



Written evidence to the Review into the Home Office Response to the Review of Welfare in Detention of Vulnerable Persons

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Submission by Detention Action

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About Detention Action

Detention Action is a national charity established in 1993 that aims to change the way that migrants are treated by immigration detention policy in the UK. Detention Action defends the rights and improves the welfare of people in detention by combining support for individuals with campaigning for policy change. Detention Action works in Harmondsworth and Colnbrook Immigration Removal Centres (IRCs), near Heathrow Airport in London, the Verne IRC in Portland, Dorset, and in prisons in London.

Summary

1. The Home Office has not acted with sufficient urgency to address the criticisms of the Shaw Review and implement the reform programme outlined by the former Minister. Neither the scale of detention, nor individual periods of detention, have reduced since the Minister responded to the Shaw Review. Flaws in the drafting and implementation of new policies and processes mean that vulnerable people continue to be routinely detained and continue to experience serious harm in detention. Victims of trafficking are prevented from accessing the protection of the National Referral Mechanism by a combination of the fact of detention, procedural flaws and a conflict of interest in the Home Office.
2. However, alternatives to detention could address the range of policy objectives sought by detention without harm to migrants. Alongside ample international evidence, Detention Action's pilot with young ex-offenders demonstrates that alternatives to detention can enable the NGOs and the Home Office to work constructively together to reduce the use of detention.

Summary of recommendations

Detention reform

- The Government should, as a matter of urgency, introduce a time limit of 28 days on the length of time any individual can be detained for immigration purposes;
- Detention should only ever be used as a last resort and for the shortest possible time;
- There should be automatic and regular judicial oversight of detention for all detained migrants.

Adults at risk policy

- Any adults at risk policy should ensure that vulnerable people are promptly identified and routed out of detention, through a clear and transparent process to bring vulnerabilities to the attention of the Home Office, and an assessment process not weighted towards detention;
- A clear monitoring process should enable assessment of how the adults at risk policy is fulfilling the Government's commitments to safeguard the most vulnerable people;
- Policy should clearly prohibit the use of detention where it risks causing significant harm, including to ex-offenders with sentences of more than four years;

- Vulnerable people and their legal representatives should be informed if detention centre staff alert the Home Office to their vulnerability, and of the Home Office response;
- An appropriate process should be developed to ensure that people who lack capacity are identified and not detained;
- The adults at risk policy, and an equivalent to Rule 35, should apply to people held under immigration powers in prisons.

Trafficking

- More effective screening prior to detention should ensure that potential victims of trafficking are provided with support and advice rather than detention. The Group of Experts on Action against Trafficking in Human Beings provides examples of best practice, including taking individuals encountered during police raids on cannabis farms to a safe place rather than police custody, for assessment of whether they are victims of trafficking;¹
- Specialised and independent case management should support people to stabilise in the community and engage with the National Referral Mechanism and immigration processes, managing any risks of absconding or re-trafficking;
- A referral to the NRM should trigger release from detention, since it is only made when there are indicators of trafficking. Potential victims of trafficking should not wait in detention for a positive reasonable grounds decision, which evidence suggests is difficult to obtain in detention;
- NRM referrals of migrants in detention should be made by an independent first responder, since the Home Office is responsible for decisions to detain. Likewise, reasonable grounds decisions should be made by an independent, multi-disciplinary panel;
- If a referral to the NRM is not to automatically trigger release, specialist, independent, face-to-face advice and support should be available to potential victims of trafficking in detention;
- Training should be provided to IRC and healthcare staff to identify and support potential victims of trafficking.

Alternatives to detention

- Alternatives to detention should be developed with the capacity and range to meet the needs of all migrants for whom less coercive measures than detention are appropriate;
- The Home Office should reinvest savings from the closure of the Verne IRC to develop alternatives based on specialist case management that can support migrants with vulnerabilities or complex situations to resolve their cases in the community, in particular adults at risk and victims of trafficking;

¹ Group of Experts on Action against Trafficking in Human Beings (GRETA), Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom (2012) .228, <https://rm.coe.int/168067a080>

- Alternatives to detention should be based on evaluation and learning from existing national and international models, and should themselves involve thorough qualitative evaluation so that learning can be built on;
- Civil society should be involved in designing and delivering alternatives to detention, based on their experience and expertise in supporting migrants and vulnerable people.
- Migrants with experience of detention should be involved in the design and development of alternatives to detention.

The need for detention reform

3. 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. The Review concluded that ‘There is too much detention; detention is not a particularly effective means of ensuring that those with no right to remain do in fact leave the UK; and many practices and processes associated with detention are in urgent need of reform.’²
4. In January 2016, the Government said that it accepted the ‘broad thrust’ of Stephen Shaw’s recommendations. The then Immigration Minister, James Brokenshire, outlined a number of reforms that he expected 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.’³ He 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’. The Minister added 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.’
5. However, the strong words of the former Minister have not been matched by substantial steps in practice. Response to the first Shaw Review has consisted of internal administrative changes and limited legislative changes, the most significant elements of which have not yet been enacted. The promise to introduce removal plans has been weakened to case progression plans. Instead of clear and time-specific plans for arranging removal, internal case review panels have been created to review progress in resolving cases. As these panels are internal, it is difficult to assess how effective they have been. Likewise, the creation of a new ‘gatekeeper’ function to assess the appropriateness of detention in each case is a purely internal mechanism without transparency.

² Stephen Shaw, CBE, *Review into the welfare in detention of vulnerable persons*, January 2016.

³ James Brokenshire, Minister for Immigration, *Immigration Detention: Response to Stephen Shaw’s report into the Welfare in Detention of Vulnerable Persons: Written statement - HCWS470*, <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-01-14/HCWS470>

6. Limited legislative change did follow the publishing of the Shaw Review, but the lack of urgency is manifested by the ongoing delay of almost 18 months in enacting the key provisions. Detention was the subject of much debate during the passage of the Immigration Act 2016, with MPs and peers particularly concerned at the lack of time limit. Following two defeats in the House of Lords, the Government introduced amendments that limit the detention of pregnant women to 72 hours, with the possibility of extension with ministerial approval, and introduce automatic judicial oversight of detention for the first time. The latter provision requires the Home Office to initiate a hearing before the First-Tier Tribunal to review detention four months after it began or after the most recent bail hearing; however, ex-offenders with deportation orders are excluded, despite being the very group most exposed to long-term detention and the object of most of the breaches of Article 3. The Immigration Act 2016 gained Royal Assent on 12 May 2016. As of September 2017, the automatic judicial oversight provisions have still not been enacted.
7. Statistics show clearly that these limited administrative and legislative changes have not been sufficient to achieve the former Minister's objectives: the latest statistics published by the Home Office show that the numbers in detention and periods of detention have not in fact reduced. At the end of June 2017, 271 people had been in detention for over six months, a small increase on the level at the time of the Minister's statement (263 at the end of December 2015). In the same period, the numbers of migrants in detention increased from 2,607 at the end of December 2015 to 2,994 at the end of June 2017. In the year to June 2017, 27,819 people entered detention.⁴
8. However, it should be noted that the period of the first Shaw Review did coincide with a significant drop in the use of detention, from 3,531 migrants detained at the end of September 2015 to 2,607 three months later, following the closure of Dover IRC. In this period, the numbers detained for over six months were reduced from 325 to 263.
9. Despite policy guidelines prescribing a presumption in favour of temporary admission or release rather than detention, which should also be used sparingly for the shortest period necessary, long-term detention remains routine: of almost 3,000 people detained at the end of June 2017, more than half (1,690) had been detained for longer than 28 days, 271 people for longer than six months, and one man had been in detention for 1,514 days.
10. The use of detention continues to be highly inefficient as a means of effecting returns. Fewer than half of migrants who leave immigration detention do so because they have been removed. The majority are either released on immigration bail, given temporary admission, or granted leave to remain/enter. In the year to June 2017, only 48% of people leaving detention were removed from the UK, the majority being released back into the community.
11. It is clear that minor organisational changes have not yet significantly shifted the Home Office's entrenched reliance on detention, which has long-standing structural

⁴ Home Office Immigration Statistics, April to June 2017, Detention tables, [dt 01 to dt 14 q](#)

underpinnings. At around 3,000 places (plus around 500 migrants detained in prisons), the UK detention estate is larger than any comparable EU country. The UK is unique in Europe in detaining migrants for indefinite periods, having opted out of the EU Returns Directive, which limits detention to six months, extendable to 18 months in certain circumstances. In practice, many Member States have much shorter maximum periods of detention, e.g. 42 days in France.⁵

12. The BBC Panorama documentary 'Undercover: Britain's Immigration Secrets', broadcast on 4 September 2017, revealed the scale of the desperation caused by indefinite detention. As many of the migrants featured in the documentary made clear, the lack of a time limit is a major cause of distress in detention. This frustration created by not knowing how long they will be locked up is a major cause of tension in detention centres, making it much more difficult for contractors to create an acceptable environment.
13. The announcement on 10 October 2017 of the closure of The Verne IRC by the end of the year may mark the start of the shift away from over-reliance on detention promised by the Minister. The Verne is one of the largest IRCs in the estate, so in principle its closure should significantly reduce the numbers detained, since Home Office practice is to fill the bed-space available. It is likely to also create an opportunity to reduce the use of long-term detention, and in general to use detention in a more limited and targeted way.
14. However, it is too early to know the impact of the closure of The Verne. The Home Office has not disclosed the operational planning that informs this decision, or whether expansion of the detention estate elsewhere is planned. The former Minister's ambitious programme of detention reform will require much more sustained investment to change an entrenched Home Office culture of routine and long-term detention.
 - The Government should, as a matter of urgency, introduce a time limit of 28 days on the length of time any individual can be detained for immigration purposes;
 - Detention should only ever be used as a last resort and for the shortest possible time;
 - There should be automatic and regular judicial oversight of detention for all detained migrants.

The adults at risk policy

15. In January 2016, the Shaw Review found 'incontrovertibly that detention in and of itself undermines welfare and contributes to vulnerability'. The Review made a detailed series of 64 recommendations to 'improve care and wellbeing, and ensure that the most vulnerable do not suffer unnecessarily' but it also noted that 'in themselves they do not go far enough'. It called for a reduction in detention which 'would both be more protective of the welfare of vulnerable people and deliver better value for the taxpayer'.
16. In response, the Government made a commitment to Parliament to 'safeguard the most vulnerable', with a 'clear presumption that people who are at risk should not be

⁵ All-Party Parliamentary Groups on Refugees and Migration, 'The Report of the Inquiry into the Use of Immigration Detention in the UK', March 2015, p16.

detained'. The former Immigration Minister announced plans to 'strengthen the approach to those whose care and support needs make it particularly likely that they would suffer disproportionate detriment from being detained'.⁶ The central plank of this new approach was the 'Adults at risk in immigration detention' policy, which came into effect in September 2016.

17. Over a year later, Detention Action continues to meet vulnerable people in detention on a daily basis, many detained for several months or even years. Our monitoring indicates that adults at risk identified under the policy are still facing protracted and unnecessary detention. It appears that immigration factors are being used to justify the continuing detention of the majority of identified adults at risk, yet few are ultimately removed. The adults at risk policy has important gaps that may increase the risk of harm in detention for certain groups. It is also hamstrung by its reliance on the much-criticised Rule 35 process for the initial identification of vulnerable people. The flawed implementation of a flawed policy is leading vulnerable people to continue to suffer unnecessary harm in detention.
18. In the first quarter of 2017 alone, there were 132 incidents of self-harm requiring medical treatment in detention centres, more than double the 63 recorded in the equivalent period of 2016.⁷ There have been eight deaths in detention since January 2016, of which seven have occurred since the adults at risk policy was introduced. Three are known or suspected to have been suicide.⁸ In its latest Annual Report, Her Majesty's Chief Inspector of Prisons found 'people with severe mental illnesses in detention, where their complex needs could not be adequately met.'⁹
19. Since the policy was introduced, Detention Action has monitored its implementation in Harmondsworth, Colnbrook and The Verne IRCs. This included an intensive period of monitoring between May and August 2017, where we collected and reviewed data for 48 clients who had been considered adults at risk under the terms of the policy.
20. While the adults at risk policy expands the categories of people considered vulnerable and therefore not usually suitable for detention, it actually weakens safeguards in certain areas. The definition of torture was narrowed from the broader definition set out in *EO* to the tighter UNCAT definition, thereby excluding individuals who had been tortured by non-state actors from being considered an adult at risk due to torture. It was only after a legal challenge that the Home Office has been forced to reinstate the broader definition and consider all torture survivors to be adults at risk.¹⁰
21. The policy also explicitly allows for the risk of significant harm to people who have served a sentence of four years or more. This means, for example, that the policy would do nothing to prevent the harmful detention of extremely mentally unwell people like

⁶ Brokenshire.

⁷ FOI, quoted at <http://www.no-deportations.org.uk/Resources/Self-Harm%202017.html>

⁸ Institute of Race Relations, <http://www.irr.org.uk/news/deaths-in-immigration-detention-1989-2017/>

⁹ HM Chief Inspector of Prisons for England and Wales Annual Report 2016-2017, p73

¹⁰ *Medical Justice & Ors v Secretary of State for the Home Department & Anor [2017] EWHC 2461 (Admin)*, 10 October 2017

BA, whose detention was found to be in breach of the Article 3 prohibition on inhuman or degrading treatment.¹¹

22. While Detention Action welcomes the Home Office's recognition of the dynamic nature of vulnerability, the way in which this is put into effect in the adults at risk policy reduces the protection afforded to vulnerable people. Vulnerable people now have to show that they are being harmed by detention, instead of the Home Office taking a preventative approach to ensure that harm is not done. For example, rather than not detaining a torture survivor simply because there is an increased likelihood that they could be vulnerable due to their past experiences, the Home Office now requires evidence that there is a significant risk of harm to that particular individual. In practice, this usually means producing evidence of a deterioration in their mental or physical health, i.e. that harm has already been done.
23. The adults at risk policy balances vulnerability against immigration factors, and makes clear that in many circumstances the latter will trump risk of harm to the individual. Negative indicators of non-compliance, including irregular presence in the UK for some time, failing to comply with voluntary return or making a late asylum claim, and any history of offending are weighed against the risk of harm to the individual. This often means that an adult at risk continues to be detained unless they can provide independent evidence of a significant risk of harm. Such independent evidence is difficult to obtain for a highly vulnerable person in detention.
24. Within the policy, there is little scope for Home Office case owners to consider how to mitigate the risks of absconding or re-offending, for example through alternatives to detention, with the result that detention is usually maintained. The effectiveness of the balancing exercise is hampered by the limited options available to case owners, who must choose between detention and release, with no available alternatives that support the compliance of vulnerable people. Where an adult at risk is likely to abscond, including for reasons related to their vulnerability, their detention is frequently considered necessary.
25. As a result, it appears that many vulnerable individuals continue to be detained even after the Home Office has recognised them to be adults at risk. Of the 48 cases identified by Detention Action between May and August 2017 as having triggered the policy, detention was maintained in 85% cases (41 of 48 clients). Only 7 individuals were released on temporary admission following assessment as adults at risk. These include one person who was initially transferred to a mental health unit before being moved back to detention, where his mental health deteriorated again until he was eventually released. 29% of those initially rejected for release by the Home Office were subsequently released on bail (12 of 41 individuals), suggesting that the Tribunal is frequently taking a different view of the balancing exercise. One person was released by the High Court and another was granted leave to remain.

¹¹ *R (on the application of BA) v Secretary of State for the Home Department*, [2011] EWHC 2748 (Admin), 26 October 2011

26. These vulnerable people were detained for weeks and months despite having been found to be at risk, before eventually being released on temporary admission, bail or by the High Court.¹² It is likely that their ongoing detention caused further harm. Our sample group of adults at risk who were initially refused release stayed in detention for a further period of between three weeks and eight months. Nearly three quarters were detained for more than two months as an adult at risk (11 of 15 individuals).
27. Our sample indicates that many adults at risk are kept on in detention after the risk has been identified before eventually being released anyway, their extended and harmful detention having served no purpose. One of the key factors weighed against the risk of harm is how quickly removal is likely to be effected, and yet it seems that only a small proportion of adults at risk are quickly removed. In our sample, the removal rate was only 17% of recognised adults at risk where detention was maintained (7 out of 41 individuals), while 49% were released and 22% remain in detention.¹³ Of those who have left detention, only 26% were removed (7 out of 27 cases).
28. It is difficult to properly assess how effective the adults at risk policy is in reducing the detention of vulnerable people given the lack of baseline monitoring of the initial decision to detain and subsequent reviews of detention. At the very least, the Home Office should keep and publish data on the impact of the new gatekeeper function, including the number of cases where an individual was not detained following the assessment of the gatekeeper, and the number of cases where the gatekeeper advised against detention but was overruled. It is also vital that the Home Office monitors and publishes information on how the adults at risk policy is operating in detention. This should include, as a minimum, data on the numbers of individuals considered under the adults at risk policy, the numbers found to be adults at risk, and the numbers who were released as a result.
29. In Detention Action's experience, there is a lack of knowledge and clarity around the adults at risk policy and its implementation across the detention estate. There seems to be little shared understanding about the way in which the policy works amongst staff in healthcare, welfare and other detention custody roles. Her Majesty's Chief Inspector of Prisons raised a similar concern in his 2016 Annual Report:

The policy was not yet widely understood, and there was a lack of communication between centre staff who had contact with at-risk detainees and the caseworkers, based in offices around the country, who decide if detention should be maintained. At both Brook House and Morton Hall, we obtained lists of detainees identified by the Home Office as being at risk of harm under the new policy, but neither the Home Office teams at the centres or custodial managers had these lists. They could not,

¹² A full set of relevant data was available for 18 individuals, of whom 3 were released after being found to be an adult at risk and a further 15 were released at a later date.

¹³ It has not been possible to establish the current situation of 12% of those who were detained after being found to be adults at risk (5 of 41 cases).

therefore, systematically identify and support all at risk adults, nor monitor the impact of detention on them over time.

30. While better training and time for the policy to become established could help to address these issues, they cannot resolve them because the policy and related operational guidance remain opaque, confused and fragmented. Crucially, there is no transparent, straightforward process to provide information to the Home Office of an individual's vulnerability. Instead, the policy relies on existing mechanisms that are already fundamentally flawed.
31. The Detention Services Order 08/16 on the Management of Adults at Risk in Immigration Detention outlines how detention centre staff should alert the Home Office to any vulnerability through the IS91RA Part C. However, there is no provision for the individual or their legal representative to be informed if a Part C has been completed, or of the Home Office's response. This opaqueness means that vulnerable people and their representatives are unable to use a Part C form or response to support requests for release. It also makes it impossible to assess the effectiveness of this mechanism in identifying and releasing vulnerable people.
32. The principal means for the Home Office to receive information about an individual's vulnerability remains the Rule 35 process, although its shortcomings are well-documented and the first Shaw Review recommended immediate consideration of alternative processes. There are three circumstances in which a medical practitioner can complete a Rule 35 report: when a person's health is likely to be injuriously affected by continued detention (Rule 35(1)), when there are concerns that a detainee may have suicidal intentions (35(2)), and when there are concerns a detainee may have been the victim of torture (35(3)).
33. In practice, Rules 35(1) and (2) are rarely used. As a result, Rule 35 reports are rarely completed unless the individual is a victim of torture. Since Rule 35 is the main route to being considered an adult at risk, vulnerable people who are not victims of torture risk not being considered under the adults at risk policy. In particular, people at risk of suicide or self-harm appear to be missing out on the protection of the adults at risk policy, since in our experience Rule 35(2) reports are rarely if ever completed. The three recent deaths assumed to be suicide suggest that this requires urgent attention.
34. Detention Action's monitoring suggests that the Rule 35 process is particularly ineffective in ensuring consideration of the impact of detention on mental health. This is despite the extremely high prevalence of mental health issues in detention and the well-documented impact of detention on mental health.
35. In Detention Action's sample group, 94% (45 of 48 identified adults at risk) had Rule 35 reports, while only three people had triggered the policy without a Rule 35 report. Rule 35 reports had been completed for two individuals without triggering the policy. Of the 45 Rule 35 reports, 80% had a Rule 35(3) report because the medical practitioner had concerns the individual may have been a victim of torture. Only 20% (nine people) had a

Rule 35(1) report because the medical practitioner felt their health was likely to be injuriously affected by continued detention. None had a Rule 35(2) report because of concerns about possible suicidal intentions. It appears unlikely that there are in reality so few vulnerable people in detention without histories of torture; the balance of probability is that other vulnerable people are being missed because of a focus on torture in the Rule 35 process.

36. There is no process for identifying individuals who lack capacity to make decisions in relation to their immigration case and other matters. Unlike other comparable institutions, immigration detention has no process for assessing capacity or arranging access to independent advocates. This can create an additional disadvantage for some of the most vulnerable people in detention, as they cannot instruct a legal representative to challenge their detention. Detention Action staff have on several occasions been asked to act as litigation friends, in an individual capacity, to enable highly vulnerable people to bring legal challenges.
37. A significant proportion of vulnerable individuals are excluded from even these flawed safeguards because they are held in prison under immigration powers, usually following a prison sentence. At the end of March 2017, 459 people were detained under immigration powers in prison.¹⁴ The prevalence of mental health issues within the prison population is well known. However, the adults at risk policy and the mechanisms for informing the Home Office of vulnerability, such as the Rule 35 process, do not apply in prison. Combined with difficulties in accessing legal advice and restricted communications with the outside world,¹⁵ this gap means that it is likely that very vulnerable people are detained in prison for long periods with little support.
- Any adults at risk policy should ensure that vulnerable people are promptly identified and routed out of detention, through a clear and transparent process to bring vulnerabilities to the attention of the Home Office, and an assessment process not weighted towards detention;
 - A clear monitoring process should enable assessment of how the adults at risk policy is fulfilling the Government's commitments to safeguard the most vulnerable people;
 - Policy should clearly prohibit the use of detention where it risks causing significant harm, including to ex-offenders with sentences of more than four years;
 - Vulnerable people and their legal representatives should be informed if detention centre staff alert the Home Office to a vulnerability, and of the Home Office response;

¹⁴ FOI, quoted at www.aviddetention.org.uk/immigration-detention/detention-prison/prison-statistics. This is a decrease from previous months although it is not known if this trend has continued. 529 individuals were detained in prison at the end of February 2017 and 575 at the end of January 2017.

¹⁵ People in prison are unable to use the internet or to receive incoming phone calls and their ability to make outgoing calls is restricted.

- An appropriate process should be developed to ensure that people who lack capacity are identified and not detained;
- The adults at risk policy, and an equivalent to Rule 35, should apply to people held under immigration powers in prisons.

Treatment of victims of trafficking

38. The first Shaw Review identified serious concerns in the treatment of survivors of trafficking, some of the most vulnerable people in detention. The review found that 'Referrals to the NRM (National Referral Mechanism) in respect of victims of trafficking were said to have been made without consent, and could be incomplete... Furthermore, release of victims was not automatic, but was reliant on independent evidence that could be difficult to obtain.'
39. Evidence collected by Detention Action from December 2016 to June 2017 indicates that the cumulative impact of a series of structural factors leads to unfairness in the operation of the NRM for victims of trafficking in detention. Victims of trafficking in detention are reliant on the Home Office to identify and refer them to the NRM, but the Home Office has a conflict of interest in also seeking to remove them as irregular migrants. This is exacerbated by confusion in policy on protecting victims of trafficking from detention. As a result, victims of trafficking are held in a detention environment that can prevent them from disclosing their experiences or accessing specialist advice.
40. Over the six months from December 2016 to June 2017, Detention Action met 16 Vietnamese men detained in Colnbrook, Harmondsworth and The Verne IRCs with clear indicators of trafficking. Seven (44%) had Rule 35(3) reports documenting evidence of trauma experienced at the hands of their traffickers and had been recognised as adults at risk under the policy. In addition to these indicators of trafficking, many of the men were marginalised or vulnerable for other reasons. 15 (94%) spoke little or no English, and 11 (69%) disclosed serious physical and mental health problems, including cancer, seizures, type 1 diabetes, tuberculosis, PTSD, anxiety, depression and suicidal ideation.
41. During this six month period, none were removed to Vietnam, despite seven (44%) being detained for six months or more and two (13%) for more than a year. The majority were released on bail or temporary admission, their protracted detention having served no purpose, despite the risk of harm to them as vulnerable people.
42. Only nine out of 16 (56%) had been referred into the NRM, and only two (12%) had received a positive reasonable grounds decision. By contrast, the great majority of people referred into the NRM overall are given a positive reasonable grounds decision. Many of these men continued to be detained, in one case for 15 months, despite having Rule 35(3) reports providing evidence of trauma experienced at the hands of their traffickers, as well as chronic physical and mental health problems.
43. It is unclear why almost half were not referred into the NRM, despite clear indicators of trafficking. Some told us that they had never heard of 'trafficking' or the NRM before coming into contact with Detention Action. The 2013 HM Inspector of Prisons'

inspection of Yarl's Wood IRC found that 'detainees who had clear trafficking indicators... had not been referred to the national trafficking referral mechanism as required'.¹⁶

44. Of the nine referrals to the NRM, only two were given an initial positive reasonable grounds decision, an acceptance rate of 22%. This figure is well below the 74-90% of all NRM referrals that receive a positive reasonable grounds decision. It is also low compared to the 40% of Vietnamese referrals that have received a positive reasonable grounds decision since 2009,¹⁷ particularly as a significant proportion of Vietnamese referrals to the NRM are from detention. Being detained therefore appears to be associated with a much lower acceptance rate at the reasonable grounds stage.
45. Solicitors and specialist NGOs working with people who have been trafficked describe the reasonable grounds decision as a 'very low threshold'.¹⁸ This description matches the Home Office's own guidance to decision-makers, which sets out the test of whether 'I suspect but cannot prove' that the person has been trafficked.¹⁹ However, it appears that people in detention are being assessed differently, with the result that they do not access the support of the NRM, including the mandated 45 day period of reflection and reflection.
46. There are structural reasons why the system for protecting victims of trafficking fails people in detention. The fact that NRM referrals are either not made, or made badly, is related to a conflict of interest in the Home Office, which is responsible both for identifying and protecting victims of trafficking (since it is difficult to access alternative referring organisations from detention), and for detaining and removing irregular migrants. All of the nine referrals in our sample group were made by the Home Office, rather than a specialist NGO or other first responder. Yet the Home Office is also the body responsible for making the decision to detain, as well as for making the reasonable grounds decision itself. Given the political emphasis on removing irregular migrants from the UK, there is a perverse incentive for the Home Office to overlook indicators of trafficking for migrants in detention who could otherwise be removed.
47. Indeed, it appears that the Home Office case owners treat NRM referrals for migrants in detention as a tick-box exercise rather than a genuine assessment of the history of exploitation. Detention Action has seen evidence of poor quality referrals, including an

¹⁶ Her Majesty's Inspector of Prisons, 'Report on an unannounced inspection of Yarl's Wood IRC' (2013), p.6, <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/immigration-removal-centre-inspections/yarls-wood/Yarls-Wood-2013.pdf>

¹⁷ 632 of 1,599 Vietnamese NRM referrals between 2009 and 2016 received a positive reasonable grounds decision (although some were still pending at the time). Independent Anti-Slavery Commissioner, 'Combating modern slavery experienced by Vietnamese nationals en route to, and within, the UK' (2017), p.15, <http://www.antislaverycommissioner.co.uk/media/1159/iasc-report-combating-modern-slavery-experience-by-vietname-nationals-en-route-to-and-within-the-uk.pdf>

¹⁸ House of Commons Work and Pensions Committee, 'Victims of modern slavery', Twelfth Report of Session 2016-2017, HC 803 (30 April 2017), p8.

¹⁹ Home Office, 'Victims of modern slavery: Competent Authority guidance' (21 March 2016), pp50-51, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/521763/Victims_of_modern_slavery_-_Competent_Authority_guidance_v3_0.pdf

NRM referral made by the Home Office in which none of the indicators had been ticked and the only information included was one sentence explaining that the person had sought asylum and claimed to be a victim of torture.²⁰

48. This conflict of interest is particularly problematic because of the ease with which victims of trafficking can show up as absconders and offenders, when viewed through the lens of immigration control. Many of the factors used by the Home Office to assess risk of absconding and reoffending can also be indicators of trafficking. All of the 16 Vietnamese men were detained on the grounds of risk of absconding or reoffending. They had often entered the UK using false documents arranged for them by their traffickers. The majority had been arrested in a police or immigration raid on a nail bar or cannabis farm, where they had been forced to work in exploitative conditions. Seven had been prosecuted for cannabis cultivation, and in some cases advised to plead guilty by duty solicitors, despite widespread recognition of the link between cannabis farms and trafficking networks. Apparent absconding may in fact have been the result of re-trafficking.
49. These problems with the NRM referral process are exacerbated by flaws in the procedural safeguards in detention policy that should identify vulnerable people, including victims of trafficking. Home Office policies are designed to ensure that people at risk of harm in detention are identified and released. However, the process for identifying someone as being at risk of harm because of a history of trafficking remains uncertain. The adults at risk policy was intended to strengthen the presumption against detention of victims of trafficking. It defines as an 'adult at risk' anyone who has been identified (by themselves or someone else) as having been trafficked. As a result, 'the presumption will be that the individual will not be detained'.²¹ This policy appears to indicate a presumption of release of anyone who self-identifies as a victim of trafficking or consents to being referred into the NRM.
50. However, the policy also directs case-owners to the Home Office guidance to NRM decision-makers, which explains that an individual is 'usually released from immigration detention if they receive a positive reasonable grounds decision... unless, in the particular circumstances, their detention can be justified on grounds of public order'.²² This indicates that it is the positive reasonable grounds decision, rather than self-identification or an NRM referral, that triggers release. In practice, people do indeed tend to be released only after a positive reasonable grounds decision, if at all; in some cases, release only occurs after a subsequent application for bail or judicial review is made. It seems that the apparently stronger protection offered by the new adults at risk policy is not translating into any change in practice.
51. The positive reasonable grounds stage of the NRM therefore acts as the primary safeguard against detention of people who have been trafficked. However, our evidence suggests that trafficking survivors in detention are much less likely to be given a positive

²⁰ Records on file.

²¹ Adults at risk policy, 8.

²² Home Office, 'Victims of modern slavery', pp57-58.

reasonable grounds decision. They may also have to wait for weeks for a reasonable grounds decision to be made or a negative decision to be reconsidered. Even where someone is given a positive reasonable grounds decision or a Rule 35(3) report documenting experiences of trauma at the hands of their traffickers, this evidence of vulnerability may be outweighed by their perceived risk of absconding or reoffending under the adults at risk policy.

52. Furthermore, indefinite detention prevents effective access to the NRM, by denying victims of trafficking a safe space where they can disclose their experiences and access independent advice. It is widely recognised that detention can retraumatise people who have experienced trafficking, since the detention environment can resemble experiences of trafficking.²³ The detention environment is simply not conducive to building up a relationship of trust and understanding that would facilitate cooperation with the authorities and the disclosure of experiences of trafficking.
 53. Detention is also problematic in that it limits the access of victims of trafficking to specialist trafficking advice, support and representation. They are only entitled to immigration representation from one of the firms contracted by the Legal Aid Agency to work in each centre, and some of these advisors have limited experience in working with victims of trafficking. There is also little opportunity for people in detention to seek support prior to a positive reasonable grounds decision from organisations with trafficking expertise like the Refugee Council, Children’s Society or Helen Bamber Foundation, all of which primarily work with people outside detention. Referrals to the NRM may be made by the Home Office before the person has been able to seek any specialist advice, which also makes it difficult for the person to give their meaningful consent.
 54. Taken together, these factors lead to unfairness in the operation of the NRM for people in detention. The Home Office’s conflict of interest leads to poor-quality NRM referrals and decision-making, and there are few effective safeguards against this for victims of trafficking who cannot access adequate advice or space to disclose their experiences.
- More effective screening prior to detention should ensure that potential victims of trafficking are provided with support and advice rather than detention. The Group of Experts on Action against Trafficking in Human Beings provides examples of best practice, including taking individuals encountered during police raids on cannabis farms to a safe place rather than police custody, for assessment of whether they are victims of trafficking.²⁴
 - Specialised and independent case management should support support people to engage with the NRM and immigration processes and manage any risks of absconding or re-trafficking.

²³ Poppy Project, in Shaw, 4.48.

²⁴ Group of Experts on Action against Trafficking in Human Beings (GRETA), Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom (2012), .228, <https://rm.coe.int/168067a080>

- A referral to the NRM should trigger release from detention, since it is only made when there are indicators of trafficking. Potential victims of trafficking should not wait in detention for a positive reasonable grounds decision, which evidence suggests is difficult to obtain in detention.
- NRM referrals of migrants in detention should be made by an independent first responder, since the Home Office is responsible for decisions to detain. Likewise, reasonable grounds decisions should be made by an independent, multi-disciplinary panel.
- Specialist, independent, face-to-face advice and support should be available to potential victims of trafficking in detention.
- Training should be provided to IRC and healthcare staff to identify and support potential victims of trafficking.

Alternatives to detention

55. The Home Office has made little structured use of alternatives to detention to address the specific problems of detention described above. While there is a requirement to use less coercive measures than detention wherever possible, there has been little investment in developing alternatives to detention that are effective in addressing the needs and risks driving the overuse of detention. There is scope to develop a much wider range of alternatives to detention, with direct or indirect involvement of civil society, to enable case resolution without the use of detention.
56. The UK's use of alternatives to detention is limited to consideration of temporary admission and bail, usually with a requirement to live at a designated address and report regularly to the authorities. Tagging and curfews have been used for ex-offenders, but the curfew element has been subject to successful legal challenge.²⁵ Temporary admission or bail with reporting restrictions can be considered a successful alternative to detention in the sense that the vast majority of irregular migrants facing return are subject to it instead of detention, and absconding rates appear not to be high.
57. However, there is little evidence that they are effective in addressing the objectives of detention, compliance and return. Reporting and designated residence enable the Home Office to maintain contact with and locate irregular migrants while return is pursued, but they do little or nothing to encourage migrants to cooperate with the process. It is likely that migrants who comply with conditions would do so whether or not they had reporting requirements: no systematic effort is made to talk to migrants regularly about their cases at their reporting appointments. No research has demonstrated that reporting increases compliance rates. Home Office research in 2004-05 found an absconding rate of only 8% of migrants considered to be at high risk of absconding and given electronic monitoring restrictions; a statistically similar rate of

²⁵ *R (on the application of Abdiweli Gedi) vs Secretary of State for the Home Department*, [2016] EWCA Civ 409 (Admin), 17 May 2016.

around 10% of 'low risk' migrants without monitoring restrictions absconded.²⁶ Indeed, overly onerous conditions such as tagging or daily reporting may make compliance unpleasant and stressful, incentivising absconding by making migrants feel that they have little to lose.

58. As a result, when there is a risk of absconding or non-compliance, decision-makers are disposed to use detention by the lack of alternative tools to manage risk. Too often, decisions on managing risk come down to detention or nothing, leading risk-averse decision-makers to opt for detention. The results can be disastrous, since risks of absconding are often linked to individual circumstances of vulnerability (e.g. mental health issues, histories of trafficking) that can make detention seriously harmful. If the Home Office continues to detain highly vulnerable people, despite repeated findings of Article 3 breaches, it is partly because it lacks community-based options that can meet their needs.
59. Where the UK has explored more ambitious alternatives to detention, they have remained within this framework of reduced coercion. The Millbank and Glasgow pilots involved moving families facing return into different accommodation and putting pressure on them to agree to return. Both saw high absconding and low return rates.²⁷
60. By contrast, the Family Returns Process indicates the potential for increasing cooperation through engagement with migrants. It is not normally considered an alternative to detention, yet effectively replaced detention following the 2010 Coalition Government commitment to end child detention. It does not follow international best practice, in that families are only engaged at the end of the process, there is an exclusive focus on return, and currently no structured involvement of civil society. Yet the shift towards engagement with migrants is nevertheless bearing fruit: between April 2014 and March 2016, 97% of 1,470 families who left the UK did so without enforcement or detention.²⁸
61. Despite its success, the learning of the Family Returns Process has not been extended to vulnerable adults, and remains an isolated pocket of relatively good practice. The Home Office has not built on it to explore alternatives to detention based on high quality, individualised case management, despite the strong international evidence base of effectiveness in supporting migrants to comply with conditions of release.
62. The International Detention Coalition (IDC) has documented a range of alternatives to detention that prevent unnecessary detention by keeping individuals engaged in immigration and asylum procedures while living in the community. The IDC found that migrants were more likely to accept and comply with negative immigration decisions if the decision-making process was seen as fair, they were informed and supported

²⁶ Home Office, cited in Bail for Immigration Detainees, *The Liberty Deficit: long-term detention and bail decision-making*, November 2012, p38.

²⁷ Detention Action, *Without Detention*, September 2016, pp22-23, <http://detentionaction.org.uk/wordpress/wp-content/uploads/2016/09/Without-Detention.pdf>

²⁸ Independent Family Returns Panel, *Independent Family Returns Panel report 2014-16*, January 2017, p7.

throughout the process, and they were given the option to explore all options to remain in the country legally.²⁹

63. For example, Australia introduced case management-based alternatives to detention in 2006, enabling it to move away from the mandatory indefinite detention of in-country asylum-seekers and irregular migrants not arriving by boat. These programmes provide early intervention and support to migrants, seeking to understand their circumstances and work with them to resolve their immigration cases. Case managers ensure that migrants have suitable access to welfare assistance, legal advice and advice on voluntary return. Community-based alternatives to detention have become established as a routine part of Australian immigration control. The majority of irregular migrants in Australia have been released on short-term Bridging Visas, which allow them to live in the community pending the resolution of their cases. Some Bridging Visa holders with more complex needs receive intensive case management. For example, the Community Assistance Support Programme provides transitional support to vulnerable people who would otherwise be unable to engage with the resolution of their immigration cases, due to mental or physical health problems, age or other vulnerability. The programmes had a compliance rate of 93%, with 60% of those not granted a visa returning voluntarily, despite often long periods in Australia and significant barriers to return. The programme cost around \$AU38 per day, compared to around \$AU125 per day for detention.³⁰
64. IDC has identified that the key characteristics of successful alternatives to detention include:
- Using screening and assessment to tailor management and placement decisions;
 - Providing holistic case management focused on case resolution;
 - Focussing on early engagement;
 - Ensuring individuals are well-informed and trust they have been through a fair and timely process;
 - Ensuring fundamental rights are respected and basic needs are met;
 - Exploring all options to remain in the country legally and all avenues for voluntary or independent departure;
 - Ensuring any conditions imposed are not overly onerous.³¹
65. Case management is a social work approach which is ‘designed to ensure support for, and a coordinated response to, the health and wellbeing of people with complex needs.’ Many countries use this approach in their alternatives to detention programmes, including Sweden and Australia. Case management models involve a case manager, who is not a decision-maker, working with the migrant to provide a link between the individual, the authorities and the community. The case manager ensures that the individual has access to information about the immigration process and can engage fully, and that the government has up-to-date and relevant information about the person.

²⁹ IDC, *There are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition)*, 2015.

³⁰ IDC, p52.

³¹ IDC, pIV.

66. The case manager also facilitates access to support and services in the community, enabling the migrant to meet their basic needs and addressing any particular vulnerabilities. Migrants are screened and assessed as early as possible in the process, and the level of case management support is adjusted according to the level of vulnerability through regular assessment.
67. Case management can enable migrants to work towards the resolution of their cases in the community, either through grant of status or voluntary return. The case manager uses information gathered in the assessment process to work with the migrant on case planning, setting goals and developing agreed action plans. The case manager supports the migrant to explore all immigration outcomes, including the possibility of return. As a result, migrants are in a better position to integrate into the community if they are granted status, or to return to their country of origin if refused.
68. Alternatives to detention based on case management can fill the gap in terms of options for migrants with vulnerabilities or risks. Specialist case managers can work with mentally ill people and victims of trafficking whose vulnerabilities may increase their risks of absconding, or with ex-offenders with barriers to return to manage risk of reoffending and absconding.
69. Providing case management to irregular migrants would bring costs. However, case management-based alternatives are far cheaper than detention, and would bring substantial savings if they were introduced as part of a reduction in the use of detention.
70. Civil society has a key role to play. NGOs have the specialist expertise to provide case management to vulnerable individuals, since mental health, homelessness and probation organisations, for example, routinely undertake case management with client groups including migrants, albeit without a focus on their immigration situation.

Detention Action's alternative to detention pilot

71. Detention Action is already working closely with the Home Office on an alternative to detention pilot for young male ex-offenders who have been released due to intractable barriers to removal. The project is demonstrating that even migrants with the most complex issues can be supported to comply with the conditions of their release in the community, through the provision of specialist one-to-one case management. The project has achieved a compliance rate of 80% of participants maintaining contact with the project and the Home Office throughout the year of support, and a reoffending rate of only 8%. The high compliance rate has enabled the project to develop a close working relationship with the Home Office Criminal Casework, involving officials identifying migrants in detention for whom referral to the project can enable their release.
72. The Community Support Project has been working since April 2014 with male ex-offender migrants aged 18 to 30, who have barriers to removal and have experienced or are at risk of long-term detention. Participants have a range of issues, including severe mental health problems, complex family situations, substantial offending histories, lack of confidence, precarious accommodation and subsistence situation and low self-esteem.

Participants have been detained for periods ranging from three months to four years, following completion of prison sentences that ranged from four months to eight years.

73. Most participants have lived for long periods in the UK, and many have children, partners and close family members in the country, many of whom are British citizens. In many cases, barriers to return relate to the difficulty of establishing their identity, after so many years out of their countries of origin. Most are from countries which are in any case routinely reluctant to issue emergency travel documents to their nationals, including Liberia, Sierra Leone, Côte d'Ivoire, Ethiopia, Algeria and Sudan.
74. The project coordinator conducts a risk assessment in order to establish suitability for the project, based on a set of criteria designed to establish levels of risk of reoffending and absconding and willingness to engage actively. Risk is assessed over the course of several meetings or telephone conversations, and is constantly monitored and formally reviewed at key points.
75. After migrants in detention are accepted onto the project, the project coordinator works with them to support their release. This can include providing a written report for use in bail hearings before the First Tier Tribunal, with a structured post-release case management plan to manage any risks of absconding and reoffending.
76. Since 2016, the project has been working closely with Criminal Casework to support the release of ex-offenders with barriers to removal, where public protection concerns could otherwise lead to protracted detention. Potential participants are generally identified in detention by Criminal Casework, based on agreed criteria of suitability for release and for the project, although the project has also successfully referred Detention Action clients for release. The project coordinator visits potential participants one or more times to assess suitability for the project, focusing on their willingness to engage with the project to address their past offending behaviour.
77. After the person has been admitted to the project, the project coordinator and the participant draw up a transition plan which sets out goals, actions and steps that participants can take. In most cases, options are severely limited, given that participants have no legal status in the UK, no right to work and no resources apart from accommodation and (in some cases) a supermarket card from the Home Office that allows them to buy permitted items, from specified shops. Some participants identify goals, such as study, that are not currently achievable due to lack of funds. However, the project coordinator works with them to identify small steps that can be achieved. The loss of self-esteem associated with prison and detention, combined with the shock of release and the poverty of their life prospects, make challenging even basic planning. Working collaboratively with the project coordinator to draw up a transition plan is an important assertion of agency which in itself contributes to developing the self-confidence necessary to coping in the community.
78. The quality of the trust relationships developed is absolutely critical to the success of the project. The project uses a person-centred model, tailoring the approach to the needs and issues of the individual. The project has learnt from the most successful international alternatives to detention projects studied by IDC, which prioritise one-to-

one case management with a single trusted independent case worker. Participants invariably felt that they had been badly treated by the system, and had responded accordingly. Their perception that the project treated them with respect and took their issues seriously had a significant impact in terms of their positive response to it.

79. The project coordinator contacts the participant at least once a week, but the intensity and frequency of engagement varies depending on circumstances and needs. One-to-one support focuses on the immediate challenges facing participants, based on consequential thinking techniques. For example, if the participant is particularly frustrated or angry, the project coordinator might support them to think through the consequences of acting out such frustrations, and what steps could be taken to reduce the causes of their anger. These discussions enable participants to develop strategies for managing these stressful situations.
80. The project coordinator also seeks to address the issues raised by participants by advocating on their behalf to a range of statutory and non-statutory bodies. This has included extensive liaison with the Home Office to discuss issues with accommodation, and regular dialogue with Home Office case owners. For example, the project coordinator successfully negotiated for two participants to be offered re-housing in regions closer to their family members. This evidence that their views were being taken seriously had a dramatic impact on both participants' attitudes.
81. The project coordinator facilitates communication and exchange of information between participants and their case owners, in order to defuse potential flashpoints. For example, on several occasions participants were thrown into panic by being summoned unexpectedly to interview or following incidents at reporting, leading them to contemplate absconding. The project coordinator was able to clarify the situation with case owners and provide reassurance, leading participants to continue reporting.
82. The project assists participants to establish support networks in the areas where they are living, to reduce dependency on the project. During the one-year period of support from the project, the intensity of support is gradually decreased so that participants are ultimately able to rely on local networks and support.
83. The project has to date worked post-release with 25 participants. There has been a rate of compliance with conditions of at least 80%. Two participants have been reconvicted of offences, both receiving non-custodial sentences for offences far less serious than those of their previous convictions. One participant returned voluntarily to his country of origin, despite barriers to return. The project is estimated to save between 83% and 95% of the costs of detention, depending on whether participants need housing from the government. Independent evaluation has found that the model used in the project is in line with the latest models of best practice developed in the context of criminal justice rehabilitation.
84. The project demonstrates the scope for civil society alternatives to harness existing expertise to address specific needs and issues of migrants at risk of detention. The key driver of detention of this group is the risk of reoffending and absconding. The project coordinator has extensive experience of working with ex offenders with a range of

criminogenic needs whilst working for the National Probation Service and Department of Corrections in Western Australia, as well as of working for civil society drugs projects, so has professional expertise not otherwise available to the Home Office, particularly where migrants are released after their licence has expired, so missing out on probation supervision.

85. This professional expertise has contributed to the project building strong working relationships with Criminal Casework, based on shared interests on all sides for participants to avoid reoffending and absconding. In a migration field characterised by adversarial relationships between government and civil society, the project has demonstrated the scope for constructive collaboration in areas of shared interest.
86. Alternatives to detention for unreturnable migrants would be more effective if participants were granted a temporary 'tolerated' status with the right to work, along the lines of the 'Duldung' status used in Germany.³² If it is recognised that return will be impossible for a given period, it would make sense to enable migrants to support themselves during this period, rather than rely on Section 4 support. The status could be made conditional on cooperation with the returns process, so would provide a strong incentive to compliance, as well as reducing reoffending. The lack of options for constructive activity has been the greatest challenge in supporting participants to comply and avoid reoffending.
87. The project does not focus on case resolution, since participants are generally unreturnable and the project's specialist expertise lies elsewhere. However, Detention Action has shared the project model to support European partner organisations to develop alternatives projects addressing a range of different needs and issues around Europe.
88. With partners IDC and PICUM, and funding from the European Platform on Integration and Migration, we launched in spring 2017 the European Alternatives to Detention Network. The Network involves NGO pilots in Bulgaria, Cyprus and Poland, working with asylum-seekers and migrants in the returns process to comply with conditions and resolve their cases. The Network meets four times a year to share models, learning and strategies for influencing national and regional detention policy.
89. The Network has successfully lobbied the European Commission to prioritise civil society alternatives pilots for a forthcoming funding stream under the new European Returns and Reintegration Network (ERRIN). This is likely to create a significant funding stream to allow Member States and NGOs to pilot alternatives to detention in different national contexts. We understand that ERRIN will be announced in October or November 2017.
90. The Network could serve as model for the development of a range of civil society alternatives pilots in the UK. There may be scope at least in the short-term for funding from ERRIN, while the UK remains in the EU or under transitional arrangements. A part of the savings from the closure of The Verne and any other IRCs could also be used to

³² See Flemish Refugee Council, Detention Action et al, *Point of No Return*, 2014, p80 http://pointofnoreturn.eu/wp-content/uploads/2014/01/PONR_report.pdf

fund civil society to pilot a range of alternatives with migrants in the return process. These could prioritise migrants who are unsuitable for detention, including vulnerable adults, victims of trafficking and unreturnable ex-offenders at risk of long-term detention. Specialist case management could assist migrants to meet the conditions of their release, where their mental health, trauma or trafficking experiences make them more likely to abscond or offend.

91. Such a strategy could bring together the Home Office and civil society to work together towards reducing reliance on an increasingly discredited detention estate, enabling migrants to live with dignity and resolve their cases in the community.

- Alternatives to detention should be developed with the capacity and range to meet the needs of all migrants for whom less coercive measures than detention are appropriate;
- The Home Office should reinvest savings from the closure of the Verne IRC to develop alternatives based on specialist case management that can support migrants with vulnerabilities or complex situations to resolve their cases in the community, in particular adults at risk and victims of trafficking;
- Alternatives to detention should be based on evaluation and learning from existing national and international models, and should themselves involve thorough evaluation so that learning can be built on;
- Civil society should be involved in designing and delivering alternatives to detention, based on their experience and expertise in supportive migrants and vulnerable people.
- Migrants with experience of detention should be involved in the design and development of alternatives to detention.

Appendix: Statistical data from Detention Action’s monitoring of adults at risk, May-August 2017

Outcome after being found to be an adult at risk	Number of individuals	Percentage
Released on temporary admission	7	15%
Detention maintained	41	85%
Total	48	100%

Outcome where detention was maintained after being found to be adult at risk	Number of individuals	Percentage (of total 48 individuals)	Percentage (of 41 individuals where detention was maintained)
Removed	7	15%	17%
Released at a later date	20	42%	49%
On temporary admission	6	13%	15%
On bail	12	23%	29%
By the High Court	2	4%	5%
With leave to remain	1	2%	2%
Still in detention	9	19%	22%
Not known / transferred	5	10%	12%
Total	41	86%	100%

Outcome after being found to be adult at risk	Period of detention after being found to be an adult at risk³³
Released on temporary admission	1 week (following a delay of over three months for a response to the Rule 35 report) 15 weeks 18 weeks
Detention maintained, and released on temporary admission at a later date	7 weeks 7 weeks 9 weeks 12 weeks 34 weeks
Detention maintained, and released on bail at a later date	3 weeks 9 weeks 10 weeks 11 weeks 13 weeks 16 weeks 17 weeks 20 weeks 21 weeks
Detention maintained, and released by the High Court at a later date	6 weeks

³³ A full set of relevant data was only available for 18 individuals