

## Written Evidence submitted by Medical Justice (COR0205)

### About Medical Justice

Medical Justice was founded in 2005. We assist people detained under immigration powers, by providing independent medical evidence including documenting the physical and psychological scars of torture and challenging instances of inadequate healthcare. We work with over 80 volunteer clinicians and 100 volunteer interpreters, and handle between 700 and 1,000 referrals per year.

As well as our work with individual detainees, Medical Justice also undertakes research, advocacy and litigation on immigration detention policy to bring about wider systemic change.

### Evidence

#### 1. Use of detention

- a) Immigration detention has been shown to negatively affect the mental health of those subjected to it. Those with pre-existing mental health problems or histories of trauma are especially at risk.<sup>1</sup> In many cases detention causes lasting harm. For this reason, Medical Justice believes that the use of detention is unacceptable at any time.
- b) Since the start of the Covid-19 crisis, we have highlighted the particular risks to physical and mental health that Immigration Removal Centres (IRCs) present during a pandemic - both to those who are detained, to staff and to the wider community. As detention has continued to be used throughout the pandemic, there have been Covid-19 outbreaks in IRCs and detainees have had to self-isolate or be isolated due to the risks from Covid-19 while in detention.
- c) The use of immigration detention is discretionary, and detainees are not held as part of any criminal sentence. The health risks and impacts laid out in this submission could therefore have been avoided, had the Home Secretary heeded calls to stop using detention.

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<sup>1</sup> Stephen Shaw, *Review into the Welfare in Detention of Vulnerable Persons* (Home Office 2016). Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/490782/52532\\_Shaw\\_Review\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf)

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- d) Looking forward, the Home Secretary should take immediate steps to release all those held in immigration detention to safe accommodation in the community, with appropriate financial assistance to allow them to adhere to Covid-19 restrictions.

## 2. Numbers in detention during Covid-19 pandemic

- a) In its response to the Committee in November, the government stated that “(t)he number of people in the immigration detention estate has fallen since the start of the COVID-19 pandemic.” It provided the figure of numbers of people being held in the immigration detention estate at the start of May (313) to evidence this.<sup>2</sup>
- b) It is important to note, however, that following this initial fall, the number of people in detention subsequently rose again. Official figures are only available until the end of September 2020 but by the end of that month, the total number of people being held in detention had increased to 555.<sup>3</sup> The amount of “churn” ie. the number of new people arriving / leaving detention had also increased: between April and June 2020, a total of 1,233 people entered the detention estate; between July and September, that figure rose almost three-fold to 3,583.<sup>4</sup>
- c) Official figures for the period since September are not yet available. However, based on information gathered through our casework, Medical Justice believes that both the total number of people held in detention, and “churn” in detention remained high until mid-December.
- d) These figures are extremely concerning, as both clearly contribute to an increased risk of Covid-19 transmission and infection within the detention estate and wider community.
- e) Transfers of detainees, both from prisons to IRCs and between different IRCs, have also continued. Between 1 September and 1 November 2020, for example, a total of 1,062 transfers took place.<sup>5</sup> Again, such movement of people around different institutions increases the risk of Covid-19 transmission and infection.

## 3. Removal target and charter flights

- a) Based on information gathered from Medical Justice’s casework, between August and December 2020 most of those being held in detention appeared to be individuals

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<sup>2</sup> *Government Response to the Home Affairs Committee’s Fourth Report* (House of Commons 2020), 15. Available at: <https://committees.parliament.uk/publications/3425/documents/32774/default/>

<sup>3</sup> *Immigration statistics, year ending September 2020 - Detention data sets* (Home Office 2020). Available at: <https://www.gov.uk/government/statistical-data-sets/returns-and-detention-datasets>.

<sup>4</sup> Ibid.

<sup>5</sup> <https://www.theyworkforyou.com/wrans/?id=2020-10-30.109453.h&s=transfers+speaker%3A25327#g109453.q0>

whose cases were being processed under the Dublin III Regulation. This seems likely to be a direct result of the Home Secretary's target, announced in September, to remove back to Europe at least 1,000 people who had arrived in the UK via small boats.<sup>6</sup> The implicit deadline for completing the 1,000 removals was 31 December 2020, when the Brexit transition period ended and the Dublin Regulation ceased to have effect in the UK.

- b) A large number of charter flights were organised to carry out this drive. The Home Office releases very little information about such flights, but based on our casework, we believe there were approximately two flights arranged per week between August and mid-December. This was a dramatic increase on 'normal' times, when we would usually see 1-2 charter flights per month.
- c) It would seem that the growth in numbers in detention and high "churn" rate were directly related to these twice weekly charter flights. As noted above, higher numbers and churn increase the risks of Covid-19 transmission and infection.
- d) From 1 January 2021 the situation changed again. Based on our casework, it appears that most people currently being held in detention are EU nationals subject to deportation.
- e) The use of charter flights appears to be continuing, with twice-weekly charter flights being scheduled, though it is unclear how many of these actually go ahead.

#### 4. Covid-19 cases and outbreaks in detention

- a) It is difficult to give a fully accurate account of the number of Covid-19 cases and/or outbreaks in detention because the Home Office provides very little information about this. For example, it will state the number of active positive cases on a particular given day (e.g. 1 case) but not provide the total number of cases of a period of time. This lack of information is in sharp contrast to the monthly Covid-19 statistics published by, for example, the Ministry of Justice.<sup>7</sup>
- b) Based on information gathered from Medical Justice's casework, there have been positive cases identified in every IRC. There have been outbreaks at Morton Hall,<sup>8</sup> Dungavel,<sup>9</sup> Harmondsworth,<sup>10</sup> and Brook House, which was eventually forced to close entirely for 10 days.<sup>11</sup>

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<sup>6</sup> <https://www.telegraph.co.uk/news/2020/09/18/priti-patel-planning-weekly-removals-channel-migrants-italy/>

<sup>7</sup> See <https://www.gov.uk/government/collections/hm-prison-and-probation-service-covid-19-statistics-monthly>.

<sup>8</sup> <https://www.theguardian.com/uk-news/2021/jan/15/new-covid-outbreak-harmondsworth-uk-immigration-removal-centre>

<sup>9</sup> <https://www.thenational.scot/news/18791072.dungavel-covid-outbreak-detention-centre-sparks-fresh-calls-closure/>

<sup>10</sup> <https://www.theguardian.com/uk-news/2021/jan/15/new-covid-outbreak-harmondsworth-uk-immigration-removal-centre>

<sup>11</sup> <https://www.bbc.co.uk/news/uk-england-sussex-55267514>

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- c) The situation at Brook House is important to highlight in particular. In early December 2020, an outbreak was reported at the centre that involved 17 cases.<sup>12</sup> The centre attempted to contain the outbreak by closing three of its wings.<sup>13</sup> However, the outbreak continued to escalate and in early January 2021 it was reported that, in agreement with Public Health England, the entire centre had been closed down for 10 days.<sup>14</sup>
- d) These events provide a clear example of how difficult it is to contain the risk of transmission and infections in congregate settings such as IRCs. This is something Medical Justice has warned about since the start of the pandemic.
- e) It is not clear what lessons have been learnt from the closure of Brook House, or what will change as a result of it.

## 5. Home Office response in light of new Covid-19 strains

- a) In light of information about new strains of Covid-19, and in particular around their greater transmissibility, Medical Justice expects that the Home Office will have conducted an updated risk assessment for IRCs and adjusted their response accordingly.
- b) We requested a copy of the risk assessment by letter to the Home Office on 5 January 2021 but have so far received no response.
- c) We would urge the Committee to request this information from the Home Office as soon as possible in order to understand and assess any changes.
- d) The response at different IRCs appears to differ significantly. For example, on 7 January 2021 the healthcare provider at Heathrow IRC wrote to all detainees to inform them that the majority of healthcare appointments would now routinely take place by telephone and to alert an officer if they needed to book an appointment. In contrast Morton Hall IRC has kept its healthcare unit open for detainees to walk in and make appointments.

## 6. Covid-19 testing in detention

- a) Medical Justice has not seen any testing protocol for IRCs.
- b) It appears that a programme of voluntary testing began on 26 October 2020, and is operating at Yarl's Wood, Harmondsworth, Colnbrook, and Brook House IRCs.<sup>15</sup>

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<sup>12</sup> Ibid.

<sup>13</sup> <https://www.theguardian.com/uk-news/2020/dec/10/covid-outbreak-hits-gatwick-immigration-detention-centre>

<sup>14</sup> <https://www.theguardian.com/uk-news/2021/jan/08/gatwick-immigration-detention-centre-closed-due-to-staff-covid-cases>

<sup>15</sup> <https://www.theyworkforyou.com/wrans/?id=2021-01-11.135965.h&s=testing+detention#g135965.r0>

- c) It is not clear what testing arrangements, if any, are in place at Dungavel, Morton Hall and Tinsley House IRCs.
- d) Our impression, from reviewing healthcare records received from detainees at Colnbrook and Harmondsworth IRCS, newly-arrived detainees are currently being offered lateral flow tests on day 1 and 5. The relevant guidance recommends PCR tests on days 1 and 5.<sup>16</sup>
- e) From anecdotal evidence gathered through our casework, it also appears that when a detainee tests positive for Covid-19, all detainees on the same wing are also offered tests; if they test negative, they are permitted to continue mixing with others. Detainees who test positive appear to be being placed in isolation and tested repeatedly. It appears that they are able to leave isolation following a negative test, including if less than 10 days have passed. If this is indeed established practice at IRCs, it is inconsistent with government guidance and may increase the risk of further outbreaks.
- f) Some testing appears to also take place prior to removal/deportation flights.
- g) We have no information on whether detention custody officers or escorts used for transfers and removals are receiving regular testing.

## **7. Social distancing measures in detention and the impact on detainees**

- a) From our casework we believe that single occupancy rooms are now in use across all IRCs. However, communal areas are still used for certain activities e.g., dining, clothes washing. Staff also move between different areas in the centres. Some detainees have reported to Medical Justice high levels of anxiety about using communal areas, given the risks of Covid-19 transmission that they pose.
- b) Clearly, while detention continues to be used routinely, infection control measures are required in IRCs. However these measures are likely to intensify the detrimental effect of detention on mental health, given they inevitably lead to an increase in the degree of isolation inherent in being detained. Visits, including by family, friends, and legal and medical experts cannot currently take place. Detainees are given a basic mobile phone whilst in detention, but are not permitted a mobile phone with internet access. Mobile phone reception in IRCs is also notoriously poor. This makes connection with support networks and advice even more difficult, particularly for those who are shielding or isolating.
- c) The fear of contracting Covid-19 adds to the sense, inherent in immigration detention, of lacking any control over one's circumstances. Detainees describe to us feeling like 'sitting ducks'.

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<sup>16</sup> <https://www.gov.uk/government/publications/covid-19-prisons-and-other-prescribed-places-of-detention-guidance/covid-19-prisons-and-other-prescribed-places-of-detention-guidance>.

- d) Detainees with Covid-19 comorbidities (i.e. medical conditions that put them at high risk of severe illness if infected with the virus) have been advised to shield in their cells. Other detainees may be required to isolate in their cells after testing positive for Covid-19.
- e) Even if not shielding or isolating, detainees have been advised to stay in their cells as much as possible.
- f) Isolating is difficult in any situation, but in a cell with very few distractions or links to the outside world, it can be devastating. Conditions in isolation have been described as similar to those faced by detainees when they are ‘removed from association’ (segregated under Rule 40 of the Detention Centre Rules).<sup>17</sup> Medical Justice’s doctors are seeing many of the same clinical issues in detainees who are isolating as they would see in detainees subjected to segregation. This includes detainees reporting that their mental health is rapidly deteriorating and an increase in suicidal thoughts.
- g) Because Removal from Association is known to pose such grave risks to mental health, it should only be used as a measure of last resort and is subject to safeguards, including daily visits to the detainee by the Independent Monitoring Board (IMB); a review of the removal every 24 hours, and external sign off required after 24 hours. Such safeguards are not in place for detainees who are shielding or placed in isolation as a result of Covid-19.
- h) Detainees who must shield in their cells due to comorbidities may be placed in conditions akin to solitary confinement for the duration of their detention. This may be a period of months.

## **8. Changes to healthcare services and the impact on detainees**

- a) At most IRCs, detainees can no longer simply attend the healthcare clinic as before. Instead, they must fill out a written request form. In Brook House IRC it appears that a considerable amount of information about their health problem has to be included in the form, which is then used for paper-based triaging.
- b) This system, introduced in light of Covid-19, is problematic for a number of reasons. Detainees who speak little or no English may have problems completing the form. Some IRCs appear to have forms using graphics, but others do not. As a result detainees may be forced to relay their medical concern to a guard or fellow detainee who can complete the form for them. Such a scenario clearly breaches medical confidentiality. Alternatively, detainees may simply not seek an appointment at all.

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<sup>17</sup> *General principles for managing COVID-19 in an immigration removal centre (IRC), residential short-term holding facilities (RSHTF) and during escort*, issued 20.03.20

- c) Medical Justice is also concerned about the nature of some of the responses received by detainees from healthcare. For example, we know of multiple cases of detainees who completed the form asking for sleeping tablets. Under normal circumstances in a face-to-face appointment, this type of request could be explored in more detail and may lead to conversation about the detainee's mental health. Under the current system, clients have received responses where they are told simply to eat regularly, use the gym and complete a sleep diary. Many detainees who have difficulty sleeping, however also have little appetite and lack energy for activities such as using the gym. The response they receive can leave detainees with a sense that healthcare staff are not taking their problems seriously, increasing their sense of helplessness and causing them to further disengage from healthcare.
- d) Mental health appointments are also now routinely taking place by telephone. Engagement is much more difficult in this situation. Due to poor reception in rooms clients have also reported missing appointments. Some believe that mental health appointments have been cancelled entirely, adding to their anxiety and stress levels.
- e) All of these changes create serious additional barriers to people accessing healthcare in detention. These barriers are likely to have the greatest impact on those who most need help ie. those detainees who are most vulnerable.
- f) Medical Justice is aware that Rule 34 / 35 appointments are now taking place over the phone at Colnbrook, Harmondsworth and Yarl's Wood IRCs. There is clearly a limit to how thoroughly a person can be assessed by telephone; for example, it is not possible to assess scars (eg. from previous torture). If a detainee discloses over the phone that they have scarring, they will be offered a face-to-face appointment to assess this. Some people may not disclose this information, while others may be unaware of their scarring (e.g. if it is located in an area that is difficult to see such as their back).
- g) We are therefore concerned that a key safeguard for vulnerable people in detention is not operating as effectively as it should at this time, meaning that people at risk of harm in detention are less likely to be identified.

## **9. Vulnerable people in detention**

- a) From August to December, Medical Justice saw large numbers of detainees with mental health problems, often related to histories of past torture, trafficking or other trauma either in their home country or during their journey to UK. We received unprecedented volumes of calls from highly distressed detainees. Rates of self-harm and suicidal thoughts were high. Many detainees were medically unfit to fly due to their poor mental health. Our clinicians found in very many cases that detention was causing a deterioration in the clients' mental health. Because of their pre-existing mental health

problems and histories of trauma, these clients were particularly vulnerable to the effects of detention and of isolation and particularly at risk due to the weakening of safeguards designed to protect them (such as good access to healthcare, Rule 35 Reports etc).

- b) Now, throughput in detention appears to have somewhat reduced, but it appears from the clients who have contacted us, that they are on average older and a higher proportion have physical health problems, potentially making them more at risk of severe illness if they contracted Covid-19.
- c) We are concerned that, if the Home Office intends to continue operating two charter flights each week, it is inevitable that detention numbers will increase again. This is particularly concerning given the new highly infectious strains of Covid-19

#### **10. Access to legal advice and representation**

- a) Access to legal advice and representation for detainees has become harder as a result of measures introduced during the pandemic. As noted above, legal visits in detention are currently not possible, with detainees instead relying on phone or Skype calls. Legal aid clinics are also taking place over the phone. However, as noted above, phone reception in cells can be poor and, we understand that access to IT rooms, where detainees access Skype, has been limited for social distancing reasons.
- b) This all negatively impacts on detainees' ability to start or continue their immigration case, or to challenge their detention.

#### **11. Reduced independent oversight and scrutiny of detention**

- a) The Covid-19 pandemic has caused independent inspectors to change their ways of working, including in detention. For example, HMIP is not conducting full inspections at this time but rather shorter "scrutiny visits", involving fewer inspectors and less time spent on site.<sup>18</sup> We understand that IMBs have also reduced their presence in detention.
- b) Medical Justice is extremely concerned that detention is continuing despite this clear reduction of independent oversight and scrutiny.

**February 2021**

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<sup>18</sup> <https://www.justiceinspectorates.gov.uk/hmiprison/about-hmi-prisons/covid-19/scrutiny-visits/>