

NATIONAL ACTION PLAN

United Kingdom of Great Britain and Northern Ireland

What is the UNHCR Global Strategy - Beyond Detention?

In June 2014, UNHCR launched its Global Strategy - Beyond Detention 2014-2019, which aims to support governments to end the detention of asylum-seekers and refugees. The Strategy lays out three main goals: (1) to end the detention of children; (2) to ensure that alternatives to detention (ATDs) are available in law and implemented in practice; and (3) to improve conditions of detention, where detention is necessary and unavoidable, to meet international standards. To support the implementation of the Global Strategy, focus countries have developed National Action Plans ('NAP'). This document is a summary and public version of the NAP.

All documents relating to the Global Strategy - Beyond Detention 2014-2019 are available at: <http://www.unhcr.org/detention>

The process of developing the National Action Plan

Preparations for the National Action Plan ('NAP') for the United Kingdom of Great Britain and Northern Ireland started with internal discussions within UNHCR United Kingdom (UK) Office across all teams, including the Office of the Representative, the Protection Unit and External Relations. Consultations were also carried out with external counterparts involved in detention work in the UK. Meetings were held with the UK Home Office, Her Majesty's Inspector of Prisons (HMIP) and the Detention Forum (a collective of NGOs campaigning to end the use of detention). Additionally a consultative meeting was held with NGOs working in the fields of immigration, asylum, detention and medical care in detention in the UK, who gave their valuable feedback on what goals and sub-goals they considered UNHCR should focus on. Further consideration was given to key challenges pertaining to immigration detention in the UK, the role partners are currently playing addressing detention-related issues in the UK, the political environment and UNHCR's mandate and resources. The NAP was also developed in consultation with UNHCR's Regional Representation for Western Europe, the Regional Bureau for Europe and the Division of International Protection.

The actions foreseen

Goal 1. End the detention of children

Given the progress already made in the UK towards ending the detention of children, UNHCR intends to gain a deeper understanding of the application of relevant UK policies affecting children as measured against international standards. Particular focus will be on border practices and procedures insofar as they utilise detention and affect children, including consideration of how the best interests principle is being applied at UK borders. Currently there are no specific rules in place governing the operation of Short-term Holding Facilities, where children can be detained, pending their handover to a local authority or collection by parents or relatives or by other appropriate adult carers or friends, or to escort children when removing them from the UK. UNHCR will support the Government in any efforts made to address this gap. More broadly, UNHCR will support the Government in further operationalizing the best interests principle. UNHCR and UNICEF presented their joint publication, *Safe and Sound, What States can do to ensure respect for the Best Interests of Unaccompanied and Separated Children in Europe* (2014) to the National Asylum Stakeholder Forum Children's Sub-Group 'Best Interests Workshop' in January 2015. Further joint and/or coordinated advocacy interventions will be pursued in 2015 and 2016 and together work with key stakeholders, including Government officials, Members of Parliament and NGOs, steps will be taken to raise awareness of the guidance to support the implementation of relevant standards.

Goal 2. Ensure that alternatives to detention are available in law and implemented in practice

UNHCR welcomed the increased Parliamentary scrutiny into the use of detention in the UK through the 2014 Parliamentary Inquiry into the Use of Immigration Detention. This Inquiry provided an opportunity for UNHCR to advocate for the introduction of community-based alternatives to detention (ATD) in the UK as well as a maximum time limit on immigration detention (see below under Goal 3). UNHCR will look for opportunities to support the Government in strengthening the asylum screening procedure to ensure that vulnerable individuals are not detained and to reduce the use of Detained Fast Track (DFT) or similar procedures, under which cases are decided in detention under very short timeframes. UNHCR welcomed Government's participation in the Second Global Roundtable on Alternatives to Detention held in Toronto, Canada, in 2015. The Office will work with the Government and with other partners to explore the possibility of developing a

UNHCR Global Strategy

Beyond Detention 2014-2019

A global strategy to support Governments to end the detention of asylum-seekers and refugees



policy on ATDs and introducing ATDs for asylum detainees on a pilot basis in the UK in 2016. In 2015 and 2016, UNHCR will also continue to advocate with Parliamentarians and through All-Party Groups for the expansion of the range of ATDs available to asylum-seekers and refugees, which are embedded in legal and policy framework. UNHCR closely followed judicial action challenging the legality of the Detained Fast Track which led to its suspension and will support any efforts made by the Government to reduce its use, including where appropriate, through greater reliance on ATDs.

Goal 3. Ensure that conditions of detention, where detention is necessary and unavoidable, meet international standards

UNHCR's focus under Goal 3 will be on supporting the introduction of a maximum time limit on immigration detention in the UK. UNHCR submitted written and oral evidence on State practice and standards pertaining to time limits on detention before the Parliamentary Inquiry into the Use of Immigration Detention. The Office liaised closely with partners to support advocacy for the introduction of an immigration detention maximum time limit in the lead-up to the 2015 General Election and this will continue to be a priority in working with the new Government in 2015 and 2016. To this end, the Office will seek to provide further evidence relating to State practice on maximum time limits for consideration by Parliamentarians and the Government in 2015 and 2016. In May 2015, UNHCR submitted comments to the Review into the Welfare in Detention of Vulnerable Persons led by Stephen Shaw CBE, outlining UNHCR's position on the detention of asylum-seekers and offered guidance relating to the detention of vulnerable persons. UNHCR will work with the Home Office, Her Majesty's Inspector of Prisons, Independent Monitoring Boards and Detainee Visitors Groups to gain a stronger understanding of the framework for the inspection and monitoring of immigration detention. UNHCR will increase visits to detention facilities and strengthen its coordination with other actors involved in monitoring detention.

Detention overview: concerns

The UK relies on and utilises detention in asylum procedures more frequently than in other countries in the EU. In 2014, over 30,000 individuals entered immigration detention, almost 14,000 of whom were asylum-seekers. The UK is also one of a handful of countries without a maximum time limit on immigration detention. UNHCR had observed an increased reliance on the DFT for asylum processing with approximately 15% (4,000) of the UK asylum caseload going through the procedure in 2014. UNHCR and stakeholders raised serious concerns with the criteria for entering DFT, the quality of asylum decision-making in the DFT and the lack of identification procedures for vulnerable asylum-seekers for the purpose of screening them out of the process. The procedure has recently been subject to judicial review decisions ruling aspects of its operation unfair and *ultra vires* and was temporarily suspended by the Government in July 2015. UNHCR's own commissioned research supports the views held by other stakeholders that the alternatives currently offered in the UK - temporary admission, release on restrictions and bail - have not always been effective or sufficiently accessible to asylum-seekers. While significant progress has been made in ending child detention, a relatively small number continue to be detained for immigration purposes in a range of facilities, including Tinsley House (Family Unit) Immigration Removal Centre (IRC), Cedars Pre-Departure Accommodation, other IRCs and Short-term Holding Facilities (see below).

Good practices and alternatives to detention

Good practice and policy pertaining to detention includes: well-established independent monitoring mechanisms and bodies for monitoring of immigration detention facilities, including in line with the UK's international obligations as a party to the United Nations' Optional Protocol to the Convention against Torture; access for monitoring bodies and visitors groups; relative access to legal advice in Immigration Removal Centres (IRCs), as well as a published framework on detention estate management, the Detention Centre Rules and the Detention Service Orders. Despite concerns relating to their operation (see above under Detention overview: concerns), there are currently two types of ATDs in national legislation, namely temporary admission and release on restrictions and bail. Each ATD is subject to a combination of conditions, which vary depending on an individual's circumstances. The UK's *Enforcement Instructions and Guidance* start with a presumption in favour of temporary admission or release and, wherever possible, to apply alternatives to detention rather than detention. The Guidance directs officials to consider all reasonable alternatives to detention before detention can be authorised. Mandatory administrative reviews are available to all persons subject to immigration detention, starting within the first 24 hours, then at 7 days, 14 days, 28 days and then every month. The reviews are to be undertaken by increasingly senior members of the administration, recognising the seriousness of prolonged detention. Applications for bail to the judicial authorities as well as judicial review of administrative decisions remain available throughout the procedure, although they are not automatic and are subject to some restrictions. Since 2010, significant progress has been made in ending the detention of children. In 2014, 99 children were detained, which constitutes the lowest number on record since 2009, when 1,119 children were detained. This progress is welcomed although the continued detention of children remains an issue of concern for the UK Government to address (see Goal 1).

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UNHCR London, October 2015