

AVID

Association of Visitors to Immigration Detainees

Patrons: Colin Firth, Lord David Ramsbotham, GCB, CBE and John Scampton, CBE
Registered Charity No. 1063784

In Touch

93 (June 2011)

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News from AVID

AGM and launch of the 2011 Visitors Handbook:

28th June, Doughty Street Chambers
54 Doughty Street, London, WC1N 2LS

As well as launching the new handbook, the AGM will provide a chance to meet some potential new trustees and other members. As always, members are encouraged to attend as this is a good opportunity to hear more about AVID and to input into our work as a membership network. All Welcome! Please RSVP to Ali if you have not already done so.

New AVID Handbook is now available! Please contact the office if you want information on how to access a copy.

AVID is now on twitter! You can keep up to date with us by following @AVIDdetention

Update on the Detention Estate

'Self contained' facility for women at Colnbrook IRC

We have learned that a new facility is to open as part of Colnbrook IRC to hold 8 single women. We had previously thought this facility was a short term holding centre, following the end of detention of single women at Tinsley House. However it seems this is part of the main IRC, so 8 women and 300 men. We are yet to view the facility and will feed back on this as soon as we can.

Detention Forum/Parliamentary Meeting

This month has been very busy for the Detention Forum, with the quarterly meeting attracting many new organisations, and a parliamentary meeting on the 15th June. The meeting was hosted by Julian Huppert MP and was a chance for MPs and peers interested in detention issues to discuss the key issues. Six MPs and three peers attended the meeting along with some NGOs, including AVID, to kick start discussion on key themes.

AVID worked with Freedom from Torture (formerly the Medical Foundation for the Care of Victims of Torture) on a short presentation on the detention of vulnerable adults. Presented by Sonya Sceats of FFT, we highlighted the 'erosion of safeguards' that we have seen in UKBA policy recently, resulting in higher numbers of people with mental health issues or survivors of torture being detained. Jerome Phelps of Detention Action talked about indefinite detention and the limbo faced by those who leave detention, along with Vebi Kosumi of Dover Detainee Visitors Group. Nic Eadie of Gatwick Detainee Welfare introduced the NGOs and spoke of concerns around access to legal advice and issues with bail, along with Bill McKeith of Bail Observation Project (Campaign to Close Campsfield).

Briefing papers have been circulated but if you would like to access them please contact the office.

News, statistics and reports

IMBs report: Harmondsworth IRC

The Independent Monitoring Board for Harmondsworth IRC has published its annual report for 2010. Harmondsworth is Europe's largest IRC, with 623 spaces (near Heathrow). It holds male detainees under the standard procedures and the detained fast track. 30-40% of detainees will be on the fast track. The new wings have resulted in a mix of accommodation- 'hostel style' in the original centre and four prison style wings.

The report highlights that:

- Shortcomings in healthcare including 'uncaring attitude' from some staff
- Six children were held here during the year, subsequently found by Social Services to be under 18
- Long detention of a mentally ill man who was in isolation under Rule 40 for most of the time (March 10 to Jan 11)
- Induction and departure unit 'overstretched' and with limited access to outside space (standing room only)
- Routine welfare needs unmet: custody officers are deemed by management to also be 'welfare officers'
- Length of detention: 17 held for more than a year and the longest was 3.5 years

These concerns echo those raised by AVID members across the UK, particularly as regards length of detention, mental health, and welfare needs. You can access the full report [here](#).

IMBs report: Yarl's Wood IRC

The report from the IMB at Yarl's Wood has also been published. Yarl's Wood is in Bedfordshire and holds women and families. The family unit no longer holds children under 18, but there are spaces for families to be kept together if the children are 18 or over.

- There is 'not enough purposeful activity' for many detainees who are long stayers.
- Lapses in procedure around treatment of mental health concerns and wider concerns regarding 'the plight of detainees who are not diagnosed as mentally ill but who clearly have serious problems and in the Board's view may not be fit to be detained'
- Recorded instances of use of force have doubled in the last year
- Length of detention: 18 women held for more than one year, and 4 for more than 2 years
- Concern about short notice and early morning movement of detainees
- Severe curtailment in access to legal aid following RMJ collapse, causing 'distress and potential injustice'
- Increased levels of anxiety of detained women separated from their children, who are being cared for elsewhere.

You can access the full report [here](#).

Home Affairs Committee report on UKBA

The second report by HAC into UKBA's work has been published and is available [here](#). The report contains very little on detention (other than child detention) but is critical of the progress made by UKBA in 'controlling migration'. The finding that only 9% of concluded legacy cases were rejected led to discussion on whether this amounts to an 'amnesty' on legacy cases.

New ILPA information sheets: Immigration Detention

The Immigration Law Practitioners Association has published two new information sheets which may be of use to visitors. One focuses on 'age disputes and detention'. The second provides information on recent Supreme Court judgements on the legality of detention. You can access them at www.ilpa.org.uk

Freedom from Torture report: 'Body of Evidence'

FfT (formerly the Medical Foundation) has published a report highlighting that medical evidence documenting torture is frequently dismissed or given little credence when torture survivors have their asylum applications considered.

The report is based on 37 asylum appeal determinations where a medico-legal report was submitted. It found that:

- In nearly half the sample (49%) the appeal was allowed by the Immigration Judge, significantly higher than the overall allowed appeal rate in asylum cases (around 27%) - highlighting serious deficiencies in UK Border Agency (UKBA) decision-making in claims which involve torture.
- The overturn rate at appeal increased to more than two thirds (69%) in those cases where the expert report was submitted to the UKBA for an initial decision - highlighting a significant discrepancy in the way expert medical evidence is treated by UKBA case owners compared with Immigration Judges in the Asylum Tribunal.

You can read the full report [here](#).

UKBA Asylum Improvement Project: Progress Report

UKBA has published a progress report on the **Asylum Improvement Project** which it launched in July 2010. The AIP aims to review the effectiveness of the asylum system and improve efficiency. You can read the progress made [here](#). The AIP does not look at detention, a real missed opportunity, which we have been trying to address with others as part of the Detention Forum.

Parliamentary Questions

Operating Standards for pre-departure accommodation

(Hansard: HL, 13 June 2011, cWA278)

Lord Avebury asked what progress had the government made on consultation on the operating standards for pre-departure accommodation at IRCs. The response, from **Baroness Browning** was:

"The operating standards for the pre-departure accommodation are currently being developed in order to be in place when the facility opens later in the summer. Although the operating standards will be circulated to interested parties, there are no plans to consult on them prior to publication, given the need to have them in place for the opening of the pre-departure accommodation. However, as my noble friend Baroness Neville-Jones indicated in her earlier answer, the UK Border Agency proposes to consult a range of interested parties on the operating standards as part of a broader consultation exercise following the review of existing immigration removal centre and escorting operating standards."

Law and Policy

Guest Article:

The true cost of cuts to legal aid in immigration: Caroline Wilson and Camilla Graham Wood (Young Legal Aid Lawyers:YLAL)

It sometimes seems difficult to describe how difficult the government's proposed cuts to legal aid will be, especially now many valuable public services are under threat. When it comes to immigration, an issue often unpopular with the public and the tabloid press, it becomes more difficult still.

The government has now released a draft bill which seems driven by a need to strip back legal aid as far as possible. Legal aid will be kept for asylum and bail but in essence will go for all other immigration work. One of the essential problems

is that those who wish to challenge their detention may be unable to access legal aid to help them tackle the difficulties which made them eligible for detention as a foreigner in the first place.

BID has reported on research into access to lawyers for the detained stating:

“51% of detainees interviewed had a legal representative at the time of the survey. Of these, 32% of detainees with a representative were using a private (fee-paying) solicitor, and 68% were using a legal aid solicitor.

49% of detainees interviewed had no legal representative at the time of the survey, though they may have had a representative at a previous point in their detention.”¹

These statistics are of concern, and the fact 68% of the represented used a legal aid lawyer indicates how hard the proposals will hit if they come in as planned.

The government’s proposals would remove legal aid for cases like those cited in a recent report on the findings of an independent inquiry into legal aid organised by the Haldane Society of Socialist Lawyers and Young Legal Aid Lawyers.² Former immigration solicitor Vicky Guedalla told the inquiry how children with immigration issues who are applying to remain in the United Kingdom would be left without legal aid under the reforms. Like the testimonies given by clients, her account makes for troubling reading.

Under the draft bill, vulnerable groups like victims of domestic violence and trafficking with no underlying asylum claim would be left without legal aid. Neither would people without leave to remain and family members in the UK. The government says such matters are simple so people don’t need a lawyer. We believe these cases are some of the most difficult we have dealt with and this complexity, plus the

importance of the issues at stake, should justify help.

The government wants reforms to save money. But one clear argument the government fails to seriously consider or doesn’t want to address, despite the exhortations of practitioners, judges and government officials, is that huge costs in immigration cases result from poor decision making by the Home Office. The government are responsible for many unnecessary appeals, through poor initial decision-making, poor communications, excessive delay or overly complex and incomprehensible laws.

A case dealt with by one of the authors involved a victim of domestic violence who overstayed her visa because her husband didn’t help make an application to extend in time. This meant she couldn’t use the normal rule allowing victims of violence to settle so she was helped under legal aid to apply to stay because of her family life with her British children. UKBA refused the application despite caselaw in the client’s favour. Her advisers had to resort to using expensive Judicial Review to challenge this, which would have been unnecessary if the Home Office made the correct decision in the first place! Eventually the client was granted leave to remain.

If the Government really wants to save money it should look at administrative efficiency and finding ways to incentivise improvement in the quality of initial decision-making. Alternative sources could be found to fund immigration legal aid like a 2% levy on fees for immigration applications which would generate the £18 million it is proposed will be saved by withdrawing immigration from scope. Solicitors have proposed the setting up of a working group to explore options for raising funds other than the taxpayer.

With over 5,000 responses to the consultation, the government would be foolish to press ahead with these reforms. They are contrary to the concept of the rule of law as they bar access to justice for so many people for matters of fundamental importance. The cuts to legal aid and the draft bill will soon be debated in Parliament. Negative press coverage is sadly in abundance and likely to assist any bill passing through unscathed if we don’t act. AVID supports

¹Bail for Immigration Detainees & Information Centre about Asylum and Refugees, (2011)

²http://www.younglegalaidlawyers.org/files/Releases_Responses/Unequal_before_the_law_legal_aid_report_june_2011.pdf

Young Legal Aid Lawyer's "Save Legal Aid" campaign, which is part of a bigger movement to challenge the cuts alongside campaigns like Justice for All, the Law Society and Sound off for Justice and efforts of illegal/mylegal online. You can make a difference too by contacting your MP to raise your concerns. A model letter is on our website: www.savelegalaid.co.uk/takeaction.

With your help our MPs will vote against the bill and we can still save legal aid for immigration clients.

About the authors

Caroline is an immigration adviser at Howells in Sheffield and Camilla is a trainee solicitor at Birnberg Peirce in London. Both are members of YLAL.

About YLAL

Young Legal Aid Lawyers (YLAL) was formed in 2005. We have over 2,000 members nationwide including students, paralegals, trainee solicitors and barristers, and qualified junior lawyers. We are committed to publicly funded work as a means of achieving social justice. We believe that the sustainable provision of quality legal services is essential to ensure the rule of law in a civilised society.

For more information, please contact us:

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www.savelegalaid.co.uk

AVID, June 2011