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Robert Jenrick MP
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Dame Diana Johnson MP
Chair, Home Affairs Committee
Select Committee Team
House of Commons
London
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20 December 2022

Dear Dame Diana,

The Short-term Holding Facility (Amendment) Rules 2022

I am writing to you to inform you that on 15 December, I laid before Parliament the Short-term Holding Facility (Amendment) Rules 2022, which I know will be of particular interest to you given your role as HAC Chair. The purpose of the statutory instrument (the “Regulations”) is to amend the existing Short-term Holding Facility Rules 2018 (“the STHF Rules 2018”) to create a new type of detention facility (known as a “residential holding room”) where individuals can be detained for up to 96 hours, subject to extension in exceptional circumstances.

Section 157(3) of the Immigration and Asylum Act 1999 provides the power to make a set of statutory rules for the regulation and management of STHFs. This was achieved via the STHF Rules 2018, which govern detention in STHFs. There are currently two types of STHFs: residential STHFs, and non-residential STHFs (otherwise known as holding rooms). These types of facilities have different legal requirements and time limits.

Residential STHFs are subject to the STHF Rules 2018 in full and have a detention time limit of 5 days (though this can be extended to an absolute maximum of 7 days if removal directions for the person are set within that period). Holding rooms are subject to a time limit of 24 hours (subject to extension in exceptional circumstances), and to reflect the limited nature of their facilities, several of the provisions of the STHF Rules 2018 are either disapplied or applied in modified form.

More than 43,000 people have illegally crossed the Channel to the UK so far this year. Individuals who have crossed the Channel from France in this way are detained for a short period to undertake processing and critical security checks at Manston in Kent, which is our main reception facility for small boat arrivals.

To date, Manston has been operating under the STHF Rules 2018 as a holding room. Consequently, the 24-hour detention time limit referred to above applies. However, when there are significant numbers of arrivals within a short period it has proved very challenging to undertake processing and security checks within this 24-hour timeframe. Holding rooms, which are adequate at airports, do not provide sufficient flexibility to manage unexpected and very large numbers of migrants.

Manston is a unique type of detention facility, and so there is a need to provide for a new type of STHF in which migrant arrivals can be processed, with its own bespoke time limit and rules. The Regulations I have laid today provide for a new facility with a 96-hour limit which will allow operational teams sufficient time to process arrivals and complete critical security checks.

A residential holding room will provide more extensive facilities than are available in holding rooms to reflect the fact it may be used for a longer period of detention. These include rule 13 (accommodation), rule 14 (sleeping accommodation), rule 16 (clothing), rule 18 (hygiene), rule 20 (time in open air), rule 30 (medical screening) and rule 32 (special illnesses and conditions). Rule 15 (families and minors), rule 23 (outside contacts), rule 27 (legal adviser) and rule 31 (general medical care) which apply to holding rooms in a modified form will be amended to apply to residential holding rooms. A number of the STHF rules which are disapplied insofar as holding rooms are concerned will be similarly disapplied for residential holding rooms. The STHF 2018 guidance will be updated to reflect these Regulations and set out the requirements of residential holding rooms in further detail.

Those arriving in the UK by small boats have placed our border infrastructure under extreme pressure for too long. The Government is determined to break the business model of the evil gangs that facilitate this trade. We have set out the steps we are taking to stop the small boats. In the meantime, this measure will give our hard-working Border Force officers the time they need to do their vital work in processing these individuals and keeping us safe.

Yours sincerely,

A handwritten signature in dark ink, reading 'Robert Jenrick'. The signature is fluid and cursive, with a horizontal line underlining the name.

Robert Jenrick MP
Minister for Immigration

