

The financial waste of long-term detention



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The UK Border Agency (UKBA) is wasting £75 million per year by detaining migrants who are ultimately released. Limited detention space could be more efficiently used if case owners “get it right” initially by only detaining migrants who can be deported within a lawful and reasonable period. This change could be made through minor revisions to Chapter 55 of the Enforcement Instructions and Guidance to ensure that prospects of removal are thoroughly assessed alongside risks of reoffending and absconding. Ministers should ask the UKBA to revise the guidance to balance likelihood of removal against these risks.

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Why does long-term detention happen?

The UK is unique in Europe in routinely detaining migrants for periods of years, without time limit. Long-term detention is the result of intractable barriers to removal, combined with the reluctance of the UKBA to release ex-offenders who have finished their sentences. Migrants from several countries cannot be deported due to the difficulties in obtaining travel documents from the relevant embassies. Legal barriers exist to removals to countries such as Somalia and Iraq.

The current approach

Chapter 55 of the UKBA’s Enforcement Instructions and Guidance (EIG) describes the process for decisions to detain. The EIG places overwhelming emphasis on the need to give “substantial weight” to risks of reoffending and absconding as grounds for detention. The process for assessing risk of reoffending is described in great detail, but no guidance is given to Case Owners on how to assess the likelihood and timescale for removal.

The Independent Chief Inspector of Borders and Immigration observed in October 2011 that, despite the presumption of liberty in policy, the UKBA is operating as though “a decision to deport equals a decision to detain.” He complained that “the default position is to identify factors that justify detention rather than considering each case in accordance with the published policy.”

These findings were echoed by a joint report by the HM Inspectorate of Prisons and the Independent Chief Inspector, which found that the “detention of ex-prisoners appeared to have become the norm rather than... a rigorously governed last resort.” The Inspectorates recommended that an independent panel review all cases of long-term detention to consider whether “exceptional and clearly evidenced circumstances” apply that can justify continued incarceration.

An inefficient use of public money

- **62% of migrants leaving detention after more than a year are released** and only 38% removed, according to UKBA statistics for 2011. This means that, in assessing whether long-term detention will lead to removal, Case Owners are getting it wrong more often than they get it right.
- In 2011, 1,103 people were detained for over three months and then released. Their detention

served no purpose.

- Independent research by Matrix Evidence has concluded that **£75 million per year could be saved** if the UK Border Agency identified and released these migrants in a timely manner. This is equivalent to the running costs of between three and four Immigration Removal Centres.
- The detention of one person for a year **costs the tax-payer over £47,000**. The Home Office paid out £3 million in 2008-09 and £12 million in 2009-10 in compensation and legal costs arising from unlawful detention actions.
- Case management in the community has been found in Australia and elsewhere to considerably improve case resolution, with 67% of migrants in Australia taking voluntary return. The Matrix Evidence research has found that only 44% of the overall savings would need to be reinvested in order to provide case management to all migrants released in the UK as a result of the change proposed.

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Harmful to migrants

Detention Action's reports *Detained Lives* and *No Return No Release No Reason* have demonstrated the terrible effect of long-term detention on migrants. Many require ongoing medical and psychiatric support after their release into the UK.

Failures to protect the public

Release following long-term detention is also the worst outcome for public protection. Ex-offenders who would be eligible for preparation for release and monitoring from the Probation Service are released from detention after their licence has expired, usually with no advance warning and no monitoring. In many cases, long-term detention will have led to deterioration in mental disorders, which can increase the risk of re-offending.

Recommendations

The Enforcement Instructions and Guidance should be revised so that decisions to initiate and maintain detention include a **thorough assessment of the likelihood of deportation being possible within a lawful and reasonable period of detention**. No legislation would be necessary. The change could be combined with redrafting the guidance, which was described by the High Court in *BA* in October 2011 as "repetitive and confusing, and would be improved by editing."

Detention Action

Detention Action is a national charity that defends the rights and improves the welfare of people in detention by supporting individuals and campaigning for policy change.

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