WHO'S PAYING THE PRICE?

THE HUMAN COST OF THE RWANDA SCHEME

September 2022

Medical Justice
working for health rights for detainees

MEDICAL JUSTICE

Medical Justice is the only charity in the UK to send independent clinicians into all the Immigration Removal Centres (IRCs) across the UK. Our medical reports document scars of torture, serious medical conditions, deterioration of health in detention, injuries sustained during violent removal attempts and challenge instances of medical mistreatment. We receive around 600-1,000 referrals for people in detention each year. Our evidence base is sizeable, unique and growing.

We help clients access competent lawyers to harness the strength of the medical evidence we generate. Evidence from our casework is the platform for our research into systemic failures in healthcare provision, the harm caused by these shortcomings, as well as the toxic effect of immigration detention itself on the health of people in detention. Our casework evidence guides our policy work and strategic litigation to secure lasting change.

The British Medical Association believes that the use of detention should be phased out; Medical Justice agrees. The only way to eradicate endemic healthcare failures in immigration detention is to end immigration detention.

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Medical Justice is grateful to its caseworkers for their invaluable knowledge and insights from their casework and to its clinicians for their tireless clinical work completing medico-legal reports for Medical Justice clients.

Company Registration No. 6073571
Registered charity No. 1132072
General enquiries: info@medicaljustice.org.uk
Phone: 020 7561 7498
Fax: 08450 529370
Website: http://www.medicaljustice.org.uk/

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EXECUTIVE SUMMARY

The UK Government has entered a cruel and unconscionable agreement, which will forcibly remove people who have come to the UK seeking safety and protection to Rwanda, with no return to the UK. Vulnerable asylum seekers are already paying the human cost of the agreement, before any removals have taken place.

The agreement has been widely condemned by the UN High Commissioner for Refugees[1], parliamentary committees[2], campaigners[3], legal bodies[4] and medical experts[5]. The Government has been criticised for undermining the asylum system by shirking its international responsibility and challenged on the legality of this agreement[6].

This report provides detail on 36 people Medical Justice has worked with, who arrived in the UK since mid-May 2022 and who have been selected for removal to Rwanda. It shines a light on the processes they have been subjected to in UK immigration removal centres before potential removal, and details the severe impact on their health and wellbeing.

Extremely vulnerable people have been targeted for removal to Rwanda;

- They include men, women, aged-disputed children or young people, survivors of trafficking and torture, people with mental health conditions, and people who have self-harmed and/or have suicidal ideation in detention.
- They have all come to the UK seeking safety; some have family here.
- There is no specific screening process prior to notification for removal, despite the government implicitly acknowledging that there may be some people for whom removal would not be safe or appropriate.

They have been subjected to an accelerated and unclear process plagued by procedural deficiencies;

- People have been notified that they might be removed to Rwanda between two to 28 days after first arriving in the UK.
- They have had a lack of access to legal advice and a lack of translated documents.
- There has been a lack of screening process to assess suitability for being placed in immigration detention where they have consequently suffered harm.

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[1] United Nations (2022) 'UNHCR 'firmly' opposing UK-Rwanda offshore migration processing deal' and United Nations (2022) 'UK's bid to export some refugees to Rwanda, 'all wrong', says UN refugee chief'.

[2] Joint Committee on Human Rights Letter to Rt Hon Priti Patel MP (2022) and Home Affairs Committee (2022) 'Channel crossing, migration and asylum' First Report Session 2022-23.

[3] Many campaigners and NGOs have condemned removals to Rwanda and are campaigning against it, including Amnesty International, Human Rights Watch and Care4Calais.

[4] The Law Society (June 2022) 'Rwanda removals raise rule of law questions'.

[5] Public letter from the UK medical community on the dangerous health consequences of Rwanda expulsions (2022) and Sen, P. et al. (2022) 'The UK's exportation of asylum obligations to Rwanda: A challenge to mental health, ethics and the law', Medicine, Science and the Law, 62(3), pp. 165–16.

[6] Leigh Day (June 2022) 'Rwanda Scheme legal challenges to continue despite unsuccessful injunction' and Duncan Lewis (June 2022) 'Rwanda Asylum Seeker Scheme Challenge Continues'. The next hearing will start on 5th September 2022.

- Where vulnerabilities have later been identified, the Home Office justifies continued detention on the basis of potential removal to Rwanda.

THE IMPACT ON INDIVIDUALS INCLUDES;

Medical Justice clinicians have found that the prospect of removal to Rwanda is exacerbating detained people's mental health conditions (including depression, anxiety and PTSD). It has caused people to experience fear, confusion, uncertainty about their safety, and a loss of hope. For some, it has increased their risk of self-harm and suicide. For some, the fear associated with removal to Rwanda, has reduced resilience to the psychological effects of trauma and contributed to individuals' worsening mental health symptoms and may interfere with their ability to engage with treatment.

Out of the 36 people in this report:

- At least 26 had indicators of torture histories and at least 17 had indicators of trafficking.[7]

Out of the 17 people Medical Justice doctors have conducted clinical assessments for:

- 15 had a diagnosis or symptoms of post-traumatic stress disorder or complex PTSD.
- One is likely to have a psychotic disorder and lack capacity to even instruct his solicitor.
- One requires urgent investigations to rule out recurrence of a previous brain tumour.
- 11 people were found to have suicidal thoughts whilst they were in immigration detention. This includes one person who attempted suicide twice.
- 13 assessments found that detention is already/likely to have already caused harm to the client or that the client is likely to have already deteriorated in detention.
- 16 assessments state that treatment would only be effective upon release from immigration detention, in a safe and stable environment.
- Some were clinically considered to be at high risk of suicide if threatened with removal Rwanda

The analysis demonstrates how, even without removals taking place, the MEDP is already having a profound impact on those affected by it, including those who are still held in indefinite detention pending removal to Rwanda.

[7] The number does not add up to 36 people because some had indicators of both torture and trafficking histories.

1. INTRODUCTION

The Migration and Economic Development Partnership (MEDP) is an agreement which enables the UK to forcibly remove people whose asylum claims are deemed inadmissible[8] and who arrived by "dangerous" and illegal" routes, to Rwanda to have their asylum claims processed there. They will not have the option to return to the UK.

The Government has stated that the MEDP intends to "initially focus on deterring those who have already reached safe third countries from making dangerous journeys to the UK in order to claim protection, especially (but not exclusively) where travel is by small boat in the English Channel".[9] The Rwandan government will assume responsibility for processing their asylum claims. Where claims are successful, people will not be brought back to the UK, but offered protection in Rwanda.

The only scheduled removal flight was stopped at the eleventh hour on 14th June 2022. Decisions that people's asylum claims are inadmissible and to remove them to Rwanda have not been withdrawn. More people are still receiving notifications that they may be removed to Rwanda. Even without removals taking place, the MEDP is already having a profound impact on those affected by it.

This report details the processes that people go through, the profile of people who are being selected for potential removal to Rwanda, and the severe impact that this agreement has had on their health and wellbeing. It shows how vulnerable people have been left to languish in immigration detention and how profound harm is being caused both by being held in immigration detention and by the prospect of being removed to Rwanda.

METHODOLOGY

Medical Justice has been in contact with 51 people who have had Notice of Intent (NOI) for removal to Rwanda, since mid-May 2022.

This report collates and analyses anonymous data from 36 of the 51 people. The 36 people were selected for inclusion on the basis of Medical Justice caseworkers provided support to them and we had sufficient information on, and includes the 17 people who Medical Justice clinicians have conducted medical assessments for. The 36 individuals were referred to Medical Justice between the 16th May and the 21st July 2022.

The documents reviewed for each person include their Notice of Intent, Removal Directions, Screening Interview, Rule 35 reports, IRC medical records, and assessments by Medical Justice clinicians. The numbers should be taken as an underestimate, because we do not hold a full set of documents for every individual.

[8] Asylum claims may be treated as inadmissible where the person has "a specified connection to a third country which is assessed as safe" and means that the "Home Office is not required to consider the asylum claim". See Home Office Guidance (2022) 'Inadmissibility: safe third country cases' Version 7.0. p.10.

[9] Home Office Guidance (2022) 'Inadmissibility: safe third country cases' Version 7.0. p.7.

MEDICAL JUSTICE MEDICO-LEGAL REPORTS

Medical Justice Medico-Legal Report (MLR) assessments include a review of IRC medical records and all other documents relevant to the clinical issues in question. All MLRs are subject to internal review by a senior caseworker and clinical peer review.

Medical Justice medico-legal appointments with clients are not subject to a time limit and are supported by an interpreter if needed. Assessments may be based on a single medical assessment lasting between 90 minutes and five hours, or the assessment may encompass several sessions, depending on the client's circumstances.

Medical Justice has completed both face-to-face and remote medico-legal assessments; accordingly, this sample includes both types of appointment.

DEMOGRAPHICS

The nationalities of the 36 of individuals are Albanian (1), Egyptian (2), Eritrean (3), Iranian (14), Iraqi (5), Sudanese (5), Syrian (4) and Vietnamese (2). Their main languages are Albanian (1), Amharic (1), Arabic (different dialects) (10), Farsi (7), Kurdish Kurmanji (1), Kurdish Sorani (12), Tigrinya (2), Vietnamese (2). All the individuals we are supporting require interpreters. Some speak a little bit of English but many speak none at all.

Two individuals report that they are under the age of 18 and are currently challenging Home Office decisions that they are adults. The remaining 34 people are between the ages of 18 and 50. 33 of the individuals are male and three are female. At least seven have family in the UK. All have come to the UK to claim asylum.

2. FROM ARRIVAL TO POTENTIAL REMOVAL TO RWANDA

The process that people go through, from arriving in the UK, to being detained in immigration removal centres (IRCs), to being notified that they might be removed to Rwanda, has been observed in our casework.

All of the 36 people in this sample arrived in the UK between 9th May and 21st June 2022. The majority crossed the Channel by a small boat from France; 32 people arrived by boat, two people arrived by lorry, and one person arrived undetected (the mode of transport for the remaining person is unknown as he is too unwell to give an account of his history). All 32 who arrived by boat were immediately detained under immigration powers. Those who arrived by lorry were detained after they were detected.

Of those who arrived by boat, 27 were detained at the Short-Term Holding Facility (STHF) at Yarl's Wood IRC. One person was taken to the Kent Intake Unit and one person was taken to Manston STHF. Two women were detained at different sites before being transferred to Derwentside IRC; for one of them, she was held in a detention site in Kent for one night, before being transferred to Colnbrook, then on to Manchester STHF, and then to Derwentside IRC within the space of a week.

All of the 36 individuals have claimed asylum in the UK. The first stage of the asylum process is the initial screening interview. This interview aims to record the basis of someone's asylum claim, but does not explore the substantive detail.[10] It also asks questions to gather information on how the person got to the UK and details of any family members in the UK.[11] As detailed below, the screening interview has long-standing inadequacies in eliciting information about vulnerabilities, it is seldom carried out in a safe and supportive environment for disclosure of histories of trauma, and it has not been adapted for the Rwanda process at all.

Medical Justice had access to 23 people's screening interview records. The majority of people (21 individuals) had their screening interview at Yarl's Wood STHF, on the day of arrival, or one or two days after arriving to the UK. One person had their screening interview at Manston STHF and one person's screening interview did not record the location. The screening interviews lasted between 8 and 50 minutes.[12] They were all moved to Brook House or Colnbrook IRC shortly afterwards.

People were then issued a Notice of Intent (NOI) two to 28 days after first arriving to the UK to claim asylum.[13] The NOI is a letter notifying the individual that the Home Office is considering to remove them to Rwanda, or another country which the individual has passed through. For this group, the NOI was issued between one and 28 days after their screening interview.[14] Three people had their NOI one day after their screening interview, and 11 people had their NOI two days after their screening interview.

It has recently emerged that women have been issued NOIs for removal to Rwanda after the Home Office has recognised that they may be a victim of trafficking, as detailed below.

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[10] Home Office Guidance (2022) 'Asylum screening and routing' Version 7.0.

[11] Home Office Guidance (2022) 'Asylum screening and routing' Version 7.0.

[12] The length of the screening interview is calculated by the start and finish time recorded. This range is based on the 17 screening interviews with recorded both the start and finish times.

[13] This is based on the 29 people for whom we have a copy of their Notice of Intent and know their date of arrival in the UK. The average number of days between arrival and being issued a Notice of Intent for these 29 people is 5 days.

[14] This is based on the 23 people for whom we have a copy of their Notice of Intent and a copy of their Screening Interview. The average number of days between their screening interview and being issued a Notice of Intent for these 23 people is 4 days.

The Home Office has not published any specific guidance on who can be selected for removal to Rwanda or the process through which this decision is made. The only known criteria is that someone is eligible for removal to Rwanda is they have arrived by a "dangerous" route after the 1st January 2022, have an asylum claim that the Home Office considers can be deemed inadmissible, and are not an unaccompanied asylum-seeking child[15]. Beyond this, who is selected seems to be random. People have reported to Medical Justice that many people that were on their boat crossing the Channel have been moved to hotels and not been detained or issued an NOI, whilst they have been detained and notified of potential removal to Rwanda. They have been unable to identify any distinguishing features of those who were detained compared to very many of those who were not.

NOTICES OF INTENT

Out of the 36 individuals, we had access to 32 individuals' NOIs. Of the 32 NOIs, 26 were issued before the 14th June, and six were issued on or after the 14th June 2022.

The NOIs were all issued in English. Many of the individuals who were referred to us in May 2022 reported that the documents were not explained to them in a language they could understand. Since then, people who have been referred more recently have reported that although their NOIs are still in English, the letters were explained to them in brief terms, with the assistance of an interpreter. Some individuals we support have still reported that the NOI was not explained to them with an interpreter and that they did not understand what it was, or what steps they needed to take as a result. This is further compounded by the lack of specific published criteria for removal to Rwanda, as people do not know why they have been selected or what they are specifically objecting to.

The NOI states that the person has seven days to respond with reasons about why they should not be sent to Rwanda. This is particularly problematic given the difficulties with accessing legal advice, and the high proportion of people who did not have a legal representation at the point of being issued with their NOI, as detailed below.

Several people were also given a slip of paper with the contact details of a Detention Engagement Team (DET) Office. One had a letter inviting them to a meeting to discuss the NOI with the onsite Detention Engagement Team and Casework, but the meeting was scheduled close to the deadline to respond to the NOI.

People have reported that they did not understand what sort of factors would be relevant to raise by way of representations in response to the NOI. Two individuals who have close relatives in the UK told us that they mentioned this to the DET officer serving the notice and were told to speak to their solicitor, or to find a solicitor and then instruct them to raise this.

The NOI is accompanied by a leaflet titled "I'm Being Relocated to Rwanda – What Does This Mean For Me?". Whilst the leaflet includes a section for individuals who are ill or have special needs, it is effectively meaningless as it does not indicate that having special needs or being ill might be a reason not to send someone to Rwanda. It asks people to share their medical information with the Home Office so that they can be provided with appropriate medical care and that, if they are removed to Rwanda, their consent will be sought to share the information with Rwanda – but it doesn't say what entitlement to treatment they would have, or get, in Rwanda which would enable them to understand whether their needs could be met there.

[15] Home Office written question, answered by Tom Pursglove on 17 June 2022, HC Deb, 17 June 2022, cW.

Neither the leaflet nor the NOI state that unaccompanied asylum-seeking children cannot be removed to Rwanda. So, if someone is an age-disputed child, they wouldn't know that this is something they would need to raise.

ACCESS TO LEGAL REPRESENTATION

There have been ongoing concerns about the provision of legal advice for people in detention and with the standard of representation from the Detained Duty Advice Scheme ('DDAS').

The urgency of contacting a solicitor is heightened for those who have a NOI for removal to Rwanda. The NOI requires the individual to respond with reasons about why they should not be sent to Rwanda, within seven days. If someone is then identified for removal (i.e. those who were given Removal Directions for the flight on the 14th June 2022), only a further five working days' notice needs to be given.

Out of the total of 36 people, at least 24 people did not have legal representation when they received their NOI. Only two individuals are known to have had legal representation. For the remaining 10, it is not known whether they had legal representation at the time.

The 24 who did not have legal representation upon receipt of their NOI, obtained legal representation between two and 22 days after their NOI was issued. We only know of three people who accessed legal advice through the DDAS, and of at least 13 who were referred to solicitors outside the DDAS by NGOs. For the others we do not have information about how they obtained legal representation. All were legal aid representatives. We are aware that some individuals were granted brief extensions to the 7-day period to respond.

The lack of adequate access to legal advice has resulted in individuals not fully understanding the meaning of the NOI, what they may need to do to respond to it, and the short time frame they have to challenge it. The later an individual accesses legal advice, the less time they will have to challenge the NOI.

A number of individuals were signposted to the welfare department at the IRC to sign up to the DDAS surgery on receipt of the NOI. However, individuals have continued to report difficulty with securing legal representation through the DDAS surgery. On several occasions, individuals have told us that they did not receive a call from a solicitor when they were promised one, or that they briefly spoke to someone who they believed to be a solicitor, but who did not leave them with contact details and did not call them back.

The expedited timeframe of seven days to object to a NOI also creates obstacles for the legal representative. Many people affected by the Rwanda scheme have complex histories and find it difficult to disclose details of trauma in a short period of time. It takes time, skill and sensitivity to build trust for an individual to recount their full story. Moreover, individuals require tailored legal advice on multiple fronts, beyond challenging their NOI, including urgent interim relief to prevent removal, on their asylum claim, lawfulness of detention and on admissibility.

It is also a short time frame for expert evidence to be collected which includes instructing Medical Justice to conduct an MLR. Medical Justice has very limited capacity and often rely on volunteer clinicians. The process of conducting the medical assessments, which often involves more than one session, and then writing the report takes a significant amount of time. This adds further difficulties to the expedited timeframe.

We are concerned that these problems are arising in addition to longstanding concerns about the quality of some of the legal advice and representation individuals receive through the DDAS. Many lawyers reached capacity to take on new clients who had received NOIs, and we are concerned that there may be individuals who did not make contact with a lawyer.

REMOVAL DIRECTIONS FOR 14TH JUNE 2022

Of 36 people, 11 had Removal Directions for the flight that was scheduled for the 14th June 2022. They were cancelled between the 8th and the 14th June 2022. The reasons for cancellation included people being granted extensions to reply to their NOI, due to pending decision on whether the individual was a victim of trafficking (specifically, following a positive reasonable grounds decision), and being granted interim relief. We know that at least three of the group of 36 people boarded the aeroplane on the 14th June 2022.

There have been reports of assaults and excessive use of force when people were taken to the airport, including from Sky News[16], inews[17], and the Independent[18].It is unknown whether formal complaints have been raised by the individuals affected. However, it is important to note that it is well known to be difficult for individuals to report allegations of excessive use of force against them for a number of reasons, including that they will have a myriad other urgent issues to be dealing with and they may fear retribution from the state, particularly if they have experienced ill-treatment from governmental authorities prior to arrival in the UK. Many may have clinical levels of vulnerability which can hamper recounting a traumatic experience of assault or even recognising that a complaint is appropriate.

The complaints process also has clear inadequacies: the process of obtaining access to CCTV footage which may be key to a successful complaint is lengthy. Even engaging with a formal complaints process requires the complainant to understand the need to obtain evidence of any assault; access to the process may be hampered by language barriers and the need for specialist knowledge to access information about the operation of the complaints process itself. There is also the undeniable factor that many vulnerable individuals simply do not have enough emotional strength left for this step when in a heightened state of anxiety due their uncertain situation.

[16] Sky News (2022) 'Rwanda deportations: Asylum seeker claims he was hit, kicked and pushed before deportation flight'.
[17] The iNews (2022) 'Rwanda deportation flight: Man in botched removal says he was 'hit, kicked and pushed' by security officers'.
[18] The Independent (2022) 'Like I was going to be executed': On board the failed Rwanda deportation flight'.

3. INADEQUATE SCREENING: ROUTING VULNERABLE PEOPLE INTO DETENTION

There is no published guidance detailing who may be eligible or who will not be eligible, for removal to Rwanda. Nor is there a specific screening process to identify those who may be removed to Rwanda. The randomness is creating uncertainty and makes legal challenges difficult. The Government has repeatedly stated that the decision to remove an individual to Rwanda "will be taken on a case-by-case basis" and that "nobody will be removed if it is unsafe or inappropriate for them".[19] Yet, without a transparent statement of the criteria for selection to removal to Rwanda, exactly who it might be "unsafe" or "inappropriate" to remove remains unclear.

For example, concerns have been raised about the Government's assessment of the risks, challenges and barriers LGBTQI+ asylum seekers might face in Rwanda.[20] The Home Office has also not ruled out sending people with histories of trafficking or torture, or people with mental and physical health conditions, to Rwanda.

Although the Government has not stated exactly who will not be removed to Rwanda, the provision that "nobody will be removed if it is unsafe or inappropriate for them", implicitly acknowledges that there may be some people for whom removal would not be safe or appropriate. However, there is no adequate accompanying screening process to identify these people; without detecting specific vulnerabilities, you cannot apply any criteria, whatever it might be.

The Home Office have been detaining people on arrival, whilst considering them for removal to Rwanda. However, not only are people not properly screened for removal to Rwanda, there is also no effective existing screening mechanism for particular vulnerabilities upon arrival to the UK or before someone is detained. Therefore, there are no pre-established mechanisms that effectively identify vulnerable people.

When people first arrive on a small boat across the Channel, they are only very briefly checked if they need immediate medical attention. The first opportunity for someone to disclose histories of torture and trafficking, or mental and physical health conditions is usually at their initial asylum screening interview.

Home Office policy says that the screening interview is considered as part of the assessment of inadmissibility and decisions about the suitability for removal to Rwanda.[21] However, the screening interview questions are the standard ones and have not been amended in light of the Rwanda scheme; no questions have been added that might elicit information about what the impact of removal to Rwanda would likely to be.[22] The only changes that have been made are in light of the inadmissibility rules; questions have been added about the

[19] Home Office Factsheet (2022) 'Factsheet: Migration and Economic Development Partnership'.

[20] Asylos (2022) 'A Commentary on the UK Home Office Country Policy and Information Note: Rwanda, asylum system, and the related Country Policy and Information Note: Rwanda, assessment'.

[21] Home Office Guidance (2022) 'Inadmissibility: safe third country cases' Version 7.0.

[22] A response to a freedom of information request made by Medical Justice to the Immigration Enforcement Secretariat dated 25 July 2022 (FOIA reference 71004) confirmed that "There are no additional questions asked in the screening that relate to Rwanda".

route the person has taken coming to the UK. Therefore, it is unclear if the screening interview affects the decision to remove people to Rwanda, and if so how.

Medical Justice has had access to 23 individuals' screening interviews. Of those, 13 had their screening interview face-to-face, and four had their screening interview over the phone. Six screening interviews did not specify whether it was face-to-face or over the phone.

The screening interview aims to record the basis of someone's asylum claim, and asks questions to gather a range of other information, such as how the person got to the UK.[23] This interview is not designed to identify specific vulnerabilities, including histories of torture, trafficking and trauma.

The question about trafficking leads with the examples of prostitution and sexual exploitation, and many individuals subsequently tell us that they did not realise that their experiences were relevant as a result of the way in which the questions are framed. Tellingly, of the 23 people whose screening interview records we have access to, nine later disclosed trafficking histories and were referred to NRM (the full statistics on trafficking indicators and NRM referrals out of the 36 people, are detailed below).

There is no specific question to elicit histories of torture. Out of the 23 screening interviews, only one person reported a history of torture. This was in response to a Question 5.4 ('Have you ever been detained, either in the UK or any other country for any reason?'), which does not directly ask about experiences of torture. This person was then asked a series of specific questions about his torture history.

The questions concerning health are brief and not effective in eliciting information about people's physical or mental health conditions. Out of the 23 screening interviews, only three people disclosed information about mental health conditions in answer to either Question 2.1 ('Do you have any: medical conditions, disabilities, infectious diseases, medication that you are or should be taking?') or Question 2.3 ('Is there anything else you would like to tell me about your physical or mental health?'). These included disclosure about feeling stress, having anxiety, depression and bipolar disorder. It also included one person disclosing a previous suicide attempt and that they had been recently raped by a smuggler. Three people disclosed physical health concerns, including that one person had asthma.

The screening interview is not an appropriate space to encourage disclosure of sensitive issues. Whilst some individuals have disclosed these particular vulnerabilities, many have not. Disclosure of traumatic or sensitive issues requires trust and it is difficult for this to be developed during initial contact or this first relatively brief interview. Several of the individuals we support have reported histories of sexual violence which were not disclosed during the screening interview. One individual said that he had indeed never disclosed this history to anyone until disclosing it to a Medical Justice caseworker after many conversations.

The timing of the screening interviews further indicate that they are not an appropriate place to elicit sensitive information. We know the arrival date and screening interview date of 22 people; these individuals all had their screening interviews take place on the day of arriving, or one to two days after first arriving in the UK.

17 of the screening interviews recorded the length; these interviews lasted between 8 and 50 minutes.[24]

The screening interviews take place in detention, and people have often later explained that they did not understand the purpose of the interview. They may have approached the interview differently had they been explained the purpose of it. A response to a request under the Freedom of Information (FOI) Act asking

[23] Home Office Guidance (2022) 'Asylum screening and routing' Version 7.0.

[24] The length of the screening interview is calculated by the start and finish time recorded. This range is based on the 17 screening interviews with recorded both the start and finish times.

whether people are told "how this screening interview will inform a decision about relocation to Rwanda", the Home Office stated that "Asylum claimants are informed at the start of their screening interview what the potential next steps are following the screening interview, including potential inadmissibility and a removal to a safe third country".[25] There does not seem to be any explicit mention of removal to Rwanda.

The lack of an adequate screening process to identify vulnerabilities, an issue that pre-dates the Rwanda removals policy, increases the likelihood of routing vulnerable people into detention, where the risk of harm is well known. People with mental health conditions and with histories or torture and trafficking are routinely routed into detention, and have consequently suffered harm, as highlighted in MLRs by Medical Justice clinicians below.

[25] In a response to a freedom of information request made by Medical Justice to the Immigration Enforcement Secretariat dated 25 July 2022 (FOIA reference 71004).

4. FAILING SAFEGUARDS IN DETENTION: RULE 35

HOW RULE 35 IS SUPPOSED TO FUNCTION

Rule 35, as set out in the Detention Centre Rules 2001, is the key safeguarding mechanism which aims to identify particular groups and bring them to the attention of the Home Office. IRC GPs have specific reporting obligations to the Home Office under Rule 35 DCR 2001 if the patient is identified as at risk in detention. A report under Rule 35 triggers the Home Office to review the individual's detention, and decide whether to maintain detention or order the person's release.

There are three limbs of Rule 35, as set out in the Detention Centre Rules 2001:

1. Rule 35(1) requires IRC GPs to report to the Home Office if their patient's health is likely to be "injuriously affected" by continued detention or the conditions of detention.

2. Rule 35(2) requires IRC GPs to report to the Home Office if they suspect their patient "may have suicidal intentions".

3. Rule 35(3) requires IRC GPs to report to the Home Office if they consider their patient "may have been the victim of torture".

The equivalent mechanism exists as a Rule 32 report in STHFs. The same template form is used in both IRCs and STHFs.

Out of the sample of 36 people, we know that at least 23 have had a Rule 35 or Rule 32 report. We have access to the Rule 35/32 report and the Home Office Response, for 21 individuals. This section is based on an analysis of those 21 Rule 35/32 reports and 21 Home Office responses.

RULE 35 REPORTS FOR PEOPLE WITH RWANDA NOIS

All 21 reports were under the third limb of Rule 35/32 reports, relating to whether the person was a victim of torture (hereinafter referred to as Rule 35/32(3) reports).

15 of the Rule 35/32(3) reports recorded concerns about the individual's mental health. 12 of the Rule 35/32(3) reports recorded that prolonged detention may be detrimental, exacerbate mental health symptoms or increase the risk of harm to the person. 13 reports recorded that the individual was referred to the mental health team. This highlights the clinical concerns about the impact of detention.

This is also true of Rule 35/32(2) reports, the threshold for which is extremely low. As detailed below, people with suicidal or self-harm thoughts and episodes, both recorded by Medical Justice clinicians and IRC healthcare, did not have Rule 35/32(2) reports.

The failure to complete Rule 35/32(1) and Rule 35/32(2) reports is a longstanding concern[26] and reflects national data on the use of these two limbs of Rule 35.[27] As a result, people without a history of torture are unlikely to have the risk of harm caused by detention communicated to the Home Office, meaning that they are unlikely to have a review of their detention.

None of the Rule 35/32 reports mentioned the impact of the NOI or Removal Directions for Rwanda.

People who received an NOI for potential removal to Rwanda, and who are being kept in immigration detention on this basis, risk not having their detention reviewed, as a result of these underlying safeguarding flaws.

Moreover, there are broader concerns about the delays in the Rule 35 process. This includes significant delays between the identification of the need for an assessment and a Rule 35 appointment taking place, and a high proportion of people having to proactively request Rule 35 appointments.[28]

HOME OFFICE RESPONSES TO RULE 35 REPORTS

Having received a Rule 35/32 report, the Home Office is required to respond within two working days.[29] However, of the 21 Rule 35/32 responses, the Home Office was delayed in responding to 13 people. This is concerning given that the policy is premised on an urgent review of detention for vulnerable people.

Within their response, the Home Office is required to assess whether the Rule 35/32 report meets Level 1, Level 2, or Level 3 under the Adults at Risk Policy. Level 1 is a declaration by the detained person about their medical or other aspects of their history that indicates they have an indicator of risk. Level 2 is professional evidence that the detained person had indicators of risk. Level 3 is evidence from a professional that the person has indicators of risk and that detention would be likely to cause them harm.

The Home Office recognised that 17 individuals met the definition of torture[30] in the Adults at Risk policy. It recognised that all 21 people had Level 2 evidence according to the Adults at Risk policy. Nobody has been recognised as having Level 3 evidence. This is important to note as only with Level 3 evidence would have the greatest protection against continued detention.

The Home Office decided not to release any of these individuals from detention. Under the Adults at Risk policy, the Home Office considers "immigration control factors" and weighs them against the level of evidence that has been assigned to an individual, when taking a decision about whether the vulnerable person would be released.

The immigration factors include[31]:

- Whether there is a reasonable prospect of removal within a reasonable timescale; if there is not, then the policy provides that "the individual should not be detained";[32]
- How quickly removal is likely to take place;

[26] Medical Justice (2022) 'Harmed Not Heard'.

[27] A response to a freedom of information request made by Medical Justice by the Immigration Enforcement Secretariat dated 3 February 2022 (FOIA reference 67755) provided data on the number of Rule 35(1) Rule 35(2) and Rule 35(3) reports made for the period 1 July 2020 – to 30 June 2021 in a spreadsheet. The following data has been extracted: 17 Rule 35(1) reports were received; 7 Rule 35(2) reports were received; 1,062 Rule 35(3) reports were received.

[28] Medical Justice (2022) 'Harmed Not Heard'.

[29] Home Office Guidance (2019) 'Detention services order 09/2016 Detention centre rule 35 and Short-term Holding Facility rule 32' Version 7.0 p.16.

[30] Home Office Guidance (2021) 'Adults at risk in immigration detention' Version 7.0 p.8.

[31] Home Office Guidance (2021) 'Adults at risk in immigration detention' Version 7.0.

[32] Home Office Guidance (2021) 'Adults at risk in immigration detention' Version 7.0 p.18.

- The compliance history of the individual;
- Any public protection concerns.

The Rule 35/32 responses all cite the imminence of removal as a primary consideration, or that removal is likely following conclusion of outstanding claims. This includes 11 who had their Rule 35/32 report on or after the day of the scheduled flight on the 14th June. This is concerning given that no flights have been scheduled since the 14th June 2022.

As these individuals have recently arrived in the UK, there is no evidence that they would not comply with any reporting conditions or pose an absconding risk. Rule 35/32 Responses cite multiple reasons, including the following, as reasons indicating that people may not stay in contact with the Home Office if they were released:

- They crossed the channel on a small boat and that this is an "illegal" and "dangerous" mode of entry;
- They have passed through another safe country;
- They did not claim asylum in the first safe country they passed;
- They have not agreed to return voluntarily.

Given the geographical location of the UK and the absence of legal routes, this is likely to apply to the vast majority of people seeking asylum in the UK.

For some, the Home Office recognises that outstanding claims may incentivise people to remain in contact, and that people have not yet been tested on reporting restrictions.

Moreover, as none of them have known criminal histories, the risk they pose to the public ought to be deemed low. The Rule 35/32 responses tend to do so, but nevertheless maintain detention.

5. POTENTIAL VICTIMS OF TRAFFICKING

When someone has indicators of trafficking, they should be referred into the National Referral Mechanism (NRM).[33] The NRM is the UK's framework for recognising and supporting survivors of modern slavery and trafficking. Once someone is referred, there are two stages of decision-making. First, they receive a decision which states whether or not there are 'Reasonable Grounds' to believe that they are a victim of trafficking. This decision should be made within five days of a referral. Second, they will receive a 'Conclusive Grounds' decision, which will accept or not accept the person as a victim of trafficking.

Where someone receives a positive Reasonable Grounds decision, i.e. that they may be a victim of trafficking, they are entitled to a recovery and reflection period of 45 days, before their Conclusive Grounds decision.[34] People cannot be removed from the UK during their recovery and reflection period; they can only be removed following a Conclusive Grounds decision. However, following a recent change to the Adults at Risk policy, more people may spend their recovery and reflection period in detention.

Of the 36 people, 17 have indicators that they have been trafficked. 15 people have been referred to the NRM, and of those, 10 have received positive reasonable grounds decisions and two have had negative reasonable grounds decisions. These decisions were received between the 10th June and the 4th August 2022. Although they cannot be removed during the recovery and reflection period, and there is no reasonable prospect of removal to Rwanda soon, people have continued to be detained for between 14 and 34 days after their positive or negative Reasonable Grounds decision.[35] We only know of one person who was released before their reasonable grounds decision. None (at the time of writing) have yet received their conclusive grounds decisions.

As noted above, three people (two women and one man) were issued their NOI after they had received their positive reasonable grounds decision, and were therefore recognised as a potential victim of trafficking by the Home Office. These three people received NOIs between three and 28 days after receiving their positive reasonable grounds decision.

[33] Home Office (Updated 19 May 2022) 'National referral mechanism guidance: adult (England and Wales)'.

[34] The Nationality and Borders Act 2022 recently reduced the recovery and reflection period from 45 days to 30 days, but this is not yet in force.

[35] This is based on the 9 people for whom we know the date of their release from immigration detention and the date of their reasonable grounds decision, and were released after their reasonable grounds decision. The average number of days between the date of the reasonable grounds decision and the date of release is 25 days.

6. VULNERABILITIES IDENTIFIED BY MEDICAL JUSTICE CLINICIANS

Clinicians working with Medical Justice have completed 17 medico-legal reports (MLRs) for individuals with an NOI for removal to Rwanda. The 17 MLRs are based on assessments between the 26th May and 11th July 2022. They all took place while the individual was at Brook House, Colnbrook or Harmondsworth IRCs.

For 12 individuals, their MLR was completed on the basis of a single medical assessment and for five individuals, the assessment encompassed several sessions. The assessments were carried out either face-to-face or remotely, whilst the individuals were detained at either Colnbrook IRC, Brook House IRC, or Harmondsworth IRC . Unfortunately, the video call facilities at Colnbrook IRC have not been functioning since late May 2022 so we have therefore not been able to carry out video call assessments there. Whilst face-to-face assessments are preferable, we offered remote assessments to meet the high demand.

It is not possible for any injuries, scars, or physical findings to be assessed in remote assessments, as this requires physical examination. It is also more difficult to determine the safety and appropriateness of asking potentially distressing questions than it would be in person, or to provide support such as emotion regulation techniques, and therefore some details may not be obtained.

The MLRs demonstrate that there are clear vulnerabilities amongst the individuals who may be sent to Rwanda. The MLRs document the detrimental impact detention is having on them. This demonstrates the deficiencies of the screening process in identifying vulnerabilities and of the safeguards in routing them out of detention.

MENTAL AND PHYSICAL HEALTH ISSUES

Of the 17 people who had an MLR:

- Post-Traumatic Stress Disorder:

  11 people had a diagnosis of post-traumatic stress disorder (PTSD) or complex PTSD (CPTSD). One person had a preliminary diagnosis of PTSD (meaning further assessment is needed to confirm the diagnosis because it was not possible to do so after a telephone assessment and further assessment was needed). A further three people were identified to have symptoms of PTSD, requiring further investigation.

- Trauma:

  16 had trauma symptoms or histories of trauma. The remaining person's history is unknown because he is too unwell to give an account of his history.

- Depression:

  14 people had a diagnosis of depression and two people had symptoms of depression but no diagnosis was reached.

- Psychosis:

  One had a provisional opinion that they are likely to have a psychotic disorder and lack capacity to make decisions in relation to his immigration case or to instruct his solicitor in this regard. Another person appeared to experience occasional psychotic symptoms, and required regular review to assess presence of psychotic symptoms.

- Bipolar disorder:

  One individual reported a past diagnosis of bipolar disorder and his account was in keeping with that diagnosis.

- Physical Health:

  Several individuals had physical health problems. One requires urgent investigations to rule out recurrence of a previous brain tumour.

Some people have been identified to have symptoms, rather than a diagnosis, either because their symptoms were below the level required for a diagnosis or because only a limited assessment was possible and further assessment is needed to determine whether the diagnostic criteria is met.

HISTORIES OF TORTURE AND TRAFFICKING

14 of the 17 assessed by Medical Justice clinicians had clinical evidence in keeping with a history of torture. Of those, 11 also had a Rule 35(3) report. We know from Rule 35 responses that the Home Office recognised at least eight of them as having professional evidence of a history of torture and meeting the definition of torture[36] in its Adults at Risk policy. Professional evidence may include evidence from a social worker, medical practitioner or a non-governmental organisation.[37] The Home Office did not release any of them as a result of the Rule 35(3) report.

Six people assessed have indicators of trafficking. Five of them have been referred into the NRM, and we know that two have received positive reasonable grounds decisions.

SUICIDE AND SELF-HARM

11 people were found to have suicidal thoughts whilst they were in immigration detention. This includes one person who has self-harmed and another person who attempted suicide twice, whilst in detention. One individual wrote a suicide note to his family and another said goodbye to his family.

For many, their risk of suicide was identified to be likely to increase the longer they stayed in detention, as highlighted by research findings pointing to the risks of suicide for those who are held in immigration detention.[38]

As detailed below, Medical Justice clinicians have identified that the suicide risk for some, has already been exacerbated by the prospect of removal to Rwanda, or is likely to increase if faced with removal.

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[36] Home Office Guidance (2021) 'Adults at risk in immigration detention' Version 7.0 p.8.
[37] Home Office Guidance (2021) 'Adults at risk in immigration detention' Version 7.0 p.14.
[38] Royal College of Psychiatrists (2021) Position Statement 'Detention of people with mental disorders in immigration removal centres (IRCs)' PS02/21.

HARM CAUSED BY IMMIGRATION DETENTION

Medical Justice assesses the risk of harm of detention by reviewing the impact of detention on a person's mental health and identifying symptoms of mental illness that can be attributed to detention. Clinicians also identify individuals as at risk of harm where they have mental health issues and cannot appropriately access treatment in the IRC or would more effectively access treatment in the community.

13 assessments found that detention is already or likely to be already causing harm to the individual or that the individual is likely to have already deteriorated in detention. Of those, IRC doctors also expressed concern about the harm that prolonged detention may cause in seven Rule 35 reports.

Moreover, all assessments found that treatment in the IRC is unlikely to be adequate and/or effective while the person remains in detention and that any intervention would only be effective upon release, in a safe and stable environment. For many, this cannot be achieved in IRCs, due to many reasons, including being in a setting that reminds people of past traumatic experiences and the fear of removal that persists in detention.

As the NICE guidance for the management of PTSD states: "Be aware of the risk of continued exposure to trauma-inducing environments. Avoid exposing people to triggers that could worsen their symptoms or stop them from engaging with treatment, for example, assessing or treating people in noisy or restricted environments, placing them in a noisy inpatient ward, or restraining them."[39]

This is further confirmed in the Royal College of Psychiatrists Position Statement on the immigration detention of people with mental health problems which states: "Treatment offered within such a setting may be able to reduce symptoms and reduce risk to some extent but cannot offer the long-term holistic model of care which will promote full recovery. Furthermore, detention itself is likely to trigger memories of previous traumatic experiences and may also increase distress through the threat of impending removal or deportation."[40]

Given the lack of screening for both detention and for removal to Rwanda, vulnerable people are being routed into detention. As a result, people with complex and specific needs are left in detention for prolonged periods of time, in an environment that is causing severe harm to their health.

ABILITY TO PARTICIPATE IN LEGAL PROCESS

Medical Justice medico-legal reports identified significant barriers to full participation in legal processes surrounding their asylum claim, including lack of capacity and vulnerabilities, and made recommendations for appropriate interviewing of vulnerable people. This is often due to people having difficulties with recalling past events, difficulties with concentration, becoming emotionally distressed and risks in re-traumatisation. Without Medical Justice assessments, there is a risk that these factors would not have been identified prior to life-changing decisions / potential removal to Rwanda.

One individual was identified to lack capacity to understand legal proceedings and provide instructions, according to the Mental Capacity Act 2005.

Medical Justice clinicians gave specific recommendations for supporting individuals in interviews in the asylum process or in giving evidence in court for six people. The recommendations include avoidance of questions about traumatic events themselves, ensuring that adequate breaks are provided, presence of support at any

[39] National Institute for Health and Care Excellence (December 2018) NICE Guidelines on Post-traumatic stress disorder para 1.4.4.
[40] Royal College of Psychiatrists (2021) Position Statement 'Detention of people with mental disorders in immigration removal centres (IRCs)' PS02/21 p.7.

hearing or interview, access to medical or psychological support following a hearing or interview, and to ensure that interpreters speak the same dialect of a particular language.

Medical Justice clinicians have identified an extremely high rate of trauma in this population including evidence of torture, with associated needs for specific care to be taken during questioning and legal proceedings – not only to avoid re-traumatising/harming the person but also to ensure that correct information is obtained to feed into these decisions. This should raise serious concerns about the suitability of expedited procedures for any use with this population.

7. IMPACT OF RWANDA NOTICES OF INTENT ON INDIVIDUALS' MENTAL HEALTH

The prospect of removal to Rwanda is having a profoundly harmful impact on many of the individuals who have received NOIs, whilst they are still in the UK.

Medical Justice clinicians found that the prospect of removal to Rwanda is causing people to experience fear, confusion, and uncertainty about their safety and a loss of hope. Given the prevalence of mental health conditions within this group of people, these experiences are particularly concerning. Research has identified hopelessness as the biggest risk factor in predicting suicidal behaviour in individuals with depression.[41] As above, 16 out of the 17 had symptoms of or were diagnosed with depression. More broadly, research has shown that "a high proportion of immigration detainees display clinically significant levels of depression, PTSD and anxiety, as well as intense fear, sleep disturbances, profound hopelessness, self-harm and suicidal ideation".[42] The prospect of removal to Rwanda is compounding and exacerbating existing mental health issues.

Moreover, the prospect of removal to Rwanda is found to be reducing individuals' resilience to psychological effects of trauma and contributing to existing mental health symptoms. Research has shown that the lack of a subjective perception of safety contributes to depression and trauma-related symptoms.[43]

The experience of constant fear for their futures means that individuals facing removal to Rwanda are denied a sense of safety, therefore causing distress and exacerbating individuals' mental health symptoms. The experience of such fear is noted to be is a strong re-traumatising factor, which would impact the effectiveness of any treatment accessed while they remain in the UK subject to removal to Rwanda, and once they are removed to Rwanda. Specifically, PTSD symptoms are highly sensitive to insecurity or a lack of sense of safety, so the likelihood of success of treatment would be significantly decreased. It is important to note that the prospect of removal is enough to create this impact; people experienced these harms regardless of the situation they might encounter in Rwanda and despite the removals not going ahead. This highlights the damage that is already being caused.

Our doctors found that for some, the prospect of removal to Rwanda has increased their risk of self-harm and suicide. Some individuals were clinically considered to be at high risk of suicide if they are threatened with removal Rwanda.

MLRs record that for some individuals, the effect of the possibility of removal to Rwanda is similar to that of removing someone to their country of origin, where they have fled persecution, because they do not perceive Rwanda to be a safe country or they believe that they are likely to be removed onwards to their country of origin from Rwanda.

[41] Kovacs, M., Beck, A. T., & Weissman, A. (1975) 'Hopelessness: an indicator of suicidal risk'. Suicide, 5(2), 98–103.
[42] Royal College of Psychiatrists (2021) Position Statement 'Detention of people with mental disorders in immigration removal centres (IRCs)' PS02/21 p.7.
[43] van der Kolk B. (2000) 'Posttraumatic stress disorder and the nature of trauma'. Dialogues in clinical neuroscience, 2(1), 7–22.

The impact on people's mental health, if they are removed to Rwanda in the future, has also been explored in MLRs. Although the MLRs cannot comment on availability of treatment outside of the UK, they do state that PTSD symptoms, or deterioration of mental health will deter individuals removed to Rwanda from discussing symptoms, prevent them from engaging in treatment, impact their ability to participate in an asylum process, especially if they do not perceive that they are safe. For some, the lack of familial support or the lack of a community that speaks the same language will contribute to isolation and deterioration of mental health conditions. Any conditions resembling detention are also predicted to have a negative impact. Our doctors have found a poor prognosis for some people's mental health symptoms, if they were removed to Rwanda.

8. RELEASE FROM DETENTION

The level of vulnerability and the impact of detention on these individuals is evidenced by Medical Justice assessments. Yet, many people are only being released where a judge orders it.

Out of the 36 people, 31 have been granted bail by the First Tier Tribunal. 30 people have been released. The remaining one person has been granted bail in principle. Of those, we know that two people were tagged (one of them has now had their tag removed). They were released between the 16th June and the 6th August 2022.[44]

We know the date of detention and date of release for 22 of the 30 people who have been released; the average number of days they spent in immigration detention was 54 days.[45] The shortest number of days was 31 days and the longest was 93 days.

LACK OF RELEASE FOLLOWING IDENTIFICATION OF TORTURE OR TRAFFICKING HISTORY

The Home Office notably has not been releasing people with known histories of torture or trafficking. As detailed above, the Home Office has not released anyone out of the 36 people reviewed in response to a Rule 35(3) report, but rather justified maintaining detention on the basis of imminent removal to Rwanda.

For victims of trafficking who have been issued a NOI, there has been a notable shift in the Home Office's practice. As explained above, people cannot be removed from the UK whilst they are in their 'reflection and recovery' period, following a positive Reasonable Grounds decision. The recent change to the Adults at Risk policy, which makes it easier to detain people with a positive Reasonable Grounds decision, is playing out for those with such a decision and a NOI for removal to Rwanda. Their detention is being maintained.

This shows that people with torture or trafficking histories are routed into detention. Once in detention, even when such vulnerabilities are identified, their detention is maintained and justified on the basis of removal to Rwanda.

[44] This is based on the 25 people for whom we have the date of release.
[45] This is based on the 22 people for whom we have the date of detention and the date of release.

9. CONCLUSION

The experiences of these 36 people demonstrates that even without removals yet taking place, the Rwanda Scheme is having a detrimental and harmful impact on those affected.

The government is trying to remove people who have come to the UK to seek safety and protection. Asylum seekers are a population with an already high rate of vulnerability. Our report has demonstrated that people with histories of torture, trafficking and who have mental health problems are receiving NOIs for Rwanda. Being held in immigration detention indefinitely and being given a notice of potential removal to Rwanda, having just arrived in the UK, would be harmful for anyone, not least for people with histories of trauma and with mental health problems.

Medical Justice clinicians have found that the prospect of forced removal to Rwanda was in itself damaging: the harms described were experienced by individuals irrespective of whatever situation they would have encountered in Rwanda, and indeed despite their removal not having gone ahead.

People continue to be detained indefinitely on the premise of removal to Rwanda, yet there is no flight scheduled. If numbers of people in detention who have NOIs continue to increase and if there are new flights scheduled, we would be concerned about the worsening availability of lawyers to represent these individuals and the numbers of vulnerable people who will be routed into detention due to the lack of adequate screening and safeguarding processes.

It is a cruel and reprehensible scheme on ethical and medical grounds. The Government's intended aim to deter people from coming to the UK is not based on evidence, as highlighted by the Home Office's own Permanent Secretary.[46] Home Office officials have warned that this policy will put vulnerable people in danger. This report adds to this warning by evidencing the harm and danger that the Rwanda Scheme has already caused the health and wellbeing of those affected.

[46] Matthew Rycroft CBE Letter to the Home Secretary (13 April 2022).