

INTRODUCTION TO IMMIGRATION DETENTION IN THE UK

BRIEFING 4: USE OF FORCE AND THE USE OF SEGREGATION



WHAT IS “USE OF FORCE” IN DETENTION?

‘Use of force’ is an umbrella term which includes restraining or laying hands on a detained person, as well as the use of equipment such as handcuffs, leg restraints, waist restraint belts and escort chains.¹ It may involve control and restraint (C&R) techniques, including those designed to induce pain. Use of force is a coercive measure that always carries a risk of injury.² For survivors of torture, it can be a “terrifying re-enactment of past abuse”.³

Force can be used on people in immigration detention by Detention Custody Officers in Immigration Removal Centres (IRCs) and by escort staff during removals. It can be used against children and pregnant women in certain circumstances.⁴ Force will only be lawful if it is “necessary”, “reasonable” and “proportionate to the threat being faced or the intended aim”.⁵ It should only be used as a last resort⁶ and may not be used to provoke a detained person.⁷

The law allows use of force against detained people: when necessary to keep a detained person in custody; to prevent violence (either to the person themselves, or others); to prevent destruction of property; to prevent people from seeking to prevent their own removal physically; and to prevent someone interfering physically with the lawful removal of another person.⁸ Staff must only use authorised techniques and, where force is used, the details must be recorded and reported to the Secretary of State.⁹

Safeguards exist in detention that purport to protect people against misuse of force. A member of the IRC’s healthcare staff must attend planned use of force incidents whenever reasonably practicable, and must raise concerns about any use of force and any contraindications (i.e. clinical reasons not to use force on a particular person) both before and during use of force incidents.¹⁰ However, there are serious concerns as to the effectiveness of the safeguards. For example, the recent Brook House Inquiry, which investigated the abuse of people detained at Brook House IRC in 2017, found that the IRC healthcare staff failed in their safeguarding role and in fact facilitated the use of force.¹¹

HOW IS THE USE OF FORCE APPLIED IN DETENTION?

Force continues to be used inappropriately by staff against people in detention. In 2023, inspectors warned of “disproportionate and unacceptable” use of handcuffs on detained children being escorted from Short-Term Holding Facilities to release accommodation.¹² In 2022, pain-inducing techniques on the jaw and wrists, handcuffs and waist restraint belts were used on highly distressed individuals during the first attempted Rwanda removal flight, including on people who had recently self-harmed.¹³

The 2023 report by the Brook House Inquiry identified a number of “concerning themes” in relation to the use of force. These included force being used on naked or near-naked individuals¹⁴ and the continued use of a highly dangerous restraint technique - handcuffing behind the back - banned due to its association with positional asphyxia.¹⁵ The inquiry also found that force was used inappropriately against people who were mentally and/or physically unwell. Evidence showed that a “perfect storm” of conditions exist in detention that gives rise to this mistreatment: staff lack therapeutic tools or resources to care for vulnerable individuals, so instead treat their distressed behaviour as resistant, resulting inevitably in the use of force and other coercive measures.¹⁶

Concerned as to whether the deficiencies around the use of force have yet been addressed, the Brook House Inquiry recommended that as a matter of urgency the government introduce a “new and comprehensive” detention services order on the use of force in IRCs.¹⁷ At the time of writing, no such policy has yet been published.

WHAT IS SEGREGATION IN IMMIGRATION DETENTION?



Separation unit cell at the Harmondsworth IRC

Segregation is the practice of separating a person from the rest of the detained population and subjecting them to a more restricted regime. As set out in the Detention Centre Rules 2001, it can take the form of “removal from association”, or “temporary confinement”.¹⁸ Both can cause serious harm, including to people’s mental health.

When a person is “removed from association”, their ability to associate with others in detention is restricted. At an IRC, the initial authorised period can be up to 24 hours, but this may be extended to a maximum of 14 days.¹⁹ Removal from association is only allowed where “it appears necessary in the interests of security or safety”.²⁰

“Temporary confinement” in separate accommodation is used when a detained person is considered to be “refractory or violent”.²¹ Temporary confinement is not supposed to last for more than 24 hours without a written direction from an officer of the Secretary of State, who can extend it to a maximum of 3 days.²² Temporary confinement may never be used as a punishment or after the person has ceased to be refractory or violent.²³

Both forms of segregation are usually carried out by placing the detained person in a special unit (sometimes called a “separation unit”), either alone or with other detainees being held under similar conditions.

A number of safeguards exist with the stated aim of protecting a person in segregation. For example, the IRC’s Independent Monitoring Board (IMB) and medical practitioner, amongst others, must be informed “without delay” of any segregation decision, and must visit the individual in question within 24 hours.²⁴ However, the National Chair of the IMBs has recently noted that members are not able to comply with the requirement to visit segregated individuals in detention within the 24 hour limit.²⁵

WHAT HARM IS CAUSED BY SEGREGATION?

Segregation can have devastating consequences. The risks are particularly high for those who are already vulnerable or mentally unwell. Segregation has been associated with worsening symptoms of depression, severe anxiety, psychotic symptoms and exacerbation of post-traumatic stress disorder (PTSD), while suicidal thoughts and risks of suicide are also increased.²⁶ For people seeking asylum who suffer from PTSD, segregation can precipitate or intensify traumatic memories or flashbacks of their past mistreatment and increase their feelings of powerlessness.²⁷ The damage done to a person’s health can be long-lasting and, in some cases, permanent.²⁸

At least two deaths in IRCs have been directly linked to the use of segregation. This includes the case of Prince Fosu, a Ghanaian national who died of hypothermia, dehydration and malnutrition after six days in segregation at Harmondsworth IRC in 2012. Mr Fosu was suffering a psychotic episode at the time. He was found naked on the concrete floor of a ‘strip cell’ in segregation with no mattress, having had little, if any, food, fluid or sleep. In 2020, an inquest jury found that neglect and a series of gross failures by the Home Office and other agencies contributed to his death.²⁹

Segregation has also played a role in four High Court cases in which a person’s detention, or conditions of detention, were found to amount to inhuman and degrading treatment in breach of Article 3 of the European Convention on Human Rights.³⁰

In July 2024, independent inspectors at Harmondsworth IRC found instances of segregation being used as a punishment. They described how people who did not want to share a room were “taken to the [segregation] unit by a team dressed in full personal protective equipment and remained there until they agreed to share”. HMIP condemned this practice as “wholly unacceptable and contrary to the Detention Centre Rules”.³¹ In August 2024, the Independent Monitoring Board reported similar findings at Brook House IRC.³²

The Brook House Inquiry also found that that segregation had been misused as a punishment, to “manage” individuals with mental ill-health, and for the “administrative convenience” of staff in order to facilitate removals.³³

1. Home Office (2022) Detention Services Order 07/2016: Use of Restraint(s) for Escorted Moves – All staff
2. Brook House Inquiry (2023) Report of the Brook House Inquiry Volume 2, 146
3. Medical Justice (2023) 'If he dies, he dies': What has changed since the Brook House Inquiry?, 51
4. See Home Office (2016) Detention Services Order 05/2016: Care and Management of Pregnant Women in Detention, para 12; and (2022) Use of force: Guidance for Immigration Enforcement Officers, Version 3, 16
5. Rule 41 of the Detention Centre Rules 2001; Home Office (2022) Use of force: Guidance for Immigration Enforcement Officers Version 3.0, 6
6. Home Office (2005) Detention Services Operating Standards Manual, p 76, para 2
7. Rule 41 of the Detention Centre Rules 2001
8. Home Office (2005) Detention Services Operating Standards Manual, p 76, para 1
9. Rule 41 of the Detention Centre Rules 2001
10. Brook House Inquiry (2023) Report of the Brook House Inquiry Volume 2, 190
11. Brook House Inquiry (2023) Report of the Brook House Inquiry Volume 2, 154
12. HMIP (2023) Report on an unannounced inspection of short-term holding facilities managed by Border Force, 11, para 2.24
13. Lizzie Dearden, Aaron Walawalkar and Eleanor Rose (2022) 'Revealed: Horrors of self-harm and desperation on failed Rwanda flight', The Independent (3 September 2022)
14. Brook House Inquiry (2023) Report of the Brook House Inquiry Volume 2, 149-151
15. Brook House Inquiry (2023) Report of the Brook House Inquiry Volume 2, 140. In 2010, a man died after being subjected to this technique during his removal flight. Karon Monaghan (2013) Report by the Assistant Deputy Coroner – Inquest into the Death of Jimmy Kelenda Mubenga.
16. Brook House Inquiry (2022) Day 30 Transcript, 55
17. Rules 40 and 42 of the Detention Centre Rules 2001
18. Rule 40(4) of the Detention Centre Rules 2001
19. Rule 40(2) of the Detention Centre Rules 2001
20. Rule 42(1) of the Detention Centre Rules 2001
21. Rule 42(4) of the Detention Centre Rules 2001
22. Rule 42(1) of the Detention Centre Rules 2001
23. Rules 40(5) and (9) and 42(6) and (8) of the Detention Centre Rules 2001
24. Independent Monitoring Board (2024) Letter to Home Secretary: IMB response to Brook House Inquiry, 18 March 2024
25. Sharon Shalev (2008) A sourcebook on solitary confinement, 15-17; Stuart Grassian, 'Psychiatric Effects of Solitary Confinement' (2006), 22, Washington University Journal of Law & Policy, 325-383; AM Appel, M Aon, E Cakal (2018) Solitary Confinement (DIGNITY Library)
26. Brook House Inquiry (2022) First Witness Statement of Dr Rachel Bingham, 62
27. Sharon Shalev (2008) A sourcebook on solitary confinement, 22-23; R (on the application of Bourgass and another) (Appellants) v Secretary of State for Justice (Respondent) [2015] UKSC 54, para 37
28. 'Jury concludes neglect and gross failures contributed to the death of Prince Fosu in immigration detention' INQUEST (2 March 2020); 'Jury finds that neglect contributed to the death of Brian Dalrymple in immigration detention', INQUEST (27 June 2014)
29. HA (Nigeria) v Secretary of State for the Home Department (Rev 1) [2012] EWHC 979 (Admin); D v Secretary of State for the Home Department [2012] EWHC 2501 (Admin); R (MD) v Secretary of State for the Home Department [2014] EWHC 2249 (Admin); ARF v Secretary of State for the Home Department [2017] EWHC 10 (QB).
30. HMIP (2024) Report on an unannounced inspection of Harmondsworth Immigration Removal Centre, 23.
31. Independent Monitoring Boards (2024) Annual Report of the Independent Monitoring Board at Gatwick Immigration Removal Centre, p 22, para 5.3.4
32. Brook House Inquiry (2023) Report of the Brook House Inquiry Volume 2, 119-121.35
33. Brook House Inquiry (2023) Report of the Brook House Inquiry Volume 2, 124-125