



## **Detention Action Response to the Call for Evidence: 'Adults at Risk' in immigration detention**

February 2019

### **About Detention Action**

Detention Action is a national charity established in 1993 that seeks to defend the rights and improve the welfare of people in immigration detention by combining support for individuals with campaigning for policy change. Detention Action works in Harmondsworth and Colnbrook Immigration Removal Centres (IRCs) near Heathrow Airport in London, Morton Hall IRC in Lincolnshire, and with people held under immigration powers in London prisons.

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### **Introduction**

Detention Action welcomes the involvement of the ICIBI in monitoring and reporting on the working of the Adults at Risk Policy and is pleased to be able to submit evidence.

Through Detention Actions casework with clients in immigration detention, we have seen first hand, the flaws in the Adults at Risk policy since its implementation. The policy's approach, which balances vulnerability against immigration factors, fundamentally undermines its goal of preventing the detention of vulnerable people. Despite increased scrutiny and additional training for Home Office staff, Detention Action continues to speak to an increasing number of highly vulnerable people in detention on a daily basis.

Detention Action would also like to express interest in being a member of the ICIBI's Adults at Risk forum.

### **Summary of Recommendations:**

1. Any Adults at Risk policy should ensure that vulnerable people are promptly identified and routed out of detention, through a clear and transparent process to bring vulnerabilities to the attention of the Home Office, and an assessment process that is not weighted towards continued detention.
2. Policy should clearly prohibit the use of detention where it risks causing significant harm, including to ex-offenders with sentences of more than four years.
3. Vulnerable people and their legal representatives should be informed if detention centre staff alert the Home Office to their vulnerability, and of the Home Office response.

4. Alternatives to detention based on specialist case management should be developed to support all those liable to detention to resolve their cases in the community.
5. An appropriate process should be developed to ensure that people who lack capacity are identified and not detained.
6. Trafficking survivors should not be detained. A referral to the NRM should trigger release from detention, since it is only made when there are indicators of trafficking.
7. The Adults at Risk policy, and an equivalent to Rule 35, should apply to people held under immigration powers in prisons.
8. A time limit of 28 days for all should be introduced to reduce the overall harm of detention on all people detained and a shorter 7 day statutory time limit should be enacted for those identified as Adults at Risk.

### **The Effectiveness of the Adults at Risk Policy**

1. Almost three years after the Adults at Risk policy was introduced, Detention Action continues to speak to vulnerable people held in immigration detention on a daily basis. Many are detained for several months or even years. Our casework indicates that Adults at Risk identified under the policy are still facing protracted and unnecessary detention.
2. There have been 11 deaths in detention since January 2016, of which 10 have occurred since the Adults at Risk policy was introduced. Four are known to have been self inflicted, with four awaiting classification.<sup>1</sup> In its latest Annual Report, Her Majesty's Chief Inspector of Prisons reported that "The Home Office's policy to protect Adults at Risk had not been effective in keeping many vulnerable people out of detention. There had been five deaths in or immediately following detention."<sup>2</sup>
3. A Freedom of Information request submitted by Freedom from Torture in December 2018 showed that between the 1st September 2017 and 1st September 2018 a total of 11,993 Adults at Risk were identified; this is 47% of the total number of people that entered detention during that time.<sup>3</sup> That's almost half of the detained population that have a condition or have experienced a traumatic event that would make them vulnerable to harm in detention.
4. Of this figure, only 8% of people were released as the result of being identified as an Adult at Risk. To break this down further, only 3% of people with level 1 evidence, 6% of people with level 2 evidence and 55% of people with level 3 evidence were released from detention because they were an Adult at Risk.
5. These figures clearly show that the Adults at Risk policy isn't working; huge numbers of people are being detained and held in detention in circumstances where the Home Office knows that detention is likely to cause them harm.

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<sup>1</sup> Inquest - Deaths of immigration detainees, <https://www.inquest.org.uk/deaths-of-immigration-detainees>

<sup>2</sup> HM Chief Inspector of Prisons for England and Wales Annual Report 2017-2018, p74

<sup>3</sup> Home Office 'Immigration Statistics Year Ending September 2018

<https://www.gov.uk/government/publications/immigration-statistics-year-ending-september-2018/how-many-people-are-detained-or-returned>

## **Proving Vulnerability**

6. Prior to the introduction of the Adults at Risk policy, Section 55.10 of the Home Office Enforcement Instructions and Guidance allowed for the detention of vulnerable people only in “very exceptional circumstances”. Under this policy, the Home Office was responsible for showing that there were very exceptional circumstances that justified detention where vulnerability had been identified and there was a very strong presumption against the detention of vulnerable people.
7. Following the introduction of the Adults at Risk policy, vulnerable people now have to show that they are being harmed by detention, instead of the Home Office taking a preventative approach to ensure that harm is not done. For example, rather than not detaining a torture survivor simply because they have been identified as a torture survivor and there is therefore an increased likelihood that they could be vulnerable due to their past experiences, the Home Office now requires evidence that there is a significant risk of harm to that particular individual. In practice, this usually means producing evidence of a deterioration in their mental or physical health, i.e. that harm has already been done.
8. For example, one of our clients was picked up in an immigration raid and detained. He is a torture and trafficking survivor and so a Rule 35(3) report was carried out. The report said that he had scars on his body consistent with torture and was a victim of modern slavery. The Home Office responded stating that he was an Adult at Risk level 2. The Home Office balanced “non compliance with reporting restrictions” against his vulnerabilities and decided to maintain detention. The Home Office stated that as the medical practitioner didn’t specifically state that they have concerns that his mental state had deteriorated as a result of his detention, his detention would be maintained.
9. In the situation described above, the person had clear indicators of trafficking and had scars that were consistent with his account of torture, as were documented in his Rule 35 report. The detrimental impact detention is likely to have on someone with these experiences is very well documented, however because the person completing the report didn’t specifically state that further harm was likely to be caused as a result of his detention, the Home Office was able to balance this against negative indicators of non-compliance and maintain his detention.
10. Under the previous policy, the onus would have been on the Home Office to demonstrate that the ‘very exceptional circumstances’ threshold was met, whereas under the Adults at Risk policy, it is the client that has to evidence that detention will cause them further harm. In the majority of cases, negative indicators of non-compliance mean that an Adult at Risk will continue to be detained unless they can provide

independent evidence of a significant risk of harm. This independent evidence is very difficult for a highly vulnerable person in detention to access.

### **Balancing the welfare of vulnerable people against immigration factors**

11. The policy fails to protect people by balancing the potential harm that detention could cause, against immigration factors. This balancing act presupposes that the two are comparable and of equal weight or value. This is patently wrong. Irreparable damage to someone's mental health, should never be balanced against their risk of absconding, as demonstrated in the case study above.
12. One of the outcomes of this approach to managing vulnerability is that the policy explicitly allows for the risk of significant harm to people who have served a prison sentence of four years or more. This means, for example, that the policy would do nothing to prevent the harmful detention of extremely mentally unwell people like *BA*, whose detention was found to be in breach of the Article 3 prohibition on inhuman or degrading treatment.<sup>4</sup>
13. Detention Action had a client who was a torture and trafficking survivor with severe depression who had made several suicide attempts. He had a Rule 35(3) report which stated that in the doctor's opinion, detention would have a negative impact on his mental health. The Home Office acknowledged that he was an Adult at Risk Level 2, but his detention was maintained. The risk of harm to his health was balanced against the 4 year custodial sentence he had already served, and the Home Office concluded that the risk of public harm trumped the damage to his health. This is just one example of the many people that Detention Action regularly encounter being detained for long periods despite severe damage to their mental health, because a tick-box approach to determining a "risk of reoffending" overrides an individual's right to recover and access appropriate treatment.
14. Within the policy, there is little scope for Home Office case owners to consider how to mitigate the risks of absconding or re-offending, for example through alternatives to detention, with the result that detention is usually maintained. The effectiveness of the balancing exercise is further hampered by the limited options available to case owners, who must choose between detention and release, with no available alternatives that support the compliance of vulnerable people. Where an adult at risk is likely to abscond, including for reasons related to their vulnerability, their detention is frequently considered necessary.

### **Implementation Of a Flawed Policy**

15. In Detention Action's experience, there is a lack of knowledge and clarity around the Adults at Risk policy and its implementation. There seems to be little shared

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<sup>4</sup> *R (on the application of BA) v Secretary of State for the Home Department*, [2011] EWHC 2748 (Admin), 26 October 2011

understanding about the way in which the policy works amongst staff in healthcare, welfare and other detention custody roles.

16. In the October 2017 inspection of Harmondsworth IRC, Her Majesty's Chief Inspector of Prisons reported concerns that *"As we had found at other centres, Home Office and Care and Custody records did not align, and not all relevant staff knew which detainees were considered to be at risk. Staff had not been aware of a detainee on the highest risk level until we raised his case with them."*<sup>5</sup>
17. In addition to this, once someone is identified as an Adult at Risk and a decision is made to maintain their detention, there is no clear procedure to follow up or to monitor of that person, to ensure that their health doesn't deteriorate further and inform the Home Office if it does.
18. In May 2018, the Home Office rolled out a training programme for its caseworkers on the Adults at Risk policy. Whilst improved training is welcomed, this alone cannot resolve the flaws in the implementation of the policy because the policy and related operational guidance remain opaque, confused and fragmented.
19. Furthermore, Home Office caseworkers are not medically qualified and so are not in a position to assess vulnerability. Health concerns and vulnerability are dynamic and their impact on a person and their detention will very much depend on individual circumstances; assessing the impact of detention requires an understanding of different conditions and the treatment required to manage them. This is acknowledged by Shaw, who recommends that responsibility for Adults at Risk should be moved to, at very least, a different team within the Home Office.<sup>6</sup>
20. The dual role of Home Office caseworkers, in making the decision to detain someone, and in making the decision on someone's fitness to be detained is a conflict of interest. The fact that Adults at Risk policy is heavily weighted towards maintaining detention should not be surprising when this is taken into account.

### **Identifying Adults at Risk**

21. A crucial failure of the policy is that there is no transparent, straightforward process to provide information to the Home Office on an individual's vulnerability. Instead, the policy relies on existing mechanisms that are flawed.
22. The Detention Services Order 08/16 on the Management of Adults at Risk in Immigration Detention outlines how detention centre staff should alert the Home Office to any vulnerability through the IS91RA Part C. However, there is no provision for the individual or their legal representative to be informed if a Part C has been completed, or of the Home Office's response. This opaqueness means that vulnerable people and their

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<sup>5</sup> Report of an unannounced inspection of Harmondsworth IRC by HM Inspector of Prisons, 2 - 20 October 2017, P.14

<sup>6</sup> Stephen Shaw, Welfare of Vulnerable Persons Review: progress report (August 2018), p.34

representatives are unable to use a Part C form or response to support requests for release. It also makes it impossible to assess the effectiveness of this mechanism in identifying and releasing vulnerable people.

23. Rule 35 reports are main route for the Home Office to receive information about an individual's vulnerability, although the flaws are well-documented and both Shaw Reviews have recommended consideration of alternative processes.
24. There are three circumstances in which a medical practitioner can complete a Rule 35 report: when a person's health is likely to be injuriously affected by continued detention, Rule 35(1), when there are concerns that a detainee may have suicidal intention, Rule 35(2), and when there are concerns a detainee may have been the victim of torture Rule 35(3).
25. In reality, Rules 35(1) and (2) are rarely used. In the first three quarters of 2018, the Home Office records that a total of seven Rule 35(2) reports were made.<sup>7</sup> If you include Rule 35(1), that takes the total to 67 reports made for the first 9 months of 2018 that could be about the mental or physical well being of a person in detention. During the same time period, there were a total of 334 incidents of self-harm requiring medical treatment across all IRCs.<sup>8</sup> In the quarter including March 2018, the Home Office records that just two Rule 35(2) reports were made across all IRCs.<sup>9</sup> In 2018, there was total of 1,819 incidents of self-harm not necessarily resulting in medical treatment across all IRCs<sup>10</sup>.
26. There is a stark difference between the numbers of self harm incidents in detention and the numbers of Rule 35(2) reports being carried out. Even if Rule 35(1) reports were being used as an alternative way to show that someone's health had deteriorated in detention, there would still be a huge number of people in detention vulnerable to harm without a Rule 35 report. In the same period; 1651 Rule 35(3) reports were carried out,<sup>11</sup> demonstrating that in reality, Rule 35 reports are rarely carried out unless the person is a torture survivor.
27. Since Rule 35 appears to be the main route for someone to be considered an Adult at Risk once they are in detention, vulnerable people who are not victims of torture risk not being considered under the Adults at Risk policy. In addition to this, the detention centres monitor and support people at risk of suicide or self harm using something called Assessment Care in Detention and Teamwork, or ACDT, however in the Adults at Risk policy there is no mention of ACDT as a way of identifying people who should come under the policy, and there is no mention of the Adults at Risk policy in DSO 6/2008,<sup>12</sup>

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<sup>7</sup> Home Office "Immigration Enforcement Data November 2018", <https://www.gov.uk/government/publications/immigration-enforcement-data-november-2018>

<sup>8</sup> No Deportations "Incidents of Self-Harm requiring medical treatment January Through /December 2018", <http://www.no-deportations.org.uk/Quarterly%20Asylum%20Stats/Self-Harm%202018.html>

<sup>9</sup> Home Office, note 7 above

<sup>10</sup> No Deportations, note 8 above

<sup>11</sup> Home Office, note 7 above

<sup>12</sup> Home Office, Detention Services Order 6/2008 Assessment Care in Detention and Teamwork

which outlines the ACDT self harm reduction strategy. It's not clear how, if at all, being placed on ACDT would flag someone to the Home Office as an Adult at Risk.

28. In cases where Rule 35 reports are carried out, this will trigger a review of someone's detention and a decision will be made on whether detention should be maintained. Home Office data on Rule 35 reports shows low rates of release; In 2018 and 2017 release rates following Rule 35 reports were just under 20%.<sup>13</sup> This dipped as low as 12% in quarter one.<sup>14</sup> Release rates for Rule 35(1) reports increase slightly, but still only 55% of people who had a Rule 35(1) report were released in the first three quarters of 2018.<sup>15</sup> This is very low considering that in Detention Actions experience, Rule 35(1) reports are only carried out in the most extreme cases, where there has been a clear deterioration in someone's health.
29. Although the Rule 35 process operates separately from the Adults at Risk Policy, the figures for release reflect what we see with Adults at Risk; that when someone has an identified vulnerability, the Home Office will balance this against immigration factors and detention will be maintained in the overwhelming majority of cases.

### **Detention Action Research into the Operation of the Adults at Risk Policy**

30. In 2017 Detention Action conducted independent research, monitoring the implementation of the Adults at Risk policy in Harmondsworth, Colnbrook and The Verne IRCs. This included an intensive period of monitoring between May and August 2017, where we collected and reviewed data for 48 clients who had been considered Adults at Risk under the terms of the policy.
31. Of the 48 cases identified by Detention Action as having triggered the policy, detention was maintained in 85% cases (41 of 48 clients). Only 7 individuals were released from detention following assessment as Adults at Risk. These include one person who was initially transferred to a mental health unit before being moved back to detention, where his mental health deteriorated again until he was eventually released. 29% of those initially rejected for release by the Home Office were subsequently released on bail (12 of 41 individuals), suggesting that the Tribunal is frequently taking a different view of the balancing exercise. One person was released by the High Court and another was granted leave to remain.
32. In this sample group, 94% (45 of 48 identified Adults at Risk) had Rule 35 reports, while only three people had triggered the policy without a Rule 35 report. Rule 35 reports had been completed for two individuals without triggering the policy. Of the 45 Rule 35 reports, 80% had a Rule 35(3) report because the medical practitioner had concerns the individual may have been a victim of torture. Only 20% (nine people) had a Rule 35(1) report because the medical practitioner felt their health was likely to be injuriously affected by continued detention. No one had a Rule 35(2) report because of concerns

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<sup>13</sup> Home Office, note 7 above

<sup>14</sup> Home Office, note 7 above

<sup>15</sup> Home Office, note 7 above

about possible suicidal intentions. It appears unlikely that there are in reality so few vulnerable people in detention without histories of torture; the balance of probability is that other vulnerable people are being missed because of a focus on torture in the Rule 35 process.

33. These vulnerable people were detained for weeks and months despite having been found to be at risk, before eventually being released on temporary admission, bail or by the High Court.<sup>16</sup> It is likely that their ongoing detention caused further harm. Our sample group of Adults at Risk who were initially refused release stayed in detention for a further period of between three weeks and eight months. Nearly three quarters were detained for more than two months as an Adult at Risk (11 of 15 individuals).
34. Our sample indicates that many Adults at Risk are kept in detention after the risk has been identified before eventually being released anyway, their extended and harmful detention having served no purpose. One of the key factors weighed against the risk of harm is how quickly removal is likely to be effected, and yet it seems that only a small proportion of Adults at Risk are quickly removed. In our sample, the removal rate was only 17% of recognised Adults at Risk where detention was maintained (7 out of 41 individuals), while 49% were released. Of those who have left detention, only 26% were removed (7 out of 27 cases).
35. Although this research was conducted in 2017, our casework team continue to speak to people identified as Adults at Risk in detention on a daily basis, and the figures obtained by Freedom from Torture certainly suggest that things have not changed. In our sample, detention was maintained in 85% of cases, the figures from the Freedom of Information request show that from September 2017 - September 2018, detention was maintained in 92% of cases.
36. Between December 2018 and February 2019 Detention Action has witnessed several situations where highly vulnerable people were detained and their detention was maintained under the Adults at Risk policy. This includes the detention of a man who had been admitted to psychiatric hospital earlier that year, whose mental health deteriorated rapidly in detention and was experiencing psychosis within a week of being detained, a man detained from the community who used a wheelchair and whose personal care needs could not be met in detention and a man detained despite being a torture survivor, whose detention was justified on the basis told that his removal could be facilitated within 2 months, yet he is still in detention almost one year later.

**Recommendation 1: Any Adults at Risk policy should ensure that vulnerable people are promptly identified and routed out of detention, through a clear and transparent process to bring vulnerabilities to the attention of the Home Office, and an assessment process not weighted towards detention.**

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<sup>16</sup> A full set of relevant data was available for 18 individuals, of whom 3 were released after being found to be an adult at risk and a further 15 were released at a later date.



**Recommendation 2: Policy should clearly prohibit the use of detention where it risks causing significant harm, including to ex-offenders with sentences of more than four years.**

**Recommendation 3: Vulnerable people and their legal representatives should be informed if detention centre staff alert the Home Office to their vulnerability, and of the Home Office response.**

**Recommendation 4: Alternatives to detention based on specialist case management should be developed to support all those liable to detention to resolve their cases in the community.**

### **The Adults at Risk Policy and Mental Capacity**

37. Identifying individuals who lack capacity to make decisions in relation to their immigration case and other matters is a further gap in the Adults at Risk policy. This was identified in the JCHR's recently published report of their inquiry into immigration detention, which stated "*The Adults at Risk policy and other Home Office policies are silent on how to respond to the needs of those that lack mental capacity, which puts them at a clear disadvantage. More needs to be done to identify vulnerable detainees and treat them appropriately.*"<sup>17</sup>

38. Unlike other comparable institutions, immigration detention has no process for assessing capacity or arranging access to independent advocates. This can create an additional disadvantage for some of the most vulnerable people in detention, as they cannot instruct a legal representative to challenge their detention. Detention Action staff have on several occasions been asked to act as litigation friends, to enable highly vulnerable people to access the immigration tribunals and bring legal challenges against their detention.

39. Detention Action has seen people being held in detention after being recognised as an Adult at Risk Level 3, some of whom were later found to lack mental capacity in making decisions relating to their case, as well as people being held in detention where mental capacity was only identified as an issue several months into their detention.

40. As there is no process to identify people in detention who may lack mental capacity to make decisions about their case it is highly likely than many people go through detention and their immigration case without appropriate support.

**Recommendation 5: An appropriate process should be developed to ensure that people who lack capacity are identified and not detained.**

### **The Adults at Risk Policy and Trafficking Survivors**

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<sup>17</sup> Joint Committee on Human Rights, 'Immigration Detention' (February 2019) p.30

41. The Adults at Risk policy was intended to strengthen the presumption against detention for victims of trafficking. Anyone who has been identified (by themselves or someone else) as having been trafficked should fall under the policy and “the presumption will be that the individual will not be detained”.<sup>18</sup>
42. The National Referral Mechanism, or NRM, is the process used to identify victims of trafficking and ensure that they receive appropriate support. The Home Office has a responsibility to speak to potential victims about this when they identify trafficking indicators, and refer them into the NRM if the person consents to this. Since NRM referrals are only made when there are indicators of trafficking, it would follow that when the Home Office makes a referral to the NRM, this should trigger a referral for the person’s suitability for detention to be considered under the Adults at Risk policy.
43. However, Home Office guidance to NRM decision-makers explains that an individual is “usually released from immigration detention if they receive a positive reasonable grounds decision, unless their detention can be justified on grounds of public order.”<sup>19</sup>
44. This indicates that it is actually the positive reasonable grounds decision, the first decision made in the NRM which means that there are reasonable grounds to believe that the person is a victim of trafficking, rather than self-identification or an NRM referral, that might trigger release. In practice, people do tend to be released only after a positive reasonable grounds decision, if at all, as in many cases, release only occurs after a subsequent application for bail or judicial review is made. It seems that the apparently stronger protection offered by the Adults at Risk policy is not translating into any change in practice.
45. Over six months from December 2016 to June 2017, Detention Action met 16 Vietnamese men detained in Colnbrook, Harmondsworth and The Verne IRCs with clear indicators of trafficking, out of a total of 19 Vietnamese men encountered during this time.<sup>20</sup> Seven had been convicted of cannabis cultivation, while others had been picked up by immigration officers while working in a cannabis farm or nail bar. Many described being physically or sexually assaulted by traffickers who brought them to the UK through Russia, China and France, or being forced to work long hours in poor conditions to pay off the debts they owed to their traffickers. Seven men (44%) had Rule 35(3) reports documenting evidence of the trauma experienced at the hands of their traffickers and had been recognised as ‘Adults at Risk’ under Home Office policy.
46. In addition to these indicators of trafficking, many of the men were vulnerable for other reasons. 11 (69%) disclosed serious physical and mental health problems, including cancer, seizures, type 1 diabetes, tuberculosis, PTSD, anxiety, depression and suicidal ideation.

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<sup>18</sup> Adults at Risk Statutory Guidance August 2016 (SI 18081601 08/16)

<sup>19</sup> Home Office, ‘Victims of modern slavery: Competent Authority guidance’ (21 March 2016), p.20

<sup>20</sup> Detention Action, ‘Trafficked into Detention’ (November 2017), p.7

47. Nine of the 16 men had to our knowledge been referred into the NRM. Of the nine NRM referrals made, only two were given an initial positive reasonable grounds decision, an acceptance rate of just 22%. This figure is low compared to the 74-90%<sup>21</sup> of NRM referrals that receive a positive reasonable grounds decision overall.<sup>22</sup> Being detained therefore appears to be associated with a much lower acceptance rate at the reasonable grounds stage, indicating that people with indicators of trafficking are unlikely to be considered under the Adults at Risk policy as a result of being referred to the NRM. Despite clear indicators of trafficking and other vulnerabilities, only 44% of our sample were identified as Adults at Risk. Their identification was largely due to Rule 35 reports being produced.
48. None of the clients in this sample were released as a result of being identified as an Adult at Risk.
49. Further to this, the balancing exercise in deciding if someone will be released, particularly fails trafficking survivors, who often have criminal convictions as a result of their trafficking. Indicators of vulnerability are out balanced by 'grounds of public order' arising from their convictions.

**Recommendation 6: Trafficking survivors should not be detained. A referral to the NRM should trigger release from detention, since it is only made when there are indicators of trafficking.**

### **Adults at Risk in Prisons**

50. A significant proportion of vulnerable individuals are excluded from the flawed safeguards of Adults and Risk and Rule 35 because they are held in prison under immigration powers, usually following a prison sentence. At the end of December 2018, 421 people were detained under immigration powers in prisons.<sup>23</sup> The prevalence of mental health issues within the prison population is well known. However the mechanisms for informing the Home Office of vulnerability, such as the Rule 35 process, do not apply in prison. The Home Office has stated that the Adults at Risk policy does apply to people held under immigration powers in prisons, however in practice prison staff do not seem to have an awareness of the policy. When this is combined with difficulties in accessing legal advice and restricted communications with the outside world (as people in prison are not able to access the internet, receive incoming calls and their access to outgoing calls is restricted), it is likely that very vulnerable people are being detained in prison for long periods with little support.

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<sup>21</sup> In 2013 and 2014. Home Office, 'Review of the National Referral Mechanism for victims of human trafficking' (November 2014), p.25

<sup>22</sup> In 2013 and 2014. Home Office, note 5 above, p.25. Detention Action submitted several FOI requests to the Home Office for statistics about NRM referrals and reasonable grounds decisions for those detained under immigration powers, but these were refused on the basis that this would require a manual check of individual records.

<sup>23</sup> AVID has been collating information via Freedom of Information requests on the numbers and locations of those held in prison under immigration acts. The latest statistics for the period October to December 2018 are available here - <http://www.aviddetention.org.uk/what-we-do/our-publications/detention-facts-and-figures/prison-statistics>

51. Detention Action has witnessed many situations where people with clear vulnerabilities are held in prisons for long periods, even years, without access to appropriate support. This includes people with histories of self harm and suicide attempts, held in a very isolating environment and a restrictive regime, where they will be locked in their cell for 23 hours a day, for weeks at a time, with access to the outdoor areas once every two weeks. We have seen clients where no mention of the Adults at Risk policy is in their Home Office letters or medical records, yet they would clearly fall under the policy, as well as people who were identified as Adults at Risk in an IRC, but were then transferred to prison where there is no evidence to show that their status as an Adult at Risk was monitored by prison or that detention was reviewed in light of their vulnerabilities, even when their mental health deteriorates further.

**Recommendation 7: The Adults at Risk policy, and an equivalent to Rule 35, should apply to people held under immigration powers in prisons.**

#### **Detention Actions Call for a Time Limit**

52. The most effective way to prevent the long term detention of adults at risk would be to enforce a 28 day time limit for all those detained. There is a significant body of evidence to suggest that indefinite detention in itself causes significant harm, anxiety and distress to those it affects while failing meet its immigration control objectives.

53. A statutory time limit on the period that individuals can be detained under immigration powers would protect fundamental rights, reduce the harm caused by detention and allow a reallocation of resources towards alternatives based on constructive engagement with individuals in the community.

**Recommendation 8: A time limit of 28 days for all should be introduced to reduce the overall harm of detention on all people detained and a shorter 7 day statutory time limit should be enacted for those identified as Adults at Risk.**