



Rt Hon. Harriet Harman QC MP
Chair, Joint Committee on Human Rights
House of Commons
London
SW1A 0AA

20 August 2021

Dear Chair,

1. In response to Stephen Shaw's follow up review of vulnerable persons in immigration detention in 2018, the Home Office has conducted three pilots and a whistleblowing review as part of our detention reform programme, which demonstrate our commitment to improve the welfare of vulnerable persons in immigration removal centres and to ensure that immigration detention is used sparingly and for the shortest time possible. I am pleased to provide you with an update following the conclusion of the three pilots and the whistleblowing review.

Immigration Bail Pilot: Automatic Referral for Bail - Two-Months

2. Under current policy, automatic referrals for immigration bail occur at the four-month detention stage. The pilot increased the frequency of these referrals for bail to two months to consider whether Judicial oversight after a shorter period of immigration detention lead to more individuals being granted bail from detention.
3. This joint Home Office and Ministry of Justice pilot commenced on 10 February 2019 and ran for six months. It applied to persons who entered detention from 10 February until 9 March 2019. Persons being deported (ie Foreign National Offenders) were excluded from the pilot, as is the case with the four-month referral process.
4. The total number of detained individuals in scope for the pilot was 1209 however, 1088 (90%) of those were either released or removed before they became eligible for referral at two months. In terms of numbers this meant that only 93 automatic referrals for bail were made within the pilot, leading to 72 scheduled hearings and

only 2 grants of bail, with the remainder of those who remained in detention at the two-month point having submitted their own Immigration Judge bail applications.

5. Home Office Analysis and Insight conducted the evaluation of the pilot which compared the pilot cohort to a baseline of individuals who entered detention between 1st July to 31st December 2018.
6. Overall, the evaluation demonstrated that an increase in independent judicial oversight from four to two-month intervals has not led to an increase in grants of immigration bail by the Tribunal nor did it make a difference to the average length of time spent in detention, supporting Home Office decision-making in reviewing and maintaining detention. As a result, we have decided not to introduce the two-month bail referral.
7. The four-month automatic bail referral acts as an additional safeguard and does not change the fact that all detained persons, including foreign national offenders facing deportation, can apply for bail at any time regardless of the time frame of automatic referrals, although applications may be dismissed where this is within 28 days of a previous bail refusal and there has not been a material change in the persons circumstances. Bail hearings are additionally supplemented by regular reviews at increasing levels of seniority and by Case Progression Panels for those held in detention beyond three months. All persons who are detained are entitled to receive up to 30 minutes of legal advice regardless of financial eligibility or the merits of their case.
8. The evaluation does highlight issues with the understanding of the bail process by those who are detained. We will consider what more can be done to improve understanding as the analysis indicates it was not necessarily the language of the materials provided on bail, but the nature of the content that was causing the difficulty.

Independence pilot - Immigration Detention Case Progression Panels

9. Stephen Shaw issued a progress report in Summer 2018 examining how the Government had responded to the recommendations made in his initial review. The progress report further recommended that *'the Home Office should review the case for an independent element in case progression panels considering those detained for more than six months'*
10. We therefore set out to assess how this would work in principle and, after careful consideration, introduced an independence pilot modelled on the Independent Family Returns Panel (IFRP), and the Modern Slavery Multi-Agency Assurance Panel (MAAP).

11. The pilot commenced in Autumn 2019 (following a trial in the Summer) to feature independence in both three month and six-month panels.
12. Independent Members were drawn from a wide range of external, professional backgrounds which include: former senior police officers, social workers with safeguarding experience, local authority officers and charities. These are public appointees and subject to the same requirements as Civil Servants.
13. Home Office Analysis and Insight completed an initial review covering the first three months of the pilot. Their findings showed independent members did not significantly change the recommendations made but there had been a positive effect on the quality of discussions through this increased level of scrutiny.
14. In September 2020 Ministers agreed that independence would become a permanent feature in panels. The recruitment process is currently being undertaken by the Public Appointments Team and expected to conclude in Summer 2021.

Alternatives to detention – Community Engagement Pilots

15. The first of these pilots, Action Access, has provided women who would otherwise be detained with a programme of support in the community. This pilot will conclude on 31 March 2021 after operating for two years, as planned. The second pilot, the Refugee and Migrant Advisory Service, is currently supporting both men and women in the community and will remain in operation for two years until June 2022.

We are working with the United Nations High Commissioner for Refugees (UNHCR) on these pilots, and they have appointed the National Centre for Social Research (NatCen) to independently evaluate this work. These evaluations will be published. The inception report for the Action Access is available here: <https://natcen.ac.uk/our-research/research/alternatives-to-detention>. The final evaluation report is due for publication by September 2021. We will use the evaluations of these pilots to inform our future approach to case-management focused alternatives to detention.

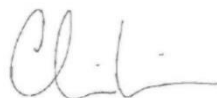
Review of whistleblowing processes within the immigration detention estate

16. In August 2019 the Home Office undertook a short internal review of the whistleblowing arrangements in place across the immigration detention estate. The 3-month review covered the period August to October 2019 and included input from Home Office Immigration Enforcement staff, supplier and healthcare staff.
17. The review found that a high number of supplier and Home Office staff were aware of the importance of whistleblowing, although improvements could be made to how whistleblowing should be used in practice. All suppliers had whistleblowing policies

in place, although some were out of date or did not reflect more recent staff communications on whistleblowing. In addition, each stakeholder working onsite in the IRC all had their own whistleblowing policies and respective reporting chains. The lack of a single overarching whistleblowing policy across the estate meant that staff were unsure how to report concerns about staff outside of their own organisation meaning that chances for the early reporting of issues could have been missed.

18. A new Detention Services Order (03/2020) 'Whistleblowing – The Public Interest Disclosure Act 1998 (c.23)' was published on 15 July 2020 setting out guidance for both Home Office staff and our suppliers on whistleblowing procedures.
19. We have, however, decided not to take forward the creation of 'safe spaces' within our immigration removal centres. Stephen Shaw commented that "staff would benefit from being afforded safe spaces in which they can discuss what they have done well (and less well) without fear of disciplinary repercussions". We have carefully considered the concept of safe spaces for use within the detention estate against the backdrop of the arrangement the Home Office and suppliers already have in place. While on the face of it these may be a positive step, it is possible that such spaces might also facilitate the very behaviours and attitudes we have been seeking to eradicate. There is a risk that their use would absolve an individual or the organisation from accountability for any wrongdoing and or from the responsibility to properly report wrongdoing. On balance and given that the value of safe spaces over and above existing provision would be marginal we do not believe we should mandate their introduction with our suppliers.

Yours sincerely,



Chris Philp MP

Minister for Immigration Compliance & Justice