EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)

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Report

to the United Kingdom Government on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

from 27 March to 6 April 2023

The Government of the United Kingdom has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2024) 09.

Strasbourg, 8 February 2024

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I. INTRODUCTION

A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out an ad hoc visit on immigration matters to the United Kingdom (UK) from 27 March to 6 April 2023. The visit was considered by the Committee "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention).

The objective of the visit was to examine the treatment and conditions of detention of persons held under immigration legislation, both in immigration removal centres and prison establishments. The visit also afforded the delegation the opportunity to examine the effectiveness of the safeguarding procedures in place for vulnerable persons deprived of their liberty in immigration detention centres accommodating both men and women. It was the Committee's 26th visit to the United Kingdom.[1]

2. The visit was carried out by the following members of the CPT:

- Jari Pirjola (Head of Delegation)
- Marius Caruana
- Nikola Kovačević
- Helena Papa
- Elisabetta Zamparutti

They were supported by Hugh Chetwynd, Head of Division, of the CPT Secretariat.

3. The report on the visit was adopted by the CPT at its 111th meeting, held from 3 to 7 July 2023, and transmitted to the United Kingdom authorities on 11 July 2023. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests that the United Kingdom authorities provide within three months a response containing a full account of action taken by them to implement the Committee's recommendations, along with replies to the comments and requests for information formulated in this report.

B. Consultations held by the delegation and cooperation encountered

4. In the course of the visit, the delegation held consultations with senior officials from the Home Office responsible for immigration matters such as the Directors of Detention Services, International and Return Services Command, Foreign National Offender Returns Command and National Returns Progression Command. Exchanges with officials from the Ministry of Justice and HM Prisons and Probation Service also took place.

In addition, meetings were held with David Neal, Independent Chief Inspector of Borders and Immigration (ICIBI), Martin Lomas, Deputy Chief Inspector of Prisons for England and Wales (HMIP) as well as with Anne Owers, Chair of the Independent Monitoring Board and other IMB Board representatives. The delegation also met with Medical Justice, the Association of Visitors to Immigration Detainees (AVID), Jesuit Refugee Service and Detention Action. The Chair Designate of the UK National Preventive Mechanism, Wendy Sinclair-Gieben, attended the CPT feedback session to Government officials at the end of the visit.

1. The CPT has previously carried out nine periodic visits and sixteen *ad hoc* visits to the country, the most recent one in 2022. The reports on these visits and the responses of the national authorities have all been made public and are available on the Committee's website: https://www.coe.int/en/web/cpt/united-kingdom.

5. The delegation received excellent cooperation overall from the UK authorities both prior to and during the visit in terms of access to all places it wished to visit, the possibility to speak in private with foreign nationals and staff and the provision of information documenting the deprivation of liberty of foreign nationals. It wishes to place on record its gratitude to all the staff who facilitated its work both at central level and in the establishments visited as well as to the CPT liaison officers, notably those in the Ministry of Justice, for the smooth running of the visit.

6. Nevertheless, the CPT must recall once again that the principle of cooperation between Parties to the Convention and the Committee is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in light of the CPT's recommendations. In this respect, the CPT considers that insufficient action has been taken to address the longstanding recommendations pertaining to the indefinite time period by which persons may be held in immigration detention and the continued policy of holding persons in prison under immigration legislation after they have completed their prison sentence as opposed to transferring them to an immigration detention centre.

The CPT trusts that the United Kingdom authorities will take concrete measures to address the recommendations in this report, including as regards the specific issues highlighted above, in accordance with the principle of cooperation set out in Article 3 of the Convention**.**

7. The establishments visited by the CPT in the course of the 2023 visit were:

Establishments under the authority of the Home Office

- Brook House Immigration Removal Centre (IRC)
- Colnbrook IRC
- Colnbrook Short-Term Holding Facility (STHF)
- Derwentside IRC
- Harmondsworth IRC (focused visit)

Establishments under the authority of the Ministry of Justice

- Pentonville Prison, London*
- Wormwood Scrubs Prison, London*

* targeted visits to examine the situation of persons held under immigration legislation

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Immigration detention

1. Preliminary remarks

a. background information

8. The CPT visit to the UK in March and April 2023 took place at a time when the Government was announcing its increased determination to detain and remove all foreign nationals[2] who did not have a right to reside in the UK. Particular emphasis was being made on clamping down on persons arriving by small boats across the English Channel. As part of this approach, the UK Government reaffirmed its determination to remove such persons to a third country where they might have their refugee determination status decided. In this respect, the Government has committed additional resources to the Migration and Economic Development Partnership signed in April 2022 with the Rwandan Government, whereby Rwanda will take foreign nationals removed from the UK and process their asylum cases.[3] Further, in March 2023, as part of the approach to deter persons from taking small boats across the English Channel, the Government introduced the Illegal Migration Bill 2023 to Parliament, which explicitly makes the removal of persons arriving in the UK without a valid visa or entry permit easier, by stripping away a series of fundamental safeguards to protect them.

The Bill and removal policy being pursued by the UK Government has been harshly criticised by numerous international and national organisations.[4] The CPT likewise considers that the Bill erodes basic safeguards that protect persons from being potentially subjected to torture and inhuman or degrading treatment or punishment. Moreover, the monitoring experience of the CPT in relation to migration issues since 1990 demonstrates clearly that harsh immigration detention policies do not deter persons in need from making dangerous journeys to reach what they perceive as a safe country. Persons seeking refuge need to be provided with a clear route by which they can find safety for themselves and their families, preferably close to their country of origin but if that is not possible further afield, including Europe.

In this context, it is also incumbent on members of the UK Government not to use inflammatory and derogatory language when referring to foreign nationals arriving in the UK after undertaking a hazardous journey. Promoting a hostile environment towards these groups of foreign nationals is more likely to negatively impact their treatment generally and, more specifically, if they are deprived of their liberty.

The CPT recommends that the United Kingdom authorities ensure that all foreign nationals arriving in the UK have a right to apply for asylum in the UK and have their case processed in line with international refugee and human rights law before any attempts are made to return them to their country of origin or to a safe third country.

2. The generic term "foreign nationals" is used to describe persons on the move and includes refugees, asylum seekers and migrants, regardless of their legal status.
3. On 29 June 2023, the Court of Appeal of England and Wales ruled that Rwanda could not be considered as a safe third country. See AAA (Syria) & Ors, R (on the application of) v The Secretary of State for the Home Department [2023] EWCA Civ 745
4. See, *inter alia*, UK Parliament Joint Committee on Human Rights report *Legislative Scrutiny: Illegal Migration Bill* of 6 June 2023 UNHCR legal observations on Illegal Migration Bill (updated) of 2 May 2023 as well as the Joint Briefing on Illegal Migration Bill by UK civil society actors and submissions by Children's Commissioner, Equality and Human Rights Commission and the Council of Europe Commissioner for Human Rights.

9. The current UK approach is a reversal of previous policy whereby the UK Government informed the CPT in 2016 that it intended, *inter alia* to introduce a clear presumption against detention of vulnerable people and that, as a result of the reforms and changes to be introduced, it expected both to reduce the number of persons detained and the duration of detention before removal. The CPT welcomed this approach. Indeed, such an approach is all the more important in light of several critical reports since 2016 on the way in which immigration detention is applied and the inadequate operation of the safeguards to protect vulnerable persons from being detained. Particular reference is made to the "Statutory Inquiry under the Inquiries Act 2005 into mistreatment and abuse in breach of Article 3 ECHR at Brook House IRC" exposed by undercover reporting in 2017.The Brook House Inquiry[5] heard extensive evidence of systemic and institutional failures by both the government and its private contractors (G4S), including misuse of force and racism, and is expected to deliver its final conclusions in late summer 2023. In addition, Stephen Shaw produced a follow-up report in 2018 concerning vulnerable persons[6], while the Parliamentary Joint Committee on Human Rights[7], and the House of Commons Home Affairs Select Committee[8] published their own reports on immigration detention.

b. legal framework

10. The administrative detention of foreign nationals is governed by Schedules 2 and 3 of the 1971 Immigration Act (as amended). The decision to detain is a purely administrative decision taken by Immigration Officers. The Immigration and Asylum Act 2002 extended powers to decide on detention to Home Office caseworkers. The criteria by which any decision to detain should be made are set out in the Home Office's Detention: General Instructions[9] of January 2022.

It states that a person may be held in immigration detention to: effect removal where there is a risk of absconding or reason to believe that the person will fail to comply with any conditions attached to the grant of temporary admission or release; when a risk of harm to the public has been identified; or to establish a person's identity or basis of claim. Undocumented foreign nationals found in the United Kingdom may be detained pending a decision on whether they are to be removed or pending arrangements for their removal.

11. The decision to detain a foreign national is not automatically reviewed by a court or an independent review body. However, a detained person can apply to a judge for review of their detention. There is no time limit on the length of detention under the Immigration Act 1971 but, for the detention to remain legal, active measures must be ongoing to deport an individual and there is a duty on the Home Office to carry out a monthly review.[10] When there is no reasonable likelihood of being able to deport a person, for example, due to the situation in the country of origin, persons should not – or no longer – be detained. Indeed, detention will not be lawful where it would exceed the period reasonably necessary for the purpose of removal, or where interference with family life could be shown to be disproportionate.[11] To avoid being branded as arbitrary, detention will be justified only for as long as the deportation or extradition proceedings are in progress and are being conducted with due diligence.

5. https://brookhouseinquiry.org.uk/
6. Stephen Shaw (July 2018) Assessment of government progress in implementing the report on the welfare in detention of vulnerable persons: A follow-up report to the Home Office. Stephen Shaw was Prisons and Probation Ombudsman for England and Wales from 1999 to 2010. In 2015, he was asked by the Home Secretary to examine the welfare of persons held in IRCs. That Review was published in January 2016.
7. Joint Committee on Human Rights (2018) Immigration Detention Inquiry.
8. See Immigration detention: Fourteenth Inquiry Report of Session 2017-2019.
9. Detention: General Instructions
10. An additional review is carried out every three months by a Case Panel Review which must include one independent member from outside the Home Office.
11. The European Court of Human Rights clarified that, in respect of adults with no particular vulnerabilities, the length of the detention should not exceed that reasonably required for the purpose pursued – see *Saadi v. UK [GC]*, para. 74; (*A. and Others v. UK [GC]*, para. 164.

Nevertheless, the CPT again noticed the negative impact that the open-ended nature of detention caused in individuals during the 2023 visit. The very fact that there is no maximum period of detention and that persons may be held for several years is a trigger for becoming mentally unwell regardless of the fact that the vast majority of persons spend fewer than 28 days in detention.[12] Further, one man from Somalia met by the delegation had been held in Colnbrook IRC since 22 October 2019 following a failed deportation attempt by plane to Turkey. The CPT cannot see how a person's protracted detention under immigration legislation can continue to be justified under the criteria set out above when there is no prospect of the person being returned. It considers that a defined time limit for detention should be introduced.

The CPT reiterates its recommendation that the United Kingdom authorities introduce a time limit for detention under immigration legislation. Further, it would like to be informed of the current situation of the above-mentioned person from Somalia.

12. The Nationality and Borders Act 2022 contains several provisions such as Sections 27 (accelerated detained appeals), 29 (removal to safe third countries), 40 (illegal entry and similar offences) and 48 (matters relevant to decisions relating to immigration bail) which have the stated purpose and potential to greatly expand the use of immigration detention. In 2015, the previous Detained Fast Track (DFT) process was found to be unfair and unjust by the courts[13] and to date the new Accelerated Detained Appeals (ADA) process under Section 27 has not yet entered into force.

The CPT would like to be informed about the steps the UK authorities have taken to ensure that the ADA process will not fall foul of the same problems encountered by the DFT.

13. As regards the Illegal Immigration Bill, if it does enter into force, **the CPT would like to be informed:**

- **whether all male and female adults who arrive by small boat across the English Channel will automatically be detained for a minimum period of 28 days?**
- **where families with children and unaccompanied or separated children who arrive by small boat across the English Channel will be held and whether they will be able to apply for asylum and protection?**
- **what steps will be taken to ensure that the implementation of Clauses 10 and 11 of the Bill in respect of children are in line with the principle of the best interests of the child?**
- **what safeguards will be in place for victims of modern-day slavery who are already present in the UK, to encourage them to denounce their situation without fearing that they will automatically be detained and removed to a third country such as Rwanda?**
- **what new facilities (including their location and capacity) will be used for the purposes of detaining the envisaged increase in the number of migrants who arrive in the UK without a valid visa or entry permit as defined by Clause 2 of the Bill?**
- **what effective safeguards exist to enable persons to challenge continued detention even when the purpose for detention "cannot be carried out within a reasonable period of time" as set out in Clause 11 of the Bill?**

14. Persons held in Immigration Removal Centres are subject to the Detention Centre Rules 2001, which were complemented by the "Detention Services Operating Standards manual for immigration Service Removal Centres". The Detention Centre Rules set out the rights of detained persons and give the purpose of the IRCs as being to provide for the secure but humane accommodation of detained persons in a "relaxed" regime, with as much freedom of movement and association as possible, consistent with maintaining a safe and secure environment; and to encourage and assist detained persons to make the most productive use of their time, whilst respecting in particular their dignity and the right to individual expression. The Home Office has produced a series of Detention Service Orders[14] to regulate the operating standards within immigration detention centres.

12. In 2022, 14 150 of 19 447 persons (73%) spent fewer than 28 days in detention, according to official figures published by the Home Office.
13. See *Lord Chancellor v Detention Action EWCA Civ and R* (on the application of) *Detention Action v Secretary of State for the Home Department [2015] EWCA Civ 840*.
14. Detention Service Orders

c. the detention estate

15. The number of persons detained in immigration detention facilities may vary significantly throughout the year. For example, over 7 800 persons left immigration detention in the 3rd quarter of 2022 which was nearly 4 000 higher than the previous quarter and 2 700 higher than the subsequent quarter. A snapshot of the 3 187 persons who left immigration detention during the first quarter of 2023, revealed that:

- 516 were detained for three days or less;
- 2 144 between three and 28 days;
- 988 between 28 days and three months;
- 449 between three and six months; and
- of the 373 remaining persons, 82 had been held for between six and 12 months; 30 between one and two years; five between two and four years and one person for over four years.

16. The so-called 'detention estate' comprises Immigration Removal Centres (IRC), Short-Term Holding Facilities (STHF), either residential or non-residential, and Pre-Departure Accommodation (PDA) within Tinsley House IRC.

There are currently seven immigration removal centres, where people can be held indefinitely, and five residential short-term holding facilities, where detention may last up to five or exceptionally seven days, according to The Short-Term Holding Facility Rules 2018.[15] The detention estate has an estimated total capacity of 2 245 places with a plan to create an additional 1 000 places by 2024, notably by re-opening (after refurbishment) Campsfield and Haslar IRCs. All the existing IRCs and STHFs are run by private 'service companies', contracted and overseen by the Home Office.[16] Many foreign national offenders continue to be held in prison under immigration legislation after they have completed their criminal sentence pending their removal or release on bail or transfer to an IRC.

17. Detained persons may also be held in non-residential STHFs for no longer than 24 hours. These facilities are holding rooms based at ports or airports (at Manchester Airport, Swinderby (Lincoln) and in Larne (Northern Ireland). In February 2022, the government opened the Manston Short-Term Holding Facility (Kent), a non-residential STHF to hold migrants arriving by boat. Following the adoption of the Short-term Holding Facility (Amendment) Rules 2022, which came into force on 5 January 2023, part of the Manston site is being refurbished as a Residential Holding Room (RHR) to enable it to detain people for up to 96 hours (four days) in accordance with the new Rules.[17]

18. List of immigration detention centres currently operating, with their official capacity and occupancy levels at 30 September and 31 December 2022, and at 31 March 2023.

	Official capacity	September 2022		December 2022		**31 March 2023**	
		Men	Women	Men	Women	Men	Women
Brook House IRC	450	262	n/a	161	n/a	189[18]	n/a
Colnbrook IRC	312	267	n/a	184	1	194	n/a
Derwentside IRC	84	n/a	32	n/a	29	n/a	33
Dungavel IRC	125	58	3	38	0	53	0
Harmondsworth IRC	635	469	n/a	72	n/a	403	n/a
Tinsley House IRC	162	163	n/a	39	n/a	67	n/a
Yarl's Wood IRC	410	236	n/a	235	n/a	238	6

15. The Short-Term Holding Facility Rules 2018.
16. The implementation of each contract is overseen by a team of Home Office officials based in the immigration removal centre, with detailed compliance reports drawn up monthly.
17. See the CPT report on the November 2022 visit to Manston STHF - CPT/Inf (2023) 12.
18. As of 21 June 2023, occupancy levels had risen to 341.

Yarl's Wood STHF		98	n/a	0	n/a	0	n/a
Colnbrook STHF	18	0	14	0	3	0	0
Larne House STHF	19	4	0	0	0	1	2
Manchester STHF	32	1	3	0	0	9	3
Swinterby STHF	39	0	0	3	0	6	0
Total		1558	52	732	33	**1160**	**44**
HM Prisons		460	7	383	11	**380**	**7**

d. facilities visited

19. Derwentside Immigration Removal Centre (IRC), located near Newcastle, is on the site of the former Medomsley Detention Centre, which closed in the late 1980s. The centre was refurbished by the Home Office and opened in November 2021 as an IRC for adult women. The first women arrived at the centre at the end of December 2021. The centre was managed by Mitie Care and Custody at the time of the visit but the new 10-year contract will be managed by Serco.

The centre has a capacity to hold 84 women when fully operational and at the time of the visit was accommodating 24 women in two residential units (Elizabeth and Florence) with a third unit (Grace) on stand-by if numbers increased. The residential units looked out onto a large garden area to which the women had free access. Further, one large building which was intended to house the induction unit, the care suite and the cultural kitchen remained incomplete.

20. Brook House IRC[19] opened in March 2009 and is a purpose-built immigration removal centre with a prison design. It holds a mix of adult male detained persons, including a number who are regarded as too challenging or difficult to manage in less secure centres and those waiting to be removed from the UK on organised charter flights. In May 2020, the contract for managing the centre passed from G4S to Serco.

The centre has an official capacity of 448 in mostly twin-bedded rooms although 40 rooms are designated for single occupancy. At the time of the visit, the centre was accommodating 207 male adults and the average length of stay was 46 days, with the longest being 351 days.

Brook House has four wings (A, B, C and D). Three wings have three landings while the induction wing B, which was closed at the time of the visit, has two landings. The ground floor of the induction wing is a discrete unit (E wing) used to manage persons with complex needs and those who are separated from the rest of the population. There are four concrete outdoor yards.

21. Colnbrook IRC, opened in 2004, operates as a secure immigration centre housing adult men (Category B prison security level) and as a short-term holding facility (STHF) accommodating women. The centre has an official capacity for 312 men and 18 women and at the time of the visit was holding 221 men and 3 women. The average length of stay was 52 days and eight men had been held for longer than 180 days, and one man for over 41 months (1 261 days).[20]

There are four main residential units for men within Colnbrook (Alpha, Bravo, Charlie, and Echo) holding men in shared rooms over three landings. Each unit contains a staff office and servery located on the ground floor, along with an association area and access to an exercise yard. Women are accommodated within the Sahara unit, a Short-term Holding Facility situated on the top floor of the reception and visitors' block (see paragraph 26 below).

19. In January 2021, Brook House IRC and the adjacent Tinsley House merged to become Gatwick IRC. Both centres are under the same management. The CPT did not visit Tinsley House.
20 During the Covid-19 pandemic, Colnbrook was used as a reverse cohort unit to quarantine new arrivals for a short period. They were then released or transferred, usually to the neighbouring Harmondsworth IRC.

22. Harmondsworth IRC opened as a purpose-built IRC in 2000. However, after a disturbance in 2006, two of the four original wings were taken out of service and in 2010 four new wings were built to Category B prison security level. In 2013 and 2015, additional beds were added to Dove House resulting in Harmondsworth having a capacity to hold 680 adult male persons. At the time of the visit, it was accommodating 481 persons and the average length of stay was 15 days.

The Harmondsworth site has two distinct styles of accommodation. Cedar and Dove are the two older hostel-style units housing up to 360 persons, while the four newer prison-like units, Ash, Beech, Fir and Gorse have a combined capacity of 320.

In September 2014, Harmondsworth IRC and the neighbouring Colnbrook IRC merged and became known collectively as the Heathrow IRC. The IRC has been managed by Mitie Care and Custody since the merger.

2. Ill-treatment

23. The CPT delegation received no indications of deliberate physical ill-treatment of detained persons by custodial staff in any of the establishments visited. Indeed, at Derwentside IRC, the delegation noted good relations with the detained women, underpinned by a caring attitude. At Colnbrook IRC, the delegation noted a supportive approach by certain staff and, at this centre and at Brook House IRC, most persons with whom the delegation spoke stated that staff acted correctly. However, some allegations of abusive language by staff at Colnbrook and Harmondsworth IRCs were received, and the delegation noted instances of dismissive behaviour and of a lack of engagement at Brook House IRC.

24. Given the importance of providing a supportive environment for detained persons, many of whom have never been in detention previously, it is essential that staff engage appropriately. The CPT recognises that IRCs present a challenging environment, but if such issues arise when the centres are operating at only 50-60% capacity, they will likely be further exacerbated when the numbers rise significantly.

The CPT recommends that all custodial and other staff are provided with ongoing training and support, notably in relation of inter-personal skills and cultural awareness, as well as appropriate oversight to ensure that they are capable of offering a supportive environment to persons held in immigration detention (see also paragraphs 78 and 82 below).

3. Conditions of detention

a. material conditions

25. The conditions of detention at Derwentside could generally be described as very good. The residential units were bright, airy and clean. The women were accommodated mostly in single rooms, but each unit had up to six double-occupancy rooms and a room for women with disabilities.[21] The rooms were equipped with beds, a television, lockable cupboards and a table and chair. Access to natural light was good, as was the artificial lighting and ventilation (the windows could be opened to allow in fresh air). Each room had a fully partitioned sanitary annex comprising a toilet, sink and shower. The rooms were in a good state of repair. All women were provided with keys to lock their rooms. Each unit contained a laundry room, a multi-purpose room, a servery (with a microwave, toaster and fridge) and a staff office as well as two association areas decorated in light colours and equipped with tables and chairs and soft furnishings.

The outside garden areas onto which the residential units looked were pleasant and there were plans underway to develop the flower beds and provide more opportunities for the women to be outside.

21 For example, on the Elisabeth unit, there were 10 single rooms (11 m^2), 5 double (15 m^2) and one room designated for persons with disabilities.

It was positive that the women could access the garden area throughout the day. In this respect, **consideration should be given to providing more sheltered space outside to enable the residents to enjoy fresh air even when it is raining or very sunny.**

26. The Sahara unit at Colnbrook, consisted of a large well-furnished open area with sofas, a worktable, exercise bikes, computer terminals and a staff desk as well as reams of information in numerous languages. Off this area are nine, twin-bedded rooms for accommodating up to 18 women for periods of up to a maximum of seven days.[22] At the time of the visit, three women were in the unit and the conditions could be considered good for them for a short period. However, should the unit be fully occupied, it would be crowded especially as there was no direct access to the outdoor exercise yard, and the limited staffing complement of one or two officers meant it was often not possible to offer daily access to the outdoor yard. The delegation was informed that the purpose of the Sahara unit would be reviewed and that more women would instead be sent to Yarl's Wood, where the newly refurbished Nightingale unit, with a capacity to accommodate 54 women, had recently been opened.

The CPT would like to be informed about the current use of the Sahara unit and to receive details about the purpose and operation of the Nightingale unit at Yarl's Wood IRC.

27. Both Brook House and Colnbrook IRCs remained prison-like, which is not appropriate for holding persons detained under immigration legislation. At Brook House, some efforts to create a less austere environment were being made with the introduction of wall art on the wings. **Further efforts should be explored at both IRCS in consultation with the residents about rendering the environment less austere, such as installing plants on the landings.**

28. At Brook House, the 12 m^2 cells were designed for double occupancy with 40 cells designated as single-occupancy, which were allocated to persons following a cell-share risk assessment.[23]

The cells were all of sufficient size and suitably equipped (bed, lockable cupboards, clean bedding) and had adequate access to natural light and artificial lighting. The in-cell toilet was, however, not completely partitioned from the rest of the cell. There were eight showers on each wing with swing doors and a privacy curtain. The main deficiency was the poor ventilation, which many persons stated caused them severe headaches, notably at night when the cell doors were locked. The delegation observed air vents covered with mould in some cells. It is recalled that the windows in the cells cannot be opened to let in fresh air.

29. At Colnbrook, each of the three residential wings had 11 double-occupancy cells, each measuring 14 m^2, on three landings with a capacity of 66 residents. However, up to five cells on each wing were allocated for single occupancy. The material conditions were of a similar standard to those observed at Brook House, including as regards poor ventilation and toilets not being fully partitioned from the rest of the cell or possessing a toilet seat.

30. At Harmondsworth, the cellular accommodation on four of the wings was of a similar standard to that in Colnbrook. The induction wing (Ash) had 22 double-occupancy cells on each of the two landings. It was notably spartan and unwelcoming, and the delegation found that not all new arrivals were provided with a pillow or cover for their mattress. Beech and Fir wings both consisted of three landings with a total of 40 double-occupancy cells each and had a cramped, prison-like atmosphere. Gorse wing contained 45 double-occupancy rooms (each 9.5 m^2) on one level, split into two spurs with the staff offices in the middle. Each spur contained one or two billiards tables as well as additional seating and tables for recreational games and six individual shower cubicles, some of which were dilapidated. Cedar and Dove wings provided more hostel accommodation with the rooms equipped with one or two sets of bunk beds and some storage space. Lighting was adequate but the ventilation was problematic and many of the rooms were in a state of disrepair. On each corridor, there were six toilets and two showers for roughly 40 persons; on the ground floor of Dove wing, two showers were broken. There was an infestation of bedbugs on Dove wing at the time of the visit.

22. On occasion, women could be held for longer than seven days but usually it was for less than three days.
23. At the time of the visit, A, C and D wings were accommodating 63, 65 and 68 residents respectively.

31. **The CPT recommends that steps be taken to maintain the residential areas in a good state of repair which guarantees a healthy environment, notably in Harmondsworth IRC. Further, resolute action should be taken to improve the airflow systems in both Brook House and Colnbrook IRCs and efforts undertaken to improve the environment of the prison-like units at both IRCs. The toilets should be fully partitioned from the rest of the cell and all toilets should be fitted with a toilet seat.**

32. Apart from the outdoor exercise yard at Colnbrook used by women residents, which contained some greenery and seating, the other yards remained uninviting and stark. The relatively small concrete yards at Brook House were enclosed on three sides by buildings and the fourth side had a high meshed fence topped with barbed wire. Some efforts had been made at Harmondsworth to improve one large yard with seating and exercise installations, and the delegation noted some seating existed in other yards at both Brook House and Colnbrook. However, none of the yards provided any shelter from the rain or even the sun. The CPT considers that encouraging access to fresh air is important not only for a person's physical wellbeing but also for their mental health. Hence the importance of rendering the outdoor yards welcoming, preferably with some greenery.

The CPT recommends that steps be taken at Brook House, Colnbrook and Harmondsworth IRCs to provide all the outdoor yards with shelter from rain and sun as well as to render them more inviting, including by installing some greenery.

33. Food is particularly important for the wellbeing of detained persons. At all the centres visited, the delegation received numerous complaints about the food. For some, the food was too bland whereas for many others there was too much emphasis on rice and curries. Persons also complained about not receiving enough food. Even at Derwentside, where residents were positive about living conditions, food was almost unanimously brought up as being not good.

The Committee recognises that, with a changing multi-national population, offering a menu that pleases all persons is a real challenge. Nevertheless, continued efforts should be made to ensure that menus are sufficiently diverse, meet health and cultural needs and contain the requisite daily requirement of proteins and vitamins, and include fresh fruit every day.

The CPT recommends that increased efforts be made to meet the dietary requirements of the resident populations in all the IRCs visited, taking due care that menus contain the requisite daily requirement of proteins and vitamins.

b. regime

34. At Derwentside, an open regime was in operation on the residential units and each woman resident possessed a key to their own room allowing them to come and go as they pleased within the unit.[24] Each unit provided a range of recreational materials (games, puzzles, artwork). There was an English and mathematics class, and a class on arts and activities as well as various sports and gym classes every day and a beauty salon. At weekends, bingo sessions were held as well as evening activities such as karaoke or a film showing, and specific activities were organised on specific occasions such as World Book Day, International Women's Day and national holidays. The incompletion of block 4, which was supposed to house the shop, café and cultural kitchen, meant that additional activities were on hold. In general, given the occupancy levels and the short periods that most women spent in the centre, the range of activities could be considered adequate. However, planning should be put in place to ensure that, if the number of residents rises and more women are being held for longer periods, there is sufficient provision to offer a range of activities.

24. The main doors to the units were unlocked between 7:00 and 19:00.

The CPT would like to be informed about the plans in place to meet such increased regime needs. It would also like to be updated on the opening of block 4 and whether the planned activities it is supposed to house (the cultural kitchen, music room and café etc.) as well as other activities such as horticulture and ICT classes are now operating.

35. At Brook House, an open regime operated during the day with detained persons allowed to associate out of their cells between 7:00 and 22:00 (apart from two periods of half an hour at 12:00 and at 17:00). For much of the day,[25] persons were able to access the various services and activities offered by the centre, most of which took place along a central corridor running between the wings.

A wide range of activities was proposed including a cultural kitchen, IT suites, arts and crafts, education classes (ESOL, languages, literacy, numeracy, etc.), gym, music, a library, places of worship (a chapel, a mosque, a Sikh and Hindu religious room and a multi-faith room), a barber and a shop. The delegation could observe for itself that these activities were taken up and the monthly statistics bear this out. Further, electronic kiosks allowed detained persons to manage their daily life in the centre by booking appointments for services and activities and making meal choices.

36. At Colnbrook and Harmondsworth, a similar set up existed, except that persons were unlocked for nearly three hours less, between 8:00 and 21:00.[26] **The CPT would like to be informed whether the unlock hours at these two centres will be extended once the increased staffing arrangements come into force under the new management contract for Heathrow IRC in November 2023.**

37. In sum, the activities available were very good for short periods of stay. However, there should be a broader range of purposeful activities (vocational and work) for persons staying for longer periods; **the CPT invites the United Kingdom authorities to develop such activities for the persons concerned.**

c. reception and induction

38. The reception and induction procedures are extremely important for allaying the concerns of the new arrivals, many of whom may never have been detained before, and for identifying any vulnerabilities. The reception also sets the tone for the centre as to whether it is a place offering care and support.

39. At Derwentside, the reception area was welcoming, with soft furnishings and fresh fruit and water available. Women were searched by a female officer screened from the rest of the reception area and those in need were offered a pack of clean clothes. An informative brochure was available in different languages which provided the women with an overview of the centre. The women were provided with a mobile phone and credit to call their friends and family and were offered a sandwich and snacks. The women with whom the delegation spoke stated that they had been well treated upon their arrival at the centre.

After the reception, which included a private interview by healthcare staff, the women were allocated to a residential unit and the induction process would be undertaken during the following two days.

40. The reception units at Brook House and Colnbrook IRCs were spacious and well-furnished. At both centres, the staff were relaxed and made efforts to put the newly arrived persons at ease. The standardised IRC reception procedure, including a healthcare interview, lasted from one to three hours. At Brook House, a similar reception procedure was in place, but it was made highly stressful by the constant piercing alarm that went off every time the doors entering and exiting the reception area were opened. It undermined the staff's approach to put new arrivals at ease and made the conditions for carrying out a healthcare interview totally counter-productive especially for those persons who have a history of trauma. Further, the delegation noted that not all new arrivals were provided with an information brochure on the centre at reception.

25. Activities and services were generally available 9:00 to 12:00, 13:30 to 17:00 and 18:30 to 21:00.
26. Activities and services were generally available 9:00 to 12:00, 14:00 to 17:00 and 19:00 to 20:30.

The CPT recommends that steps be taken in the reception area of Brook House to stop the alarm going off every time the doors are opened as it undermined any attempts to offer a trauma informed approach towards new arrivals. Further, all new arrivals should be provided with an information brochure on the centre at reception.

41. The reception checklist is quite comprehensive, and it is certainly important to identify any potential vulnerabilities and to carry out a cell share risk assessment where required. However, for those persons arriving in the middle of the night who have undergone an exhausting journey, it is self-evident that they will not be in a position to retain much information about the centre or its procedures. Therefore, it is important that the induction process follows up on this initial provision of information and the introduction of a two-stage healthcare screening follows the same logic (see paragraphs 55 to 57 below).

42. As was the case in the past, persons may arrive at the IRCs at all times of the day and night. Complaints were received at all the IRCs visited from persons who arrived in the centres after midnight and then had to go through the reception process. The CPT considers that every effort should be made to avoid detained persons travelling at night and arriving at an IRC between the hours of midnight and 7 a.m. as they are often disoriented upon arrival, and it is not possible to carry out the reception process effectively.

Moreover, for women being transferred to Derwentside, notably from the Sahara unit at Colnbrook, clear information about the journey and the Derwentside IRC should be provided to them prior to departure so that they are aware of what awaits them. The uncertainty of the journey and the set-up of the centre in a remote location are serious stress factors for the women, as was relayed to the delegation. To this end, a short informational video could be produced.

The CPT reiterates its recommendation that the United Kingdom authorities review the procedures regulating the transfer of detained persons under immigration legislation to avoid them travelling at night and arriving at IRCs between the hours of midnight and 7:00. Further, women being transferred to Derwentside should be provided with information on the journey and the centre prior to departure.

43. All the centres visited recognised that the induction process in the days following the reception of a new person into the establishment was important for their wellbeing and for the good management of the facility. Annex E of the Detention Centre Rules 2001 sets out in detail that all new arrivals in an immigration centre should be provided with a tour and an explanation of the various services available and the rules of the centre. Reference is also made to a "buddy" system.

At Brook House and Colnbrook, the dedicated induction units were not functioning at the time of the visit and new arrivals were mixed with other detained persons. Recent arrivals spoken to by the delegation stated that they had been seen by the welfare team and other officials who had explained the centre to them and had asked them to sign various papers. However, many of them stated that the information was not clear to them, and it was only after speaking with other detained persons that they fully understood how the centre operated.

At Harmondsworth, Ash unit with 22 cells on each of the two floors was used as an induction wing but it was unwelcoming and while new arrivals were seen by centre staff, they were mostly left to their own devices with nothing to do. At Derwentside, the induction took place on the two residential units and, given the low number of women detained in the centre, appropriate attention was given to each woman's needs.

44. The CPT considers that it is important for the larger IRCs to have dedicated induction units where newly arrived detained persons can be offered an opportunity to acclimatise to the centre. The first few days in detention are always difficult and it is important that persons entering an IRC for the first time are given the necessary support. In addition to the various official meetings and the important appointments with welfare and healthcare, instituting a "buddy" system or a programme of "meet and greet" whereby persons who have been in the centre for a little longer, and who are appropriately assessed, provide newcomers with information on the operation of the centre would be beneficial. The CPT has seen in the past the positive impact such programmes can have for all persons concerned and for the centre.

The CPT recommends that the induction units at Brook House and Colnbrook be brought into service and that all the IRCs consider the introduction of a "buddy" type system for new arrivals. In addition, staff need to be attentive to provide the necessary support to persons entering a detention facility for the first time.

45. In all the centres visited, detained persons could access half an hour of publicly funded legal advice through the Detained Duty Advice Scheme and persons identified as vulnerable could be granted Exceptional Case Funding support. Surgeries took place five days a week at Brook House, Colnbrook and Harmondsworth. Legal representatives could visit the centres every day and there were dedicated rooms for such meetings as well as possibilities for videoconferencing. There was also information about bail and removal in a range of languages available from the welfare office and in IT rooms detained persons could access websites of relevant organisations offering support.

Home Office Detention Engagement Teams (DETs) held meetings with detained persons on their cases but for many persons these were too infrequent and were considered frustrating as the DET staff could not answer the specific questions relating to the individual's detention, bail and removal process as this information was with the caseworker. There was particular incomprehension for detained persons when they were granted bail but their release from detention was delayed, sometimes for several months, as the Home Office wanted first to ensure that the person had secured an appropriate living address. Many of these persons had been in prison prior to an IRC and, in that context, thought should have been given to their living arrangements upon release.

The CPT recommends that greater efforts be made to communicate clearly with detained persons on their situation and the reasons behind any delays in getting bail accommodation. Further, more should be done by the Home Office to secure accommodation once bail has been granted for detained persons. It would also like to be informed as to why the processes could not be initiated for many of the detained persons while they are still in prison.

d. prevention of suicide and self-harm

46. The formal process in immigration detention centres to assist in the prevention of suicide and self-harm is the Assessment, Care in Detention and Teamwork (ACDT) system. The process is governed in detail by Detention Services Order 01/2022.[27] ACDT is multidisciplinary and involves healthcare as well as other IRC departments. Its primary mechanism of monitoring is the constant watch carried out by custodial staff.

47. At Harmondsworth IRC, the delegation observed an ACDT interview conducted by two Detention Custody Officer Managers (DCOMs) with the help of phone interpretation. The interview was conducted thoroughly and was person-centred, and the assessors also made a referral to the Mental Health Team and submitted an application for work.[28] In conclusion, they recommended

27. Detention Services Order 01/2022.
28. At every stage, the assessors gave an opportunity for questions and provided explanations where required. It would however have been useful for them to have to hand a brochure on the meals, regime and activities as, by the time they had explained it orally, much of the information had been forgotten.

custodial staff carry out two observations during the day and six at night as the person stated he felt more vulnerable at night. This particular person had spent 20 months in immigration detention in various centres following a 16-month prison sentence and the assessors recognised that his potentially indefinite detention weighed on him.

Carrying out an ACDT interview is a skilled task and persons trained to do them should be appropriately compensated. Further, the CPT considers that a healthcare professional should also be present when an ACDT interview is carried out, as was the case at Brook House IRC, as they will provide a different perspective from operational staff and be better able to identify suicidal intent.

The CPT recommends that a healthcare professional be present during all ACDT interviews in IRCs.

48. ACDTs are meant to provide a custodial safeguard against self-harm and attempted suicide by determining a regime of attention and intervention into specific cases. However, the uncertain nature of immigration detention is such that it is not easy to identify all persons liable to self-harm or whether such self-harming represents a potential, escalating suicidal intent.

At Heathrow IRC, there were 18 episodes of self-harm in March 2023, of which eight related to persons already on an ACDT.[29] One of the persons on an ACDT had self-harmed three times and had been placed on constant watch for a time in the CSU. Regrettably, after coming off the constant observations he had committed suicide in his CSU cell by hanging on 26 March 2023, two days prior to the delegation's visit.

The CPT wishes to receive a copy of the coroner's report into this death and to be informed whether it has resulted in any change of practice surrounding the management of persons considered to be at risk of committing suicide.

49. Detained persons on an ACDT are reviewed weekly by the case manager or healthcare team and further discussed at weekly multidisciplinary meetings. However, the staff carrying out the observations or conducting the constant watch have no clinical or therapeutic input and, as the delegation observed for itself, the staff did not engage with the detained persons concerned and had no real understanding or notion of what the risk of self-harm or attempted suicide was or the implications behind an ACDT.[30] It also appeared that detained persons with an open ACDT process are not notified to the Home Office under Rule 35(2) reports whereas where there is a clear suicidal intent such notifications to the Home Office should be mandatory.

The CPT recommends that further reflection be undertaken to render the observation process by staff of persons on constant watch more interactive and supportive for the persons being observed. Further, there should be a clearer link to the Rule 35(2) process.

29. At Brook House, in March 2023, 14 episodes of self-harm were registered involving seven persons. In 2022, there were an average of 18 ACDTs opened each month and 17 closed, with a few persons on long-term observations and roughly three ACDTs opened each month for self-harming incidents.
30. See, for example, the case raised in paragraph 60 (Derwentside on night-time observations).

4. Healthcare services

a. staffing and access to healthcare

50. At Brook House and Colnbrook IRCs, healthcare was contracted out to Practice Plus. The managerial roles were well staffed and nursing cover was assured 24/7 at both centres but there were many staff vacancies which had to be filled by bank and agency staff. Filling the vacant posts is important to guarantee stability and ensure that the continuity of care is not adversely impacted.

51. The healthcare staffing situation at Brook House, according to full-time equivalent (FTE) posts, for an establishment holding up to 450 persons, was:

Category of staff	*In post*	*Official no*	*Vacancies*	*Comment*
Nurses	11.67	22.68	11	Shortfall filled by Agency / bank staff
General practitioner	0.2	1.4	1.2	
Mental health team - MH lead - Senior RMH nurse - RMH nurse - Consultant psychiatrist - Psychologist + Assistant psychologist - Pyscho-social team	 1 1 2 0.2 0 3	 1 1 2.2 0.2 2.2 3	 0 0 0.2 2.2 0	Recruitment ongoing
Pharmacist assistant	1	3	2	
Neurodiversity Team	1	3	2	
Emergency crisis Team	0	3.2	3.2	

52. The healthcare FTE staffing situation at Colnbrook and Harmondsworth for establishments holding up to 330 and 680 persons respectively, was:

Category of staff	*In post*	*Official no*	*Vacancies*	*Comment*
Nurses	15.2	39.55	24.35	Shortfall filled by Agency / bank staff
General practitioner	0.4	1.4	1	
Mental health team - Consultant psychiatrist - Psychologist - Assist. psychologists	 1 1 2	 1 1 2.2	 0 0 0.2	
Addictions practitioners	1	3	2	
Pharmacist Pharmacy technicians	1 3	1 2.8	0 0	
Neurodiversity Team	1	3	2	
Emergency crisis Team	0	3.2	3.2	

Dental services for Colnbrook residents were being offered temporarily at the adjacent Harmondsworth facility.

53. At Derwentside, healthcare services were contracted out to Spectrum Community Health. Nursing cover was assured 24/7 and most posts were filled. At the time of the visit, the healthcare FTE staffing situation for a maximum population of 84 (current occupancy 24) was:

Category of staff	*In post*	*Official no*	*Vacancies*	*Comment*
Nurses	12	14	2	
General practitioner	0.6	1	0.4	End April 2023 will be 5 days a week presence
Mental health team				
- Clinical lead	1	1	0	
- Advanced nurse practitioner	1	1	0	
- Senior RMH nurse	2	2	0	
- Psychiatrist	0.1	0.1	0	
- Psychologist	0	0	0	Accessed through NHS
Pharmacist technician	1	1	0	

Medication is delivered three times a week from a community pharmacist with plans to increase such deliveries to every weekday. A dentist visits the centre three afternoons a week and a dental educator is on call 24/7.

54. At all three centres, the numbers of healthcare staff could be considered good when fully staffed. **The CPT recommends that, at both Brook House and Colnbrook IRCs, steps be taken to fill the vacant healthcare posts and that, at Brook House, the presence of a psychiatrist should be increased to 0.5 FTE.**

55. As mentioned above, a healthcare interview was carried out at reception for all new arrivals. The IRCs all followed the Reception Screening template published in November 2022 as approved by NHS England for use in secure environment healthcare settings. The screening tool covers nine areas: communication needs; mental health; substance use; health condition and disability, including physical injuries and any information relevant for a Rule 35 assessment; Covid-19; Female health conditions; tuberculosis screening and information on current medication and ongoing medical care.

The Initial Reception Screening is a tool which acts both as a thorough medical screen and as a safeguard against ill-treatment (screen for fresh physical injuries) and torture (Rule 35/32). In cases of self-harm or suicide risk, it further involves the custodial staff management through its ACDT form which screens a patient's current state and intentions, balancing risk factors and proposing a supervision plan for the person in question. The sum of this information will inform the level of risk within the Adults at Risk Policy for assessing vulnerability of an individual in detention.

56. In general, such a screening is excellent. Nevertheless, as regards the screening for fresh injuries, the CPT considers that the procedures need to be enhanced. At present, nurses and doctors limit themselves to a description of the injury and they do not establish compatibility between the account given and the injury findings. If an ACDT is opened, the injuries need to be further recorded on an F213 Injuries form, which should include a brief report of the circumstances in which the injury was sustained. Only body charts are used. However, there is no requirement on the doctor to establish possible compatibility of the injuries with an allegation of their occurrence. Moreover, while healthcare automatically sends the F213 injury form to the custody Service Provider and Home Office, they are not informed of what happens thereafter.

Therefore, for the purpose of combatting impunity against any alleged ill-treatment, the CPT considers that the record drawn up after the medical screening should contain:

i) an account of statements made by the person which are relevant to the medical examination (including their own description of their state of health and any allegations of ill-treatment),

ii) a full account of objective medical findings based on a thorough examination (supported by a "body chart" for marking traumatic injuries and, preferably, photographs of injuries), and
iii) the healthcare professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings

It is also important that traumatic injury reports relating to injuries likely to have been caused by ill-treatment (even in the absence of statements) be automatically forwarded to an independent body empowered to conduct investigations, including criminal investigations, into the matter.

Further, doctors should advise the person concerned that the writing of such a report falls within the framework of a system for preventing ill-treatment, that this report automatically has to be forwarded to a clearly specified independent investigating body and that such forwarding does not replace the need for the person to lodge a complaint in proper form.

The CPT recommends that the United Kingdom authorities ensure that the above-mentioned procedures for the recording and reporting of injuries concerning alleged ill-treatment are in place at all immigration detention centres.

57. As mentioned above, the reception process can be overwhelming for persons arriving at a centre. At Derwentside, a pilot project is examining whether to divide the reception screening into two phases: a primary screening to assess major health issues requiring immediate intervention upon arrival and a secondary screening within 72 hours in order to give the person time to settle in, gain trust, build rapport and provide time to tackle Rule 35 questions more openly. Healthcare professionals at Brook House were also considering introducing a secondary 72-hour screening, notably for Hepatitis and HIV.

The CPT considers that such a two-tier approach to screening would be appropriate. The screening for injuries should remain part of the primary screening as this would immediately detect potential victims of alleged ill-treatment, while the secondary screening would allow more time to adequately assess vulnerabilities. **The CPT would appreciate the comments of the United Kingdom authorities on this matter.**

58. Detained persons have a right to see a GP within 24 hours of admission to an IRC in accordance with Rule 34 of DCR (2001). At Brook House and Derwentside, such an appointment was scheduled at reception, whereas at Colnbrook the detained person had to make a request. Thereafter, residents could request a GP appointment by completing a request form and posting it in appropriate boxes in each wing of the IRC. All requests pass through the Triage nurse who will either refer to an appropriate nursing practitioner or make an appointment with a GP. Appointments were scheduled rapidly, within 24 to 48 hours to see a GP and within less than 24 hours to see a nurse. The delegation was pleased to note that at Brook House, Colnbrook and Derwentside, walk-in appointments were available for the nurse clinic.

59. However, at Colnbrook IRC, the delegation observed that this system could be rather inflexible. For example, a resident who was collecting his medication at healthcare stated that he did not feel well and wanted to see a GP, which he communicated through a fellow national. The resident acknowledged that he should make an appointment first but said he felt unwell now and could not wait for an appointment. He became more agitated at the refusal and when he tried to speak to the doctor directly, he was told to leave and get an appointment. After 15 minutes he left without anyone having tried to find out what his problem was or even with an appointment being made.

When the delegation interviewed the person in question, he stated that the problem was that for him and others the main issue concerned their mental health, which could rapidly alter due to their situation and depending on news from the Home Office or their family. In such moments, he felt there should be a possibility to seek support immediately. The bureaucracy, made worse by language barriers, were triggers for incidents of self-harm.

The CPT recognises the importance of having a clearly defined appointments system in place to see a doctor. However, given the profile of the population in IRCs, there must also be a flexibility to provide support to those in need when it is required. At a minimum, a nurse could have asked the person in question what his concern was and perhaps dealt with it immediately, referred him to someone else or made an appointment for the GP.

The CPT would appreciate the comments of the United Kingdom authorities on this matter.

60. The electronic medical records were complete and detailed for events happening while persons were in the IRCs. Residents could apply to have a copy of their personal records.

The healthcare facilities in the IRCs visited were acceptable apart from at Brook House where there was a single room for GP and nursing service, phlebotomy and emergency. Given the size of the healthcare service, it should have one GP room, one pharmacy/medication dispensary, one dental clinic, one emergency/triage room and one phlebotomy room as well as offices.

Further, the delegation noted that, at Colnbrook, the three six-bedded rooms and two isolation rooms in the Enhancement Unit on the second floor of the healthcare unit did not possess call bells and the patients had to bang on the doors to attract the attention of staff.

The CPT recommends that steps be taken at Brook House to find additional space for the healthcare clinics and that at Colnbrook call bells be installed in the rooms of the Enhancement Unit.

61. The healthcare clinics in all the IRCs visited were equipped with all necessary basic life-saving equipment, notably an automated external defibrillator (AED), supported by other adjuncts to emergency care like oxygen and a 12-lead electrocardiogram (ECG). At Colnbrook, an additional AED was installed within the Care Suite Unit (CSU), where residents requiring more intense monitoring and at greater risk of self-harm were held. Further, the delegation noted that all nurses are Immediate Life Support certified, and all paramedics are Basic Life Support certified. **This is a good practice example within the detention environment**.

62. The delegation found that medical confidentiality was strictly observed both as regards documentation and meetings with healthcare staff. All procedures required patients' consent and healthcare staff worked independently from the custodial staff.

b. mental health

63. At Derwentside, a member of the Mental Health Team assesses the reception healthcare screening results within the first 24 hours to triage for any acute or high-risk mental health stressor. Thereafter an Assessment and Intervention face to face meeting is done within the first five days and appropriate follow-up proposed as required.

At both Brookhouse and Colnbrook, access to mental health services was based upon referral at induction, by the GP, through the ACDT process or even self-referral.

64. At Derwentside, the delegation learned that a Trauma-informed Compassion Focused Model of Care was in place through partnership between the Tees, Esk and Wear Valley NHS Foundation Trust and Rethink Mental Illness which involved:

- All staff, including those in non-clinical areas, training in compassionate responses in their supervision work;
- Assessing the impact of childhood and adult adversity on mental health;
- Reflection on traumatic experiences;
- Reduction of iatrogenic harm31 and re-traumatisation through harm minimization training.

[31] Harm done by medical action or treatment.

Such an approach can be considered as a good practice model.

65. However, the delegation met a woman at Derwentside who had been placed on ACDT. Part of this plan involved regular nightly checks by custody officers entering the cell with a dim light to check on her. Although this was done respectfully, the mere fact of a person quietly entering her room at night re-triggered her trauma of sexual abuse by a family member. Even though she highlighted this issue to staff, no remedial action was taken. The consequence was a period of insomnia and additional mental health stress, which was exactly the opposite of what the Trauma-informed Compassion Focused Model of Care was supposed to achieve.

The CPT recommends that the management of Derwentside ensure that whenever a resident on an ACDT raises clear concerns about actions resulting in re-traumatisation the supervision plan should be amended accordingly, in line with the Trauma-informed Compassion Focused Model of Care.

Further, the CPT recommends that the United Kingdom authorities consider extending the Trauma-informed Compassion Focused Model of Care to other IRCs.

66. At all the centres visited, the delegation found that detained persons had good access to the mental health teams, with appropriate clinical triaging taking place and patients seen in a timely manner. Patients had a care plan and a referral pathway, and the clinical records were good.

At Brook House, the lack of a psychologist in place meant that certain patients with depression, anxiety and post-traumatic stress disorder were not having their needs met. The recruitment of two psychologists was ongoing at the time of the visit and **the CPT would like to be informed that they are now in post.**

67. A real concern for the mental health teams in all the IRCs visited was how to care for and manage patients who displayed severe symptoms of mental illness which required their transfer to a psychiatric hospital for treatment. For example, at Brook House, a person with a history of mental illness started to display a deterioration in his mental health in December 2022. The mental health team initiated the process to have him transferred to a psychiatric hospital for treatment on 22 February 2023. In the meantime, he was transferred to Eden wing, where he could be better managed. As his mental health worsened, his behaviour deteriorated, and he refused to take his medication. The result was a policy of containment with outbursts having to be resolved through the use of force, which had to be applied on four occasions in March 2023. Finally, following a violent episode in the CSU he was transferred to a secure psychiatric hospital on 23 March 2023.
According to staff at Brook House, the delay in the transfer of the patient was due to a dispute over which organisation would pay for the hospitalisation. Access to urgent care and treatment should not be held up by such administrative hurdles.

68. In the response of the UK authorities to the 2016 periodic visit report[32] reference was made to a Department of Health Prison Transfer and Remission Guidance which "sets out best practice to achieve urgent transfers from prison to hospital within 14 days. The guidance also applies to those persons detained in IRCs."

The June 2021 NHS "Good practice guide on the transfer and remission of immigration removal centre detainees under the Mental Health Act 1983" sets out the referral, assessment and transfers process. In particular, it sets out that the threshold for the priority of a transfer is determined through a clinically informed discussion between the referrer and assessing service, considering the following questions:

- Is there evidence of a rapid deterioration in mental health presenting a risk to self, other detainees and staff?
- Is there evidence of a rapid deterioration in physical health due to mental health problems?
- Is there a need for restrictive practices in the IRC to maintain safety due to mental health presentation?

32. See CPT/Inf (2018) 1, paragraph 194.

Further, it states that, in line with the Independent Review of the Mental Health Act 1983 (MHA), December 2018, this guidance introduces two new, sequential, time limits of 14 days each from the:

- point of initial referral to the first psychiatric assessment;
- first psychiatric assessment until the transfer takes place.

The Guidance sets out the sequencing of events from Day 0 to Day 28 when either the patient is transferred to a hospital (Section 48 of the MHA) or transfer is refused by the Secretary of State for Justice (Section 49 of the MHA). It also makes it clear that "no treatment should be refused or delayed due to uncertainty or ambiguity as to which Clinical Commissioning group (CCG) is responsible for funding an individual's healthcare provision".

69. An examination of previous cases showed that the number of transfers since 2019 varied between one to three per year from Brook House and Colnbrook, and that the time to effect a transfer to a hospital varied between 11 to 20 days but with one case at Colnbrook in 2019 taking 36 days.

Given the enormous strain placed upon mental health teams and custodial staff in IRCs, the CPT considers that once a person's mental health deteriorates to the point where hospital treatment is required, a transfer should be organised as soon as possible and, at the latest, within 14 days.

The CPT recommends that the UK authorities take all necessary measures to ensure that persons detained in immigration detention centres displaying symptoms of severe mental illness, who are certified by the IRC mental health team as requiring treatment in a psychiatric hospital, are transferred to an appropriate facility as soon as possible and, at the latest, within 14 days. If a person is suffering from an episode of acute decompensation in mental illness, they should be immediately transferred to hospital care.

5. Adults at risk policy

70. In January 2016, Stephen Shaw published his Review[33] into the welfare in detention of vulnerable persons in IRCs. This formed the background to the development of the Home Office Adults at Risk in immigration detention (AaR) policy, which was introduced in September 2016. In July 2018, Shaw produced a follow-up report assessing the Government's progress in implementing the recommendations of the first report. This in turn resulted in the Independent Chief Inspector of Borders and Immigration (ICIBI) being commissioned by the Home Secretary to report each year on how the AaR policy is making a difference. In January 2023, the ICIBI published the Third annual inspection of adults at risk in immigration detention[34] which criticised the slow pace of change.[35]

The AaR policy, as updated in November 2021, provides a framework for Home Office caseworkers to assess whether a person either in immigration detention or being considered for immigration detention is an adult at risk. Under the policy an individual considered to be at risk will only be detained where the immigration control considerations in that particular case (for example, likelihood of removal or public safety) outweigh any risk identified.[36]

71. Rule 35 of the Detention Centre Rules 2001 forms a central element in the 'Adults at Risk' policy. The purpose of Rule 35 is to ensure that particularly vulnerable individuals are brought to the attention of those making decisions about detention. The provision enshrines a duty on healthcare staff at immigration centres to report on any detained person:

33. Review into the Welfare in Detention of Vulnerable Persons, S. Shaw, January 2016.
34. Third annual inspection of Adults at Risk Immigration Detention, June to September 2022.
35. In January 2023, the current Home Secretary decided to discontinue this type of inspection by the ICIBI.
36. There are three levels of risk with level 1 the lowest level and level 3 the highest.

- whose health is likely to be injuriously affected by continued detention or any conditions of detention – Rule 35(1);
- who is suspected of having suicidal intentions – Rule 35(2);
- for whom there are concerns they may have been a victim of torture – Rule 35(3).

The medical practitioner is thus required firstly to assess an individual's specific physical and mental state, and then the impact of ongoing detention on that individual.

72. The Rule 35 medical report is submitted to the Detention Engagement Teams which are present in all IRCs and thereafter to the Home Office Detained Medical Reports team (Rule 35 team) to assess, no later than two days after receipt of the report, whether the individual's continued detention is appropriate or they should be released from detention, in line with AaR policy.

There are no figures on how many persons have been released following a Rule 35 application. What is documented is the fact that 96% of Rule 35 applications concern torture and only 2% relate to both Rule 35(1) and Rule 35(2).[37] In reality, many of the reports reviewed by the delegation submitted under Rule 35 (3) raised serious concerns under Rule 35(1) as well. However, the Rule 35 team demands that, where there are multiple concerns, separate Rule 35 reports should be submitted as they will not consider Rule 35(1) issues contained within a Rule 35(3) report.

73. At Colnbrook, for the period January to March 2023, there were 23 Rule 35(3) cases and one Rule 35(1) case, all categorised as Level 3 (evidence of harm) under the AaR policy framework, which resulted in four of the eight Time-Served Foreign National Offenders (TSFNOs) being released and all 16 of the non-ex- Foreign National Offenders (FNOs) being released. At the same time, there were several other cases where persons were not being properly categorised and their continued stay in detention appeared injurious to their health.

For example, a Polish national had a Rule 35(3) submitted on the basis of features of PTSD from beatings in 2010 and 2020. The doctor noted "since being detained his condition has worsened and he has started medication for depression", and "My opinion is that continued detention will lead to deterioration in his mental health due to the history given and the nature of being detained with an unknown status." Despite the observations warranting an additional Rule 35 application under 35 (1), no further action was taken. Even after the detained person self-harmed with a cutting implement on 3 March and again on 6 March 2023, the AaR level remained at 1. The only remedy offered was a transfer to the enhancement Unit in order to change the detention regime to one with a more healthcare focus.

Similar examples were also evident at Brook House and Derwentside. Further, doctors were not systematically informed of the outcome of the Rule 35 applications or provided with any feedback by the Rule 35 team. In addition, at least one doctor explained that she was unable to find any Rule 35 training being offered.[38]

74. The delegation was also struck by the fact that once a detained person was granted bail the Rule 35 submission was dropped even if the person might thereafter continue to be detained for several months. For example, at Brook House it was noted that in the first three months of 2023, there were 55 Rule 35 submissions which resulted in 21 persons being approved for release. However, in four of these cases, the persons were still in detention at the time of the delegation's visit in early April 2023. For one these persons, the Rule 35 decision on release had been issued on 5 January 2023. Effectively, once bail is granted the Rule 35 submissions and decisions are considered redundant. Moreover, it means that the official statistics on the number of persons released due to a Rule 35 submission cannot be considered accurate.

37. That is, of a total 2 078 cases, 44 related to health concerns (35.1), 36 to suicide (35.2) and 1 998 to torture (35.3) – 0.5% of these cases concern the equivalent Rule 32 of the Short-term Holding Facilities Rules.
38. An NGO offering a course did not accept doctors working "in the system".

More importantly, it means the continued detention of persons who have been found to be unfit for detention under the Rule 35 process. In this context, the delegation also noted that several of the persons with successful Rule 35 applications came from countries where there appeared to be no possibility of return in the immediate future such as Afghanistan, Eritrea and Somalia.

75. Despite numerous independent assessments criticising the operation of the Rule 35 mechanism, it still does not operate effectively or enjoy the confidence of officials, civil society or oversight bodies.[39] It is of course imperative that healthcare professionals and notably GPs in IRCs are properly trained and supported in completing the Rule 35 forms and fully understand the differences between 35 (1) and 35 (3). Too many Rule 35 applications are not properly filled out and many do not contain information on the impact of detention.[40] It is also essential that GPs carrying out a Rule 35 assessment have access to interpretation services and allocate the necessary time to assess the patient.

At Derwentside, 45 minutes per assessment was considered necessary, while at Colnbrook the intention was to increase the allocated time to 30 minutes. The CPT considers that depending on the case, an assessment will require varying amounts of time but it would be good practice for a minimum of 30-45 minutes to be scheduled for each assessment.

Further, if the Rule 35 mechanism is to be an effective safeguard for persons detained in IRCs, Home Office officials should not be in a position to overrule the assessment of a healthcare professional that detention is injurious to the welfare of a particular person. Any delay in release should be linked only to the necessity to find appropriate accommodation for the person concerned and that process should not take months.

76. **The CPT recommends that the United Kingdom authorities develop a mandatory training course on the Rule 35 mechanism and systematically offers it to all medical practitioners and other relevant healthcare professionals working in immigration detention centres. Such training should not be left to the contracted healthcare providers. Further, it should ensure input from the Rule 35 team to ensure all parties have a common understanding of the process.**

The CPT would also like to receive confirmation that all healthcare professionals carrying out Rule 35 assessments have access to professional interpretation services.

77. **The CPT would also appreciate the comments of the UK Government on the justification for maintaining a person in immigration detention when it is considered clinically injurious to their health and when there is no immediate possibility of removing that person from the UK.**

In this context, the CPT would be interested to learn whether there are currently any countries to which the UK authorities will not remove a foreign national.

39. Stephen Shaw pointed out in his 2018 follow-up report to the Home Office that Rule 35 reports 'enjoyed the confidence of neither the doctors who complete them nor the caseworkers who receive them' and recommended that Rule 35 be replaced (2018). Evidence tendered during the Brook House Inquiry suggested that the 'Adults at Risk' policy and procedures were not being followed at all, with real and serious harm deriving from the dysfunction of clinical safeguards.

40. See also the 2023 ICIBI Third annual report and 2022 HMIP reports on Brook House and Colnbrook IRCs.

6. Other issues

a. detention staff

78. The CPT has consistently emphasised that working in an immigration detention centre is highly challenging for staff. Consequently, the CPT places a premium upon the supervisory staff in such centres being carefully selected and receiving appropriate training. Staff should possess well-developed qualities in both the fields of interpersonal communication and cultural sensitivity, given the diverse backgrounds of the detained population. Further, at least some staff should have relevant language skills and they should be taught to recognise possible symptoms of stress reactions displayed by detained persons and to take appropriate action.

The CPT has noted that interpersonal relations and cultural sensitivities are part of the training curriculum provided to new staff working in IRCs, and that knowledge of languages from those countries often represented in immigration centres is considered important. Indeed, the delegation witnessed the importance of having staff who could communicate in the same language as a detained person when defusing potentially challenging situations and explaining particular policies. Nevertheless, for many staff there is a need to be provided with more intensive training on cultural awareness and interpersonal skills.

79. At Brook House IRC, the delegation found that the staffing levels in the detention areas was good. There were five officers and a manager present on each of the three operational wings, and three staff present on E Wing and two on the CSU. In addition, there were 11 officers supervising activities, three supervising the exercise yards, four on reception and six on visits. A further 18 officers were carrying out various other duties. The delegation noted that the staff was ethnically diverse and there was a reasonable gender balance. Overall, for both Brook House and Tinsley, there were 580 staff including 367 Detention Custody Officers (DCOs) (excluding 40 vacancies) and 61 Detention Custody Officer Managers (DCOMs) for a population of up to 600 adult men.

80. By contrast, the combined staffing levels for Heathrow IRC (Colnbrook and Harmondsworth) with a population of up to 1 000 was 405, of which 272 were DCOs and 20 DCOMs. At the time of the visit there were 58 vacancies (42 of which were DCOs) and 45 staff were off sick. The new service contract which will come into force in November 2023 envisages a 50% increase in staffing levels. Staff undergo an initial two months of training[41] and are provided short refresher courses (four to eight hours) every year. Staff met by the delegation felt that they should be provided with some basic education on mental health issues.

81. At Derwentside, the staffing levels were extremely good with on average 20 detention custody officers (DCOs) and two or three DCOMs on duty during the day (7:00 and 19:00) and on average 10 DCOs and 1 DCOM at night. The overall complement of staff was 120 DCOs and 13 DCOMs and 32 non-operational staff. There was a reasonable gender balance with women making up 57% of staff but only 31% of DCOM positions. The delegation noted that the staff was caring and supportive of the women held in the centre. However, in discussions with DCOs it emerged that there was some discontent over the dismissive behaviour of line managers. Staff felt they needed more support and better communication, particularly at shift handovers. They also complained that, in practice, they only had a 20-minute break in a 12-hour working day, during which they remained at their work post on the residential unit. The centre manager was made aware of these issues and intended to address them. **The CPT would appreciate receiving an update on these matters.**

82. **The CPT wishes to receive a breakdown of the staffing numbers foreseen for Colnbrook and Harmondsworth IRCs under the new service contract and, more generally, it would like to receive details of the training provided to custody officers on communication skills, de-escalation techniques and mental health awareness.**

41. Issues covered include control and restraint, first aid, health and safety, security and vulnerable groups.

83. Further, the delegation noted that the Home Office DET team at Brook House in particular was understaffed, which impacted on the services and interactions offered to detained persons. Indeed, many persons told the delegation that the uncertainty and lack of communication about their detention situation was a real cause for distress. Many complaints also concerned the long delays and lack of information after persons had requested to pay for their own return journeys or go voluntarily. **The CPT would like to receive confirmation that the DET teams in the IRCs visited are now fully staffed.**

b. removal from association and use of force

84. According to Rule 40 of the Detention Centre Rules, a detained person may be removed from association (separated from other detainees) in the interests of security or safety. In such cases, the removal cannot last longer than 24 hours without the Secretary of State's authorisation, and with such authorisation cannot last for longer than 14 days. The detained person should be provided with written reasons within two hours of their removal. Further, Rule 42 provides for the possibility of temporary confinement of refractory or violent detainees for up to three days, with an authorisation of the Secretary of State also being necessary after the first 24 hours. Under both Rules, the centre's manager, a medical practitioner and an officer of the Secretary of State should visit the person at least once a day, and the delegation noted that this requirement was observed in practice.

Detention Services Order 2/2017[42] of September 2020 is clear that *segregation* should not be used to manage detained pesons with severe mental illness, those presenting with mental health problems, or those at risk of suicide or self-harm, except in exceptional circumstances. The British Medical Association (BMA) also recommended in this regard that segregation units should not be routinely used as a way of managing individuals at risk of suicide, self-harm, or those experiencing a serious mental health crisis.[43]

85. The information gathered during the visit, including from relevant registers, indicated that removal from association and temporary confinement was not overly used. At Brook House, removal from association had been applied nine times in January and 11 times in both February and March 2023 and there had been no resort to Rule 42 since September 2022. The delegation noted that persons who were kept on Rule 40 longer than 24 hours would be placed in the adjacent small Eden Wing and offered an open-door regime on the wing.

At Colnbrook, removal from association was applied 26 times in the 4th quarter of 2022, and seven and 10 times in January and February 2023, respectively. Similar figures were evident at Harmondsworth. There had been only one case of Rule 42 between September 2022 and March 2023.

The delegation observed that the daily reviews undertaken at Brook House and Colnbrook by Home Office and senior centre personnel were carried out professionally. The separated persons were afforded the possibility to provide their opinion.

86. As for the conditions in the cells of the segregation units, they were adequate and do not call for any particular comment. However, the same deficiencies regarding ventilation were present and the delegation also noted that persons held in the CSU were not offered one hour of outdoor exercise every day.

The CPT recommends that all persons held in the CSU are offered a minimum of one hour of outdoor fresh air every day.

42. Detention Services Order 2/2017.
43. See BMA 2017 report Locked up, locked out: health and human rights in immigration .

87. The delegation reviewed the use of force documentation pertaining to the IRCs visited. In addition to a report prepared by every officer involved in a use of force incident, officers' Body Worn Video Camera footage and the CCTV footage of the incident were downloaded and saved. The documentation and footage were reviewed internally by the centre and by a Home Office compliance team within 24 hours to ensure the correct procedures and use of force were applied, and they were also subject to external independent review on a monthly basis.

88. At Brook House, use of force had been applied by staff on 78 occasions[44] during the first three months of 2023. In more than half of the cases, the use of force concerned one officer only and usually involved only a guiding hand. During this period, there was only one very minor injury to an officer. The one noted injury to a detained person concerned the man who was severely mentally ill, and the incident triggered his emergency transfer to a psychiatric hospital.

The delegation noted that minimum force was applied in a proportionate manner in the cases reviewed. On a couple of occasions, the fact that up to eight officers and a healthcare worker were surrounding the detained person during the several minutes of discussions prior to use of force could be perceived as intimidating and use of force might have been averted with a more low-key approach. There was also one occasion when the intervention team were ordered to apply handcuffs by the command centre, against the assessment of the intervention team leader, following a going to height incident even though the person had quietly ended his protest and was completely compliant. The person was surrounded by four officers in full body armour as well as other staff so applying handcuffs appeared unnecessary. Remedial action was also taken to ensure officers applied the correct holds during an unplanned use of force intervention. Planned interventions, of which there were four during the first quarter of 2023, were always video recorded by an officer shadowing the intervention team.

89. At Colnbrook and Harmondsworth, use of force had been applied by staff on 26 and 20 occasions, respectively, between 1 January and 25 March 2023. A similar system of oversight was in place as that at Brook House. On 28 March 2023, a protest took place on B Wing of Harmondsworth on 28 March 2023 when many persons refused to go back into their cells as they had heard rumours about the death of several persons in the centre. A review of the incident showed that after some initial chaotic scenes on the first-floor landing, with various detained persons and custodial officers grappling on the floor with each other, the stand-off from 11:00 to 20:00 was handled patiently and calmly by staff with constant dialogue to defuse the situation.

On the other hand, the policy of handcuffing vulnerable women to a bed when they have to visit an external hospital is excessive and demeaning. There is no need for this when the woman is escorted by at least two staff members.

90. **The CPT recommends that the UK authorities end the policy of handcuffing women to a bed when they are escorted to an outside hospital for an assessment or treatment.**

c. contact with the outside world

91. Contacts with the outside world were generally good. Visits could be booked every day of the week and, at Brook House, Colnbrook and Harmondsworth took place in a large suitably furnished and decorated room and included a children's play area and coffee shop. There are no restrictions placed on the number or the duration of visits a detained person can receive. Further, detained persons could keep in touch with family and friends through the mobile phone they were provided upon admission to the Centre as well as through Skype and internet (email). At Derwentside, the poor mobile phone network connection was an issue especially as visits to the centre were rare.

The CPT recommends that steps be taken to improve the possibilities for women detained at Derwentside to remain in contact with the outside world.

44. That is, 25 in January, 28 in February and 25 in March.

d. complaints mechanisms

92. All the centres had functioning complaints mechanisms. Detained persons can make confidential complaints through complaint forms, which can be placed in a sealed envelope in the appropriate boxes available in each unit. The boxes can only be opened by the Home Office compliance team, not by the centre management. Complaints about serious misconduct or ill-treatment by staff are investigated by the Home Office Professional Standards Unit (PSU); while others concerning service delivery are forwarded to be dealt with by the management of the centres. The Prisons and Probation Ombudsman can also receive complaints from detainees who have already exhausted internal complaints procedures.

Most complaints (around 90%) concern the service provider and are resolved locally. Each month 25% of these complaints are audited by the Home Office compliance team. For example, at Colnbrook, there were eight complaints in January and seven complaints in February on various issues such as property, food and staff conduct. The delegation noted that detained persons usually received a substantive response to their complaint within a two-week period and that every response included a feedback section on how the complaint procedure might be improved.

At Brook House, a similar procedure was in place. In addition, Resident Forum Meetings were organised on Wednesdays to discuss complaints with staff. The minutes of these meetings were placed on the electronic kiosks which could be consulted by all detained persons. Further, Resident Consultative Committee meetings were also organised in which the centre managers participated. The minutes of these meetings detailed the issues discussed such as food, activities, accommodation, complaints and staff.

93. In 2021 and 2022, there were 18 and 21 serious misconduct complaints accepted by the Home Office PSU for investigation, of which only one in each year was substantiated, while in 2022 a second case was partially substantiated. In the period up to 20 March 2023, there were five cases of which one was substantiated by the PSU.

The CPT would like to be informed about the substance of the cases substantiated in 2023 and the subsequent actions taken in light of the outcome.

94. All places used for immigration detention are subjected to a detailed inspection on a regular basis by HM Inspectorate of Prisons, and the subsequent reports and Government action plans are published.[45] In addition, Independent Monitoring Boards (IMBs) maintain a regular presence in all IRCs and the IMBs are informed immediately about *inter alia* instances of use of force and separation/temporary confinement by the centre management. IMBs produce an annual report.[46]

7. Persons held under immigration legislation in prisons

95. As of 31 March 2023, there were 387 time-served foreign national offenders (TSFNO) being held in 56 prisons in England and Wales under immigration legislation.[47] The delegation was informed that HM Prison and Probation Service of England and Wales usually makes available between 300 and 400 spaces to the Home Office for accommodating persons detained under immigration legislation.

45. Reports by the HM Chief Inspector of Prisons on immigration Removal Centre Inspections: https://www.justiceinspectorates.gov.uk/hmiprisons/inspections?s&prison-inspection-type=immigration-removal-centre-inspections
46. IMBs Annual reports: https://imb.org.uk/documents/?doc_search=&doc_category=238&doc_location=0
47. On 31 March 2022, 621 persons were being held in prisons under immigration legislation.

While most of the 56 prisons held only a few persons under immigration legislation, a number of prisons, notably three local prisons in London (Pentonville, Wandsworth and Wormwood Scrubs) and the three prisons designated for holding foreign national prisoners (Huntercombe, Maidstone, Morton Hall) routinely held between 10 and 30 such persons.[48]

The CPT delegation carried out targeted visits to Pentonville and Wormwood Scrubs Prisons to examine the conditions of detention and treatment of those persons who had completed their criminal sentences but whom the Home Office had decided to continue to hold in prison rather than transfer to an immigration removal centre.

96. At the outset, the CPT wishes to reiterate that, as a matter of principle, it considers that persons who have served their prison sentence should not continue to be held in prison under immigration legislation but should be transferred to an IRC. This is because immigration detention should not be punitive in character: it is not a sanction or a punishment. Therefore, persons in immigration detention should be afforded both a regime and material conditions appropriate to their legal situation.

The findings of the 2023 visit reinforce the inappropriateness of continuing to hold persons who have completed their criminal sentence in prison under immigration legislation.

97. Prison is not designed for administrative detention and is not able to provide the appropriate services that detained persons under immigration legislation should receive. The delegation found that the administratively detained persons met in prison were at a clear disadvantage in terms of being able to exercise their rights to legal aid, contact with the outside world, out-of-cell time, access to activities and fresh air. For some persons detained under immigration legislation, being held for prolonged periods in prison, locked up 23 hours a day in their cells in poor conditions[49] with little prospect of removal could amount to inhuman and degrading treatment.

98. The decision on whether a person will remain in prison or be transferred to an IRC is taken by the Home Office's Detainee Population Management Unit (DEPMU) based upon a risk assessment process and spaces available in IRCs. It was explained to the delegation that persons who are considered to pose a risk due to their index offence (such as a sexual offence), history of offending or behaviour are more likely to remain in prison. According to Home Office policy, this decision states that a person may continue to be held in prison based on the presence of risk factors such as previous criminality, posing a risk to children or victims, security risks (such as attempting to escape from prison) or being engaged in disorder or violence.[50]

However, in the cases reviewed it appeared that the decisions were often based on static risk factors such as the offence(s) committed and historical assessments, and not on dynamic factors such as recent behaviour, engagement in activities or medical condition. For example, a slight, Chinese national of 67 years of age, diagnosed with unspecified non-organic psychosis and assessed as an Adult at risk level 2, had been held in Pentonville Prison under immigration legislation for 20 months. He spent more than 23 hours a day confined to his small cell on the fourth-floor landing, only leaving the cell to wash each day.

48. The Home Office has Immigration Prison Teams placed in these six prisons and in another seven prisons, which serve as hubs from which they have to cover all the establishments where persons are held under immigration legislation.

49 For example, cells (8 m^2) visited on D and F Wings in Pentonville Prison, in which foreign nationals under immigration legislation were confined for 23 hours a day, were dilapidated, dirty and somber, with poor access to natural light and poor artificial lighting, and equipped with an unpartitioned toilet

50. See Home Office publication on "Detention: General instructions" of 14 January 2022 (Chapter on Criteria for detention in prison, pages 46 to 48).

Further, there appeared little prospect of him being returned to his country of origin or of being released from prison soon given the apparent inability to obtain a travel document for him. It is also difficult to comprehend why arrangements for the return of this person could not have been made prior to the termination of his 12-year prison sentence.

The CPT would like to receive an update on this person's current situation: whether he remains in detention and if so where, and if not whether he has been removed or bailed.

99. The most recent figures for the length of detention in prison concern the period up to 30 September 2022 when 87 persons had been held for six months or more in prison under immigration legislation. Out of this number, 32 persons had been held for 12 months or more[51] and five had been held for two years or more. In the two prisons visited by the delegation, eight of the 36 persons imprisoned under immigration legislation had been held for periods of more than six months. **The CPT would like to be informed of the number of persons held in prison under immigration legislation for periods of three months or longer as of 31 August 2023, and to know how many of this number have been held in prison for periods in excess of six, 12 and 18 months, respectively.**

100. The legal basis for administrative detention in the UK is set out above (see paragraphs 10 and 11 above). Further, the UK Borders Act 2007 (Section 32) dictates that all foreign nationals who have been sentenced to a period of imprisonment of 12 months or more are subject to automatic deportation from the UK unless deportation would constitute a breach of their human rights (see Section 33). Automatic deportation equally applies to individuals convicted of an offence that has caused serious harm and to persistent offenders.[52]

101. In September 2022, HM Chief Inspector of Prisons published a thematic report[53] on "the experience of immigration detainees in prisons". This report found that TSFNOs held in prison under immigration legislation are substantially disadvantaged in terms of legal safeguards and welfare when compared to those held in IRCs. The CPT found that not only does such a situation persist but that there is little prospect of creating equality of conditions between prisons and IRCs.

102. To begin with, most of the TSFNOs met in prison appeared not to understand why they continued to be held in prison after their sentence had ended. Prisoners approaching the end of their sentence should be told that they will continue to be held in prison under immigration legislation 30 days before their planned release date and served with the IS91 paperwork authorising immigration detention before their release.[54] However, most of the persons met by the delegation claimed that that they had only been served with the immigration detention papers (IS91 R) with two weeks' notice or even on the day of release or after.[55]

51. According to the Home Office, the number had reduced to 23 by 1 March 2023.
52. Such an approach is justified under Section 3(5) of the 1971 Act which provides for the Secretary of State to make a deportation order on the basis that the deportation is conducive to the public good. See Home Office publication on "Conducive deportation" of 25 November 2021.
53. HM Chief Inspector of Prisons published a thematic report on "the experience of immigration detainees in prisons": https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2022/10/The-experience-of-immigration-detainees-in-prisons-web-2022.pdf
54. After arrival in prison, an FNO liable for deportation will be served with a stage 1 letter which is a notice of intention to deport, but this letter does not state that the person will remain in prison after the end of the their sentence under immigration legislation pending their removal.
55. For example, a person from Afghanistan, sentenced on 8 September 2022, completed his two month and 14-day sentence on 5 October 2022 yet was served the IS 91R on 10 October. He was only risk-assessed as not being suitable for transfer to an IRC on 26 October 2022. On 4 April 2023, his detention in prison was continued pending a suitable address being found and yet it was acknowledged that the barriers to removal were considerable: all returns to Afghanistan paused, Revocation of Protection Status not concluded, stage 2 decision and signed deportation order still outstanding.

Moreover, many persons stated that they did not understand the paperwork provided to them in English or what they were supposed to do. Their ability to hold a simple conversation in English was deemed sufficient for them to understand the complex immigration processes. Telephone interpretation was not used sufficiently when staff needed to speak to detained persons with poor English language comprehension. Much more support should be provided to these persons to enable them to fill out the relevant documentation.

103. The lack of communication with Home Office staff about their situation was a cause for frustration. Persons met complained that meetings with Home Office staff were procedural only, usually involving signing paperwork, and did not afford any opportunity to discuss their actual situation. This frustration was at times reflected in their behaviour. Further, several of them believed that the only reason they continued to be detained was because the accommodation address they had provided was not considered suitable and the continued detention was merely due to the need to secure an acceptable place of abode.

104. As to the safeguards in place, there appeared to be no formal process in place to challenge the fact of being placed in prison under immigration legislation. Reviews were conducted monthly by the Home Office and there was a case review panel every six months. Otherwise, the focus was on applying for bail. The monthly reviews did not appear to involve a substantive analysis of the necessity for continued detention in prison but merely a copy paste of the original DEPMU decision, and this was certainly how it was perceived by the persons met by the delegation.

105. It is self-evident that access to legal advice while in prison is far more challenging than in an IRC where there is a welfare team on site and clear support to access legal advice. It is positive that efforts are being made to improve the possibility for TSFNOs held in prison to access legal advice through the drawing up of a list of 10 legal aid providers, the offer of 30 minutes of free legal advice and the provision of five pounds sterling per week of phone credit. Nevertheless, the reality is that persons met in prison had real difficulties accessing the legal aid providers via telephone. Most of the persons met by the delegation relied on their families for support and those with no family in the UK appeared to be in a state of limbo waiting for something to happen.

106. Moreover, compared with persons placed in an IRC, the possibility for persons in prison to remain in contact with the outside world was severely restricted. Persons in prison did not have access to mobile phones or to the internet and their visiting possibilities were far fewer. In addition, there were far fewer opportunities to meet with representatives of civil society and to get support.

107. In conclusion, it is evident that the conditions for persons held under immigration legislation in prisons will not be able to approximate those of persons held in IRCs in the foreseeable future and may, in many instances, amount to inhuman and degrading conditions. The CPT also considers that the IRCs, notably Brook House and Colnbrook, are more than adequate for accommodating all categories of TSFNOs subject to a removal order. Moreover, the ongoing crisis in prisons in terms of overcrowding, poor regime and insufficient staffing numbers represents a further reason to free up several hundred prison places. Prison managers also do not want to have to manage persons detained under immigration legislation who are not suspected or sentenced of a crime as they recognise prison is not the appropriate place in which to hold them.

108. **The CPT reiterates its recommendation that time-served foreign national offenders, if they are not deported at the end of their sentence, be transferred immediately to a facility which can provide conditions of detention and a regime in line with their new status as a person detained under immigration legislation.**

8. Conclusion

109. The CPT found that there were many good practices being promoted in the immigration centres visited to render the period of detention the least traumatic possible. This is not helped by the uncertainty of the period of detention and by the use of prison-like immigration detention centres such as Brook House and Colnbrook.

110. The commitment to have in place a clear policy to ensure that vulnerable persons are not held in detention when it is injurious to their well-being is positive. However, more needs to be done to ensure that the Rule 35 process and Adults at Risk policy operate effectively. Where it is recognised that detention is harmful for a person and there is no imminent prospect of removal from the UK, rapid steps should be taken to release that person from detention. There is equally a necessity to improve the processes to ensure that persons with a severe mental disorder are transferred without delay to a psychiatric hospital where they can receive the appropriate treatment. In addition, steps must be taken to improve the flow of information and remove the uncertainty surrounding the future of persons detained in IRCs. DET teams need to be more proactive and ensure efficient flows of information are in place.

111. The CPT also reiterates its position that Time Served Foreign National Offenders, who are held in detention under immigration legislation once they have served their sentence, should be transferred from prison to an immigration centre in line with their new legal status. The CPT also considers that introducing a time limit for immigration detention would remove uncertainty and be beneficial for the management of the IRCs.

112. It is the duty of the CPT as a preventive body to alert governments to issues where it considers that an issue under Article 3 of the ECHR may arise. In this respect, the Illegal Migration Bill 2023 and the Agreement with Rwanda both raise multiple concerns over the treatment of vulnerable persons and the removal of foreign nationals to a country where they may be exposed to treatment contrary to Article 3 of the ECHR.

113. The CPT looks forward to pursuing its open and constructive dialogue with the UK authorities on the above matters with a view to strengthening the protection of persons deprived of their liberty from inhuman or degrading treatment or punishment.