

**Home Affairs Committee Inquiry into Home Office preparedness for COVID-19  
(Coronavirus)**

**Supplemental Written Evidence submitted by Medical Justice  
21 April 2020**

**About Medical Justice**

Medical Justice has been helping people held under immigration powers to document their scars of torture and challenge instances of inadequate health care since 2005. 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.

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**Summary**

Medical Justice submitted written evidence to the inquiry on 25 March 2020. This second submission provides additional information gathered on the situation in immigration detention since then.

Two people at Immigration Removal Centres (IRCs) have now tested positive for COVID-19 since the start of the pandemic. IRCs are high risk for clusters of Covid-19, and staff provide a conduit for infection to and from the community. The response to COVID-19 within IRC has already been problematic. It is widely acknowledged that even at the best of times, healthcare in IRCs is woefully inadequate and that detention can exacerbate existing medical conditions. Many of our clients still held in IRCs have underlying medical conditions that put them at risk of severe illness if infected with COVID-19, including asthma, diabetes, hypertension, tuberculosis, and a range of mental health issues from anxiety, depression through to psychosis and schizophrenia.

**Recommendations**

**We reiterate the recommendations made in our previous submission, namely:**

- 1. The Home Office should release all those held under immigration powers in prisons and close all IRCs with immediate effect.** In addition, they must provide anyone who lacks an appropriate release address with appropriate alternative accommodation so that they can self-isolate, and financial support, regardless of immigration status.
- 2. Failing that, the Home Office should:**
  - a. Immediately cease receiving new detainees into IRCs and stop all transfers between IRCs
  - b. Make urgent arrangements to release all detainees held under immigration powers in IRCs and prisons within the next few days.
  - c. Provide anyone who lacks an appropriate release address with appropriate alternative accommodation so that they can self-isolate, and financial support, regardless of immigration status.
  - d. Once IRCs are closed, healthcare staff and resources at the centres should be redeployed to assist the mainstream NHS.

### **Additional evidence**

#### **3. Continued new detentions**

- a. It appears that the Home Office is continuing new detentions during the COVID-19 crisis. Medical Justice has heard anecdotal reports of a group of around 40 men being newly detained at Yarl's Wood IRC in early April. The reports suggest that the men had recently arrived in the country and were mostly Iranian.
- b. If true, such a development would be extremely worrying, particularly given the confirmed case of COVID-19 that was found at Yarl's Wood on 22 March 2020.<sup>1</sup>

#### **4. Continued transfers**

- a. From Medical Justice's own casework, as well as reports in the media,<sup>2</sup> it

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<sup>1</sup> May Bulman, 'Woman in Yarl's Wood tests positive for coronavirus in first confirmed case in UK removal centre', *Independent* (London 22 March 2020). Available at: <https://www.independent.co.uk/news/uk/home-news/coronavirus-yarls-wood-immigration-detention-removal-centre-home-office-a9417056.html>

<sup>2</sup> Mark McGivern, 'Immigration workers say they are forced to move asylum seekers without PPE - despite deportation flights being grounded' *The Daily Record* (Glasgow, 13 April 2020). Available at: <https://www.dailyrecord.co.uk/news/scottish-news/forced-removals-leave-immigration-workers-21856249>

appears that the Home Office is also continuing to transfer detainees during the crisis, both between IRCs and between prisons and IRCs.

- b. Such movement of people around the detention estate is extremely alarming. Not only do transfers directly contradict the government's own requirement to reduce interaction between people, but the public health risks they pose in terms of transmission of COVID-19 are obvious.
- c. The risks are particularly great in the case of transfers from prisons to IRCs, given that COVID-19 cases have now been confirmed in over half (64 of 117) prisons in England and Wales.<sup>3</sup> Indeed, we gather that the second confirmed case of COVID-19 in immigration detention - found at Brook House on 5 April 2020 - involved a detainee who had recently been transferred from prison.
- d. Detention is of course discretionary. As such, we submit that all cases of COVID-19 in immigration detention - both confirmed and unconfirmed - have been entirely avoidable. The decision of the Home Office not only to continue detaining people, but also to continue transferring detainees around different locations is placing many more people - both detainees and staff - at increased risk of infection.

## 5. Current estimate of people held in detention

- a. Many immigration detainees have been released in light of the COVID-19 crisis, in recognition of both the epidemiological dangers associated with being held in secure settings and the diminishing prospect of removal within a reasonable timeframe.
- b. Unfortunately it is not possible to say with certainty how many people continue to be held under immigration powers in the UK. This is because, despite repeated requests, the Home Office has failed to provide stakeholders with even basic statistics about the current situation in detention. We note this approach is in stark contrast to that of other government departments, such as the Ministry of Justice and the Department of Work and Pensions, who we gather are providing regular updates and information to interested parties.
- c. In the absence of official figures, Medical Justice estimates that 450-600 people are still being held in detention.

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<sup>3</sup> Number of prisons with confirmed cases of COVID-19 cases taken from Ministry of Justice, *Covid-19 Stakeholder Update*. Received by email on 20 April 2020 at 17.45. Total number of prisons cited in House of Commons Library, *The Prison Estate* (House of Commons, 2019). Available at: <https://commonslibrary.parliament.uk/research-briefings/sn05646/>

d. Our estimate is based on the following figures, gathered through our casework and conversations with other organisations:

- i. Morton Hall - 128 (figure at 8 April)
- ii. Yarl's Wood - 18 (estimate). (Note: we do not include the 40-50 new arrivals mentioned at paragraph 3 here, because we believe the group were detained at the short-term screening unit at Yarl's Wood. People detained at this unit are usually held for short periods of time before being released or transferred elsewhere on the estate. It is possible that additional people have been detained at the unit before and after)
- iii. Colnbrook - 70 (estimate)
- iv. Harmondsworth - 150 (estimate)
- v. Brook House - 71 (figure at 15 April)
- vi. Tinsley - 0 (centre has been emptied, detainees dispersed mostly to Morton Hall and staff redeployed to Brook House)
- vii. Dungavel - 22 (estimate. Unconfirmed reports women's unit has closed)
- viii. Prisons - 137 (estimate) (Note: some of these people will have been moved to IRCs but additional people will be coming to end of their sentences as well)

Total IRCs only: 461

Total IRCs and prisons: 598

e. We recommend that the Committee requests from the Home Office as soon as possible up-to-date information on the number of people still held under immigration powers, broken down by location.

## **6. Home Office review of detention**

- a. In the context of a legal challenge brought by Detention Action, the Home Office disclosed a list of 49 countries to which removals were no longer taking place and outlined a plan to review the continued detention of all those held under immigration powers. On 20 March the Home Office stated that around 300 detainees, or 25% of the detained population had already had their cases reviewed and that most of the 300 had been released.
- b. On 20 March the Home Office stated those remaining in IRCs and prisons (approximately 900 individuals), including sentence served foreign national

offenders held under immigration powers, would then have their cases reviewed in light of the Adults at Risk policy, current country removability, underlying conditions increasing a person's risk of severe illness following infection with COVID-19 and, where appropriate, risk of harm to public if released.

- c. The Home Office has not yet released any figures on how many reviews it has conducted, nor how many people it continues to hold in detention.
- d. The Home Office has also not published any information about what the review involves, or how decisions to maintain detention are being arrived at. The department has stated, however, that its priority is "to maintain the lawful detention of the most high-harm individuals, including foreign national offenders".<sup>4</sup>
- e. Data from Medical Justice's own client casework, however, raises concerns about the reviews carried out by the Home Office and the premise of the decision to maintain detention in individual cases. An analysis of 30 Medical Justice clients still held in detention at 20 April 2020 suggests that:
  - i. People are still being held despite there not being any prospect of removal. Of the 30 clients analysed, 22 came from one of the 49 countries to which the Home Office have said they are no longer removing people (see paragraph 6a). A further 7 are from countries where the IATA says travellers are no longer allowed to enter or airports are closed.<sup>5</sup> This brings into question the purpose of our clients' detention in a high risk environment, as it seems removal is not possible.
  - ii. Detainees with underlying conditions are not being released despite having conditions which put them at increased risk of severe illness if infected with COVID-19. Of the 30 clients' cases analysed, 7 had underlying conditions including asthma, diabetes, hypertension, tuberculosis, and a range of mental health issues from anxiety, depression through to psychosis and schizophrenia.
  - iii. Instead of release, we have seen letters sent to detainees who have underlying conditions which state that the detainee should self isolate in their cell for 12 weeks for their own protection and that access to fresh air will be arranged where possible. Again, this raises serious questions about the appropriateness of our clients'

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<sup>4</sup> Diane Taylor, 'High court rejects call to free 736 detainees at risk from coronavirus' *The Guardian* (London 26 March 2020). Available at: <https://www.theguardian.com/uk-news/2020/mar/26/high-court-rejects-call-to-free-736-detainees-at-risk-from-coronavirus>

<sup>5</sup> 'Coronavirus Outbreak – Update' (IATA, 21 April 2020). Available at: <https://www.iatatravelcentre.com/international-travel-document-news/1580226297.htm>

continued detention given that the letters may suggest that they cannot be removed for another 12 weeks at a minimum.

- iv. The review process is not properly protective of vulnerable persons. The review process reportedly relies on the adults at risk (AAR) policy to carry out assessments, starting first with those classed as AAR level 3. Out of the 30 clients analysed, at least 5 were classed as AAR level 3 and a further 7 classed as AAR Level 2. However, for 6 out of 7 clients with underlying health conditions known to put them at increased risk of severe illness if infected with COVID-19, we are not aware of any AAR level assessment having been completed.
- v. It is not only so-called “high harm” individuals who are being detained. Of the 30 clients we analysed:
  - 5 had convictions of less than 12 months
  - 3 had longer convictions but for non-violent offences such as falsified documents or fraud
  - 6 had non-violent drugs offences. Several of these reported that the offences had happened in the context of trafficking but this had not yet been accepted by the Home Office.
- f. In addition, Bail for Immigration Detainees reports that almost all the bail applications their clients have brought have been successfully granted. In these cases the Home Office have not only assessed that the individual should be in detention despite the risk but they have also opposed the application for bail leading the case to be heard in front of a judge, who then sees the merit in the application.

## **7. Lack of transparency and ongoing systemic issue contributing to lack of preparedness**

- a. Medical Justice has repeatedly raised concerns about the effectiveness of the Adults at Risk policy in identifying, reviewing and managing vulnerable individuals in in detention. We have demonstrated that the policy has systemic issues including inadequate reporting mechanism, increased burden of evidence on the individual to demonstrate vulnerability, and increased threshold to securing release once vulnerability has been established.
- b. We believe that the Home Office’s unwillingness to engage with stakeholders on this issue, as demonstrated by repeated refusals to carry out proper consultations or take into consideration the issues raised by stakeholders, may have contributed to the Home Office lack of preparedness for the COVID-19 crisis.

- c. Indeed, we have seen this reluctance to engage continuing during the crisis itself, with the Home Office refusing to engage with stakeholders, and failing to address concerns raised by stakeholders or to answer letters or direct questions posed in such letters.
- d. Crises tend to amplify and throw into stark relief ongoing systemic issues, as dysfunctional systems come under sudden and additional strain. We believe that these systemic issues may have contributed to the slow and reluctant response taken in light of those held under immigration powers during the COVID-19 crisis.

## **8. Culture of enforcement contributes to delayed release of detainees**

- a. Congregate settings increase the risk of transmission of infectious diseases, as demonstrated so tragically aboard cruise ships early on in the COVID-19 pandemic. The risk posed to those held in immigration removal centres and prisons was clear from the beginning of the crisis. In addition, the staff working in these settings form a conduit of infection between the community and the detained population thus functioning as an 'epidemiological pump'. The expert evidence provided by Professor Coker in the Detention Action legal challenge, as well as Professor Coker and Dr Pickles' joint submission to this inquiry, make this very clear.
- b. In order to minimise this risk, and to protect both detainees and the wider public, we submit that the Home Office's starting point in addressing the situation in immigration detention should have been to halt all new detentions and transfers, and to ascertain who could be released from detention. We believe that the answer to this last question, barring exceptional circumstances, would be all detainees.
- c. Following this conclusion we would have expected to see a swift review of detention cases, with the Home Office assessing each case for exceptional circumstances that barred their release – for example a history of serious violent offences where the individual is deemed at high risk of reoffending.
- d. We believe that this would have led to the release of the great majority of those held in immigration detention early on in the pandemic. In turn this may have avoided the confirmed cases of COVID-19 seen at IRCs, protecting the individuals involved. It would also have ensured that known 'epidemiological pumps', as IRCs have been described, were shut down at an early stage in the pandemic, safeguarding the wider public's health.
- e. Instead the Home office appears to have been assessing each case from a position of reluctance to release. This demonstrates an approach at the Home Office which prioritises immigration enforcement above all other aims, including protection of vulnerable individuals and public health. The

ongoing COVID-19 crisis is showing how this attitude is dangerous not only for detainees, but for the wider public too.

## **9. Additional issues**

- a. There are a number of additional issues that Medical Justice is aware of that are adding to the adverse impacts on detainees. These include:
  - i. Lack of information and personal protective equipment
  - ii. Impossibility of social distancing in detention
  - iii. Inconsistent strategies and policies across IRCs
  - iv. Continuing to hold immigration detainees who are not serving a criminal sentence, whilst 4,000 prisoners with ongoing sentences are being considered for release.
  
- b. We would be happy to provide further information about the above issues if useful.

**Medical Justice, 21 April 2020**