

Indefinite detention after the Shaw Review



March 2017

The Shaw Review's call for detention reform

The Shaw Review in January 2016 urged the Government to begin the process of reducing detention 'boldly and without delay'. The review called for a range of changes, including the application of 'much greater energy' to exploring alternatives to detention, including community support.

In January 2016, the Government accepted the broad thrust of the Shaw report and hinted at a wide-ranging reform programme to reduce the scale and periods of detention, but to date only piecemeal changes have been introduced. Responding to Shaw, the former Minister James Brokenshire promised to 'implement a new approach to the case management of those detained, replacing the existing detention review process with a clear removal plan for all those in detention. A stronger focus on and momentum towards removal... will ensure that the minimum possible time is spent in detention before people leave the country'.

However, over a year later, there has been no progress towards implementing removal plans. Migrants are still detained indefinitely, without time limit, often with no clear indication of how their cases will be resolved.

The Minister further set out that 'The Government expects these reforms, and broader changes in legislation, policy and operational approaches, to lead to a reduction in the number of those detained, and the duration of detention before removal, in turn improving the welfare of those detained.' However, the Home Office's own statistics show that migrants in detention are being held for longer. At the end of December 2015, the month before the Shaw Review was published, 453 people had been detained for longer than four months. According to the latest Home Office statistics, nine months later, that number had gone up to 553.

The need for a time limit on detention

The Parliamentary Inquiry into the Use of Detention, held by the All Party Parliamentary Groups on Refugees and Migration, called in 2015 for a time limit of 28 days on the length of time anyone can be detained in immigration detention. The inquiry noted that the UK is an 'outlier' internationally in not having a time limit, and concludes that 'decisions to detain should be very rare and detention should be for the shortest possible time and only to effect removal. The inquiry also called for a 'wholesale change in culture, towards community models of engagement and better caseworking and decision-making.' The 'enforcement-focused culture' of the Home Office leads it to detain 'far too many people unnecessarily and for far too long.'

The vast majority of developed countries limit the maximum period of detention. The UK is unique in Europe in having no time limit and routinely detaining migrants for years. It has opted out of the EU Returns Directive, which sets a maximum time limit of 18 months. France limits detention to a maximum of 45 days. Italy has recently reduced its time limit from 18 months to 90 days. In Belgium the time limit is eight months. Sweden has a time limit of 12 months, but only detains migrants for an average of 5 days.

No limit to inefficiency

The longer a migrant is detained, the more likely that they will be released from detention. In 2016, 10,380 people were deprived of their liberty for more than 29 days, but the majority (62%) were released back into the community after their detention. Of the 208 detained for 12 months or more before leaving detention in 2016, only 29% were returned their country of origin, meaning that 72% of them returned back to the community after a lengthy period of detention.

Independent scrutiny has indeed found such inefficiency and poor quality of decision-making in Home Office use of detention. After repeatedly expressing concern about the lengths of time people are detained, in August 2015 the HM Chief Inspector of Prisons echoed the Parliamentary Inquiry's call for a time limit, citing 'the rigorously evidenced concerns we have identified' as requiring that 'a strict time limit must now be introduced.'

A waste of tax-payers' money

Immigration detention is expensive: the cost of running the detention estate in 2013/14 was £164.4m. Independent research by Matrix Evidence has found that £76 million per year is wasted on the long-term detention of migrants who are ultimately released. If the Home Office could identify these unreturnable migrants earlier, the equivalent of three detention centres could be closed without reducing the number of migrants returned. In addition, the Home Office paid out almost £10 million in 2011-13 in compensation following claims for unlawful detention.