

# United Kingdom of Great Britain and Northern Ireland

## PROGRESS UNDER THE GLOBAL STRATEGY BEYOND DETENTION 2014-2019, MID-2016

**THE UNITED KINGDOM** (UK) relies on and utilises detention in asylum procedures more frequently than most other countries in the EU. In 2015, of the 33,000 individuals who were detained in immigration detention, almost 15,000 were asylum-seekers. UNHCR had observed an increased reliance on the Detained Fast Track procedure (DFT) for asylum processing with approximately 15% (4,000) of the UK asylum caseload going through the procedure in 2014 and early 2015, before it was suspended by the Government in July 2015. The UK is also one of a handful of countries without a maximum time limit on immigration detention and 2015 saw an increase in long-term detention with over 100 detainees detained for over a year.

In the UK, the National Action Plan (NAP) was drafted in consultations with external counterparts involved in detention work in the UK. Meetings were held with the UK Home Office and Her Majesty's Inspector of Prisons (HMIP). Additionally, a consultative meeting was held with NGOs working in the fields of immigration, asylum, detention and medical care in detention in the UK, who gave their valuable feedback on what goals and sub-goals they considered UNHCR should focus on. UNHCR continues to update stakeholders on the progress of the roll-out through briefings at stakeholder meetings and *ad hoc* meetings with key partners.



## KEY DEVELOPMENTS

- Detained Fast Track (DFT) successfully challenged in court by Detention Action<sup>1</sup> and individual claimants and subsequently suspended in June 2015 until measures are taken in line with the court rulings. The Home Office reviewed all cases which had been in DFT and released those whose detention could no longer be justified in light of the court rulings. For cases where the Home Office decided to maintain detention, a new Detained Asylum Casework (DAC) procedure was introduced in July 2015 to process the remaining detained asylum cases. Legal challenges against the legality of DAC have so far been unsuccessful.
- Launch by the NGO Detention Action in April 2014 of a new pilot alternative to detention (ATD) project for ex-offender men aged 18-30 at risk of long-term immigration detention, a project which promotes compliance with conditions of release and minimises risk of re-offending through assisting reintegration through one-to-one case management and community participation. The project shows that ex-offender migrants rarely abscond or reoffend, and therefore that the long-term detention of ex-offenders with barriers to removal is often unnecessary.

<sup>1</sup> See i.e. *Detention Action, R (On the Application Of) v. Secretary of State for the Home Department*, [2014] EWCA Civ 1634, [2015] INLR 372, [2014] WLR(D) 537, available at: <http://www.bailii.org/ew/cases/EWCA/Civ/2014/1634.html>; *Detention Action v Secretary of State for the Home Department*, [2014] EWHC 2245 (Admin), available at: <http://www.bailii.org/ew/cases/EWHC/Admin/2014/2245.html>; *Detention Action v First-Tier Tribunal (Immigration and Asylum Chamber) and Ors*, [2015] EWHC 1689 (Admin), [2015] WLR(D) 267, available at: <http://www.bailii.org/ew/cases/EWHC/Admin/2015/1689.html>; *Detention Action, R (on the Application of) v. Secretary of State for the Home Department*, [2014] WLR(D) 426, [2014] EWCA Civ 1270 (09 October 2014), available at: <http://www.bailii.org/ew/cases/EWCA/Civ/2014/1270.html>.

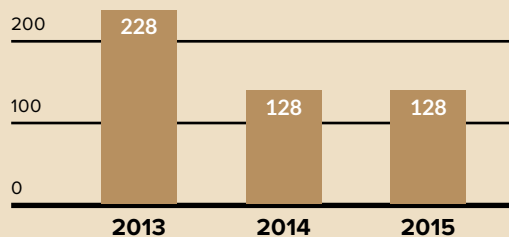
- Parliamentary inquiry into the use of immigration detention generated Parliamentary debates in both the House of Commons and the House of Lords, calling on the UK Government to implement a time limit for detention and to explore the use of alternatives. However, so far, the UK Government has not implemented the key recommendations from the report.<sup>2</sup>

- Publication of the *Shaw Review*<sup>3</sup> commissioned by the Home Office to review the welfare of detainees, which reveals the damage of immigration detention on mental health and calls for a reduction in its use. Key recommendations include a ban on the detention of women and a presumption against detention for a wide range of persons with vulnerabilities as well as wider consideration of ATDs.

- Introduction by the *Immigration Act 2016*<sup>4</sup> of automatic judicial oversight after 4 months in detention as well as a 72-hour time limit on the detention of pregnant women.

**GOAL 1** End the detention of children

**NUMBER OF CHILDREN DETAINED**



Source: National Statistics Home Office, available at: <https://goo.gl/dTikZz>

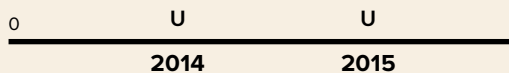
✔ Legal framework ensures that children are not detained.

**GOAL 2** Ensure that alternatives to detention (ATDs) are available

**NUMBER OF PLACES AVAILABLE IN CARE ARRANGEMENTS FOR UASC**



**NUMBER OF PLACES AVAILABLE IN ATDs FOR FAMILIES**



TYPES OF ATDs:	2013	2014	2015
Deposit or surrender of documentation			
Reporting conditions	✔	✔	✔
Directed residence	✔	✔	✔
Residence at open/semi-open reception/asylum centres			
Release on bail/bond	✔	✔	✔
Provision of a guarantor/surety	✔	✔	✔
Community supervision arrangements			

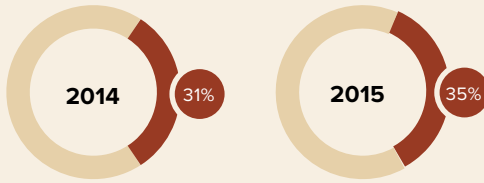
✔ available in legislation    ✔ used in practice

<sup>2</sup> *The Report of the Inquiry into the Use of Immigration Detention in the United Kingdom, A Joint Inquiry by the All Party Parliamentary Group on Refugees & the All Party Parliamentary Group on Migration*, published on 3 March 2015, available at: <https://goo.gl/T73SDX>.

<sup>3</sup> *Review into the Welfare in Detention of Vulnerable Persons: A Report to the Home Office by Stephen Shaw*, January 2016, available at: <https://goo.gl/BQy8RP>

<sup>4</sup> *Immigration Act 2016*, available at: <http://goo.gl/VoqfR3>.

**PERCENTAGE OF PERSONS IN ATDs  
(out of total number of persons detained)**

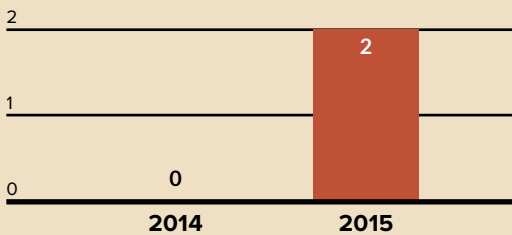


Source: National Statistics Home Office, available at: <https://goo.gl/dTikZz>

- ✔ Mechanism allowing asylum-seekers to stay legally in the community.
- ✔ When residing in the community, asylum-seekers have access to basic rights (accommodation, medical and psychological assistance, education, legal assistance).
- ✔ Case management\* is provided in the ATD implemented by Detention Action.

**GOAL 3 Ensure that conditions of detention meet international standards**

**NUMBER OF MONITORING VISITS ORGANIZED BY UNHCR AND/OR PARTNER(S)**



- ✔ The United Kingdom is a party to the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*.

**LEGEND:** ✔ Yes   ✘ No   ◉ Partially  
N/A Not available   U Unknown

**SOURCE:** All indicators were compiled based on UNHCR and/or UNHCR’s partner(s) monitoring visits and observations, except if otherwise stated.

\* See UNHCR *Detention Guidelines*, p.44.

**Activities undertaken by UNHCR and partners during the roll-out period of the Global Strategy**

In November 2014, UNHCR submitted written evidence to, and participated in an oral hearing of the **Parliamentary Inquiry into the Use of Immigration Detention**.<sup>5</sup> A global perspective on maximum time limits for detention was provided, together with successful factors for ATDs and best practice examples that the UK could follow. UNHCR also submitted written evidence to the *Shaw Review*, highlighting that vulnerable persons are unsuitable for detention under DFT, the impact of the lack of a time limit, and the limited scope of the review itself in the wider context of the use of detention in the UK. Published in January 2016, the *Shaw Review* considered the application and appropriateness of current policies and practices concerning the health and well-being of vulnerable people in immigration detention.

As a follow-up to UNHCR HQs mission to the UK, UNHCR also initiated end 2015 a dialogue with the UK Home Office on ATDs. A non-paper on ATDs was prepared to the authorities with recommendations and good practice examples of ATDs from other countries. In January 2016, this initiative was pursued at the first ever High Level Dialogue between the UK and UNHCR with a request to consolidate action.

Concerning **border monitoring activities**, UNHCR organised a visit to Heathrow Airport terminal 4 on 23 April, 2015, to observe detention-related practices and enhance its knowledge of operations at the border and the use of short-term facilities. As a result, UNHCR strengthened its relationship with the UK Border Force and disseminated training materials in relation to prevention and response to sexual and gender-based violence, vicarious trauma and child protection. A visit to Yarl’s Wood Immigration Removals Centre resulted in an invitation to UNHCR to train private contractor staff members on refugee protection. With regards to the **DFT procedure**, UNHCR maintained contact with the Home Office regarding the introduction of a new version of DFT with consideration given to UNHCR auditing and monitoring the new version, should it be introduced.

<sup>5</sup> *Ibid.*



#### TRAININGS ORGANIZED IN THE UNITED KINGDOM DURING THE REPORTING PERIOD

1 on Asylum Law, including  
UNHCR *Detention Guidelines*

4 on Attention to  
vulnerable groups

#### NUMBER OF PERSONS TRAINED IN THE UNITED KINGDOM DURING THE REPORTING PERIOD

65 on Asylum Law, including  
UNHCR *Detention Guidelines*

100 on Attention to  
vulnerable people

UNHCR also engaged in **awareness raising activities** and seized the momentum and heightened interest around the Parliamentary elections by publishing an op-ed by the Representative on the use of immigration detention in the UK in *The Independent*<sup>6</sup> newspaper, which received wide circulation.

### Gaps and challenges

Cuts in legal aid and further restrictions on both judicial reviews and bail applications have made it more difficult to bring cases challenging detention before the courts. The UK still does not have a time limit on detention and only minimal progress was achieved through the Immigration Act 2016, which introduced automatic judicial review after 4 months of detention and a time limit of not more than 72 hours for pregnant women.

### Next steps

The changing landscape on detention with the DFT still suspended and detained asylum casework (DAC) being challenged means that UNHCR will need to adjust its strategy going forward. The introduction by law of automatic judicial oversight after 4 months in detention and the introduction of a 72 hour time limit on the detention of pregnant women is a sign of progress. UNHCR will continue to engage with the UK authorities and other stakeholders to promote the use of ATDs.

For more information, please contact Peter Grady, [grady@unhcr.org](mailto:grady@unhcr.org), or Alan Deve, [deve@unhcr.org](mailto:deve@unhcr.org).  
UNHCR London, August 2016.

<sup>6</sup> "The UK has a tradition of providing safety to those fleeing persecution – yet half of them will end up in detention", Gonzalo Vargas Llosa in *The Independent*, 18 May 2015, available at: <http://goo.gl/eKrNyt>