

Written evidence submitted by Bail for Immigration Detainees (ATJ0054)

Introduction to Bail for Immigration Detainees

Bail for Immigration Detainees (“BID”) is an independent charity established in 1999 that exists to challenge immigration detention. We assist those held under immigration powers in removal centres and in prisons to secure their release from detention through the provision of free legal advice, information, and representation. Alongside our general casework, we engage in research, policy advocacy and strategic litigation to secure change in detention policy and practice. In 2014 BID set up a project dedicated to aiding people detained in prisons for immigration purposes. We also provide legal advice and representation to people for their deportation appeals. We are entirely reliant on charitable donations, and we are not in receipt of legal aid funding. We do however call for the provision of legal aid funding to everyone held in detention or facing deportation.

We note that this inquiry follows similar inquiries into access to justice and legal aid, and we strongly recommend consideration of the [extensive evidence](#) submitted to the Ministry of Justice’s recent Review of Civil Legal Aid, summarised in the March 2025 [report](#).

Q1. How does the current state of the legal services and representation market in England and Wales, and associated operating pressures, affect access to justice for clients?

1. The legal services and representation market in England and Wales does not function for BID’s clients who are all detained under immigration powers. The vast majority of BID’s clients cannot afford to pay private fees and are therefore reliant on the government’s provision of civil legal aid, which is severely inadequate.
2. BID’s [most recent report](#) into access to legal advice in immigration detention shows that only 42% of people surveyed in immigration detention were represented for their immigration case, while only 27% had lawyers through legal aid. This lack of representation demonstrates that clients face significant barriers in accessing justice, as immigration law is incredibly complex to navigate and almost impossible to do so without a lawyer.
3. The continued need for BID’s services on a charitable basis reflects the fact that current provision of civil legal aid for those in immigration detention is insufficient. For example, our [Exceptional Case Funding \(ECF\) report](#) shows that referral of complex cases is rarely undertaken due to the lack of funding for ECF applications. Even where ECF is awarded to individuals it is extremely difficult, if not impossible for people to find a legal aid lawyer who is willing to take on their case – preventing clients from accessing justice.

Q2. What is the role of supplementary advice services in supporting access to justice?

4. Supplementary advice services – predominantly NGOs – such as BID play a vital role in supporting access to justice for people in immigration detention. BID is not in receipt of legal aid funds but seeks to assist people who are unable to obtain representation from a legal aid

lawyer. Its current caseload of 232 clients demonstrates that people do not have sufficient access to justice through existing government pathways. If the legal aid system was functioning as intended, there would be no need for organisations like BID or pro-bono lawyers to provide legal advice to people in detention.

Q3. What is the impact of those acting without legal advice and / or representation having on access to justice?

5. Immigration law is a particularly complex and fast-changing area of law. Acting without legal advice or representation has a deleterious effect on access to justice for people being detained under immigration powers, whose case outcomes often have life-changing ramifications such as permanent or long-term separation from family and communities, and the harmful impacts of long-term detention on mental and physical health.
6. One particular area where this deleterious impact on access to justice is clear is Exceptional Case Funding (ECF). BID's ECF project relies on pro bono lawyers to assist people to make applications for ECF. [BID's research on ECF](#) found that 100% of the pro-bono lawyers surveyed from its ECF project doubted whether their ECF applicants could complete an ECF application without legal assistance because of the complexity inherent in immigration law. This shows that people with meritorious human rights claims, but without basic legal representation, would struggle just to make an application for funding for further representation – resulting in potential human rights violations going unchallenged.
7. Another impact of people acting without legal representation can be seen for our clients who are, or who are due to be, detained under immigration powers in prison. People who are completing criminal sentences who have been informed they will be deported, but do not have representation, struggle to self-represent in their immigration matters whilst they remain in prison. This often leads to basic obstacles in accessing justice such as missing deadlines for appeals and submissions, preventing people from having their cases heard at all. For those fortunate to find help from an NGO at a late hour prior to their removal, this can result in fresh but late claims being made to allow them to remain in the UK. This additional work comes at further expense to the public purse.

Q5. If limited funds were available, what would be the priority areas for spending?

8. BID argues that a significant investment into immigration legal aid is necessary to address the current barriers in securing access to justice, and we recommend that all immigration work is brought back into the scope of legal aid. In the interim, priority areas should be:
 - a. Asylum-related work
 - b. Article 3 human rights claims
 - c. Expert reports in Article 8 human rights claims to assess how children's best interests are affected.

Q7. How is pro bono work and free legal advice being used to support access to justice and what reliance is placed on it?

9. Please refer to our response to Q2.

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