing as a result of the processes and conditions of detention. Reported child mental health difficulties include emotional and psychological regression, post traumatic stress disorder (PTSD), clinical depression and suicidal behaviour”**.^{xx}

Through assessing children detained at Yarl’s Wood IRC, Medical Justice clinicians identified psychological harm to be caused and exacerbated by detention.^{xxi} **Symptoms included bed wetting and loss of bowel control, heightened anxiety, food refusal, withdrawal and disinterest, and persistent crying. Many children exhibited signs of developmental regression. Children expressed suicidal ideation either whilst or after they were detained. Children attempted to end their own lives.**^{xxii}

Physical health problems documented amongst children in detention included **fevers, vomiting, abdominal pains, diarrhoea, musculoskeletal pain, coughing up blood and injuries as a result of violence.**²⁸ **They witnessed their families being subjected to racist abuse during dawn raids and other**

people being subjected to violence in detention. Children were also reported to have been physically harmed as a result of violence in detention.²⁹

For further details on the Bill's implications for children, see the [Refugee and Migrants Children's Consortium Second Reading Briefing](#).

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ⁱ For further details of in the Inquiry, see <https://brookhouseinquiry.org.uk/>

ⁱⁱ For further details, see <https://medicaljustice.org.uk/healthcare-in-detention/inhuman-degrading-treatment/>

ⁱⁱⁱ For further details, see <https://medicaljustice.org.uk/healthcare-in-detention/deaths-in-detention/>

^{iv} For further information on the Bill's implications for victims of trafficking and modern slavery, see the Detention Taskforce for Victims of Trafficking in Immigration Detention (2023) [Illegal Migration Bill Second Reading Briefing](#)

^v See Verhulsdonk, I., Shahab, M., & Molendijk, M. (2021) Prevalence of Psychiatric Disorders Among Refugees and Migrants in Immigration Detention: Systematic Review with Meta-analysis. *BJPsych Open* 7(6); Bosworth M. (2016) Appendix 5: The Mental Health Literature Survey Sub-Review. Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office; 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; and Royal College Psychiatrists [Position statement: The Detention of people with Mental Disorders in Immigration Detention](#) PS02/21, (April 2021)

^{vi} Royal College Psychiatrists [Position statement: The Detention of people with Mental Disorders in Immigration Detention](#) PS02/21, (April 2021)

^{vii} Ibid.

^{viii} For an overview of the safeguarding policies in detention and key concerns, see Medical Justice (2022) [Harmed Not Heard](#)

^{ix} Joint Committee on Human Rights (2018) [Inquiry into Immigration Detention](#); House of Commons Home Affairs Committee (March 2019) [Immigration detention: Fourteenth Inquiry Report of Session 2017-2019](#)

^x For example, see ICIBI (12 January 2023) [Third annual inspection of Adults at Risk Immigration Detention June to September 2022](#); HMIP (23 September 2022) [Report on an unannounced inspection of Brook House Immigration Removal Centre by HM Chief Inspector of Prisons \(30 May – 16 June 2022\)](#)

^{xi} For a summary of the evidence to the Brook House Inquiry, see Medical Justice (2022) [The Brook House Inquiry: Briefing on Key Issues](#)

^{xii} Medical Justice (2015) ['A Secret Punishment': The misuse of segregation in immigration detention](#)

^{xiii} The limit is extendable up to 7 days with Ministerial authorisation.

^{xiv} Medical Justice (2013) [Expecting Change](#)

^{xv} Medical Justice (2013) [Expecting Change](#)

^{xvi} Royal College of Midwives (2017) [Position Statement: Detention of Pregnant Women](#)

^{xvii} The limit is extendable up to 7 days with Ministerial authorisation.

^{xviii} Royal College of GPs, Royal College of Psychiatrists, Royal College of Paediatrics and Child Health, and the Faculty of Public Health (2009) [Intercollegiate Briefing Paper: Significant Harm - the effects of administrative detention on the health of children, young people and their families](#); The Children's Society (2011) [What have I done? The experiences of children and families in UK immigration detention: Lessons to learn](#); Bail for Immigration Detainees and The Children's Society (2011) [Last resort or first resort? Immigration detention of children in the UK](#).

^{xix} Royal College of GPs, Royal College of Psychiatrists, Royal College of Paediatrics and Child Health, and the Faculty of Public Health (2009) [Intercollegiate Briefing Paper: Significant Harm - the effects of administrative detention on the health of children, young people and their families 1](#)

^{xx} Royal College of GPs, Royal College of Psychiatrists, Royal College of Paediatrics and Child Health, and the Faculty of Public Health (2009) [Intercollegiate Briefing Paper: Significant Harm - the effects of administrative detention on the health of children, young people and their families 2](#)

^{xxi} Medical Justice (2010) [State Sponsored Cruelty](#) 5

^{xxii} Medical Justice (2010) [State Sponsored Cruelty](#) 5