



Stephen Shaw CBE  
Independent Review of Welfare in Detention  
c/o IRWC  
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35 Dingwall Road  
Croydon CR9 2EF

12 June 2015

Dear Sir,

It is a pleasure to provide evidence for your important review into the welfare in detention of vulnerable persons.

Freedom from Torture is a UK-based human rights organisation and one of the largest torture rehabilitation centres in the world. Each year we provide clinical services to more than 1000 survivors of torture in the UK, the vast majority of whom are asylum seekers or refugees.

Our submission is divided into two parts: (1) a **brief outline** (below) of key issues affecting torture survivors as a highly vulnerable group within the immigration detention estate, including recommendations from Freedom from Torture and the Survivors Speak OUT network (comprising former clients of Freedom from Torture who actively speak out against torture and its impact); and (2) **analysis of five cases** of detained torture survivors prepared by our Lead Researcher to help you gain a deeper insight into the experiences of this 'hard to reach' group (Not included here).

### **1. Failure by UKVI to identify and release torture survivors from detention**

Our overwhelming concerns are the fact that torture survivors are detained in the first place and institutional UKVI resistance to releasing them observed in the context of our clinical service provision. We were therefore pleased to hear at your meeting with civil society stakeholders on 31 March 2015 that you would seek to reflect these 'root cause' issues in your review despite the limitations of your terms of reference.

Clinically, it is well understood that detention *per se* is harmful to torture survivors. Most will have been tortured in detention settings and will experience re-traumatisation, including powerful intrusive recall of torture experiences and a deterioration of pre-existing trauma symptoms, if detained subsequently. We have also provided detailed evidence of the psychological impact of detention on five torture survivors and the associated health risks.

At a policy level, UKVI recognises that detention is harmful for torture survivors, as indicated by various rules against the detention of torture survivors except in ‘very exceptional circumstances’ (see for example [section 55.10 of the Enforcement Instructions and Guidance](#) (‘EIG’) and the [Suitability Exclusion Criteria for the Detained Fast Track system](#)). Nevertheless significant numbers of torture survivors are detained. In 2014, our medico-legal report service received 240 referrals for suspected torture survivors in the Detained Fast Track (DFT). Clients in therapy with Freedom from Torture are also regularly detained – 19 of our treatment clients were detained in 2014. Reasons for inappropriate (and often unlawful) detention of torture survivors include:

- Fundamental problems with the DFT system including a process of routing into detention before survivors feel able to disclose and/or have the opportunity to acquire 'independent evidence of torture' (a requirement of the DFT exclusion criteria). At the point of screening and routing into DFT applicants have not yet had access to legal advice and most do not understand the consequences of failing to disclose torture at this stage. We also see many cases routed to the DFT *despite* a disclosure of torture and have clients who report screening officers actively discouraged them from disclosure;
- Poor guidance for decision-makers on how to comply with UKVI policies against detention of torture survivors – for example, section 55.10 of the EIG says those with independent evidence of torture are ‘*normally considered suitable for detention in only very exceptional circumstances*’ without explaining what qualifies as ‘very exceptional circumstances’ for these purposes; and
- Poor asylum decision-making – including mishandling of medico-legal reports – by both UKVI and the Tribunal leading to refusal of protection and enforcement action (see our report [Body of Evidence – Treatment of Medico-Legal Reports for Survivors of Torture in the UK Asylum Tribunal](#)). Poor quality legal representation contributes to this problem.

Moreover, crucial safeguards that are meant to trigger release of torture survivors are routinely failing including Rule 35 (3) of the Detention Centre Rules, the misapplication of which has been subject to sustained criticism from Her Majesty’s Inspector of Prisons, the Home Affairs Committee and the UN Committee Against Torture, among others. The release mechanism for those successfully referred from the DFT to Freedom from Torture or the Helen Bamber Foundation is also under severe strain at present and subject to litigation.

Problem	Recommendations from Freedom from Torture	Recommendations from the Survivors Speak OUT (SSO) network <sup>1</sup>
<p><b>Significant numbers of torture survivors are detained despite UKVI policies against this</b> leading to deterioration in mental health, self harm and suicide risks and delayed rehabilitation.</p>	<p>We consider that the DFT is fundamentally flawed and should be abolished. For as long as it continues, the safeguard allowing release of those successfully referred to Freedom from Torture or the Helen Bamber Foundation must be maintained and complied with.</p>	<p>Torture survivors should not be detained or placed in the detained fast track process and safeguards should work effectively to ensure this. These should include sufficient time for anyone who claims asylum to access an independent health assessment, legal</p>

<sup>1</sup> Drawn from [SSO evidence](#) to the 2014 joint inquiry into the use of detention in the immigration system by the All-Party Group on Refugees and the All- Party Parliamentary Group on Migration.

<p><b>The requirement to produce ‘independent evidence of torture’ for a survivor to be deemed unsuitable for detention/DFT creates a ‘Catch 22’ situation</b> - most survivors lack such evidence before entering detention (especially in the DFT) and evidence they may most easily obtain in detention (including via the Rule 35 (3) process) is often dismissed as inadequate for these purposes.</p>	<p>Policies on suitability for detention/DFT should be amended to reduce the evidential threshold before someone is rendered ‘unsuitable’ for detention/ DFT on account of torture experiences.</p> <p>Poor compliance with the Rule 35 (3) process must be reversed. This requires resolve at a senior level in UKVI to tackle longstanding problems including a disconnection between what is required of a doctor by the form and the type and level of scrutiny to which these completed forms are subjected by decision-makers.</p>	<p>advice and submit a statement before decisions are taken on how their claim is dealt with.</p>
<p><b>Lack of guidance on what medical conditions can be ‘satisfactorily managed in detention’</b> for the purposes of the policy against detention of those with serious mental health problems (section 55.10 EIG). For example, it is unclear whether the guidance requires compliance with all relevant NICE and other Department of Health guidelines.</p> <p>This lack of clarity creates a risk of arbitrary and ad hoc application of this exclusion criterion across and within IRCs.</p>	<p>Guidance should be produced on what medical conditions can be ‘satisfactorily managed in detention’, in full consultation with relevant clinical and other stakeholders.</p>	

## 2. Failure by healthcare staff to identify and respond appropriately to mental and physical health problems of survivors of torture

We are aware of multiple problems in the identification and response to mental health problems within immigration removal centres (IRCs) and highlight those of greatest concern below:

Problem	Recommendations from Freedom from Torture	Recommendations from the Survivors Speak OUT (SSO) network <sup>2</sup>
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<sup>2</sup> Drawn from [SSO evidence](#) to the 2014 joint inquiry into the use of detention in the immigration system by the All-Party Group on Refugees and the All- Party Parliamentary Group on Migration.

<p><b>Lack of healthcare staff with specialist expertise in identifying torture survivors.</b></p> <p>Note that this contributes to failings of the Rule 35 (3) safeguard meant to trigger release (see above).</p>	<p>All healthcare staff should receive mandatory, facilitated and experiential training on identification of torture survivors, the health consequences of torture and procedures (including Rule 35) designed to trigger release of survivors from detention.</p>	<p>All frontline staff in detention centres should be trained in identifying victims of torture and those with physical or mental health issues and should be able to initiate processes that secure their release from detention.</p>
<p><b>Uneven identification of and response to mental health risks affecting survivors of torture,</b> including self-harm and suicide - see Appendix 1 for examples.</p> <p>This is linked to lack of specialist expertise (see above) but also to healthcare processes – for example we understand that one in four detainees is screened between midnight and 6 a.m. when they are tired and often in a state of shock.</p> <p>Note that a survivor of torture’s mental health may deteriorate rapidly in detention and this may manifest differently – some survivors of torture will be vocal about their distress while others will withdraw.</p> <p>While some survivors of torture will have Freedom from Torture clinicians to advocate on their behalf (but see below), others will not.</p>	<p>See above in relation to training.</p> <p>Health screening processes, health assessments and other procedures for the management of people with mental health conditions should be strengthened to improve identification of and provision of healthcare to survivors of torture.</p> <p>Risk assessment (risk of self-harm and suicide) and mental health assessments by suitably qualified and trained staff should be carried out at regular, specified intervals throughout detention (at least twice weekly).</p> <p>Those at risk of suicide or self-harm should be closely monitored and engaged with in a regular and meaningful manner (not as a ‘tick box’ exercise) by suitably trained and qualified healthcare staff to remove risk factors, while release is arranged.</p>	
<p><b>Non-responsiveness of healthcare services to efforts by Freedom from Torture clinicians to liaise with them</b> about the mental and/or physical health of detained clients (who are survivors of torture) - see Appendix 1 for examples.</p>	<p>Health and risk assessment processes should include a mandatory requirement to liaise with health practitioners involved in providing care to detainee while (s)he was in the community (including Freedom from Torture clinicians and GPs).</p>	<p>Health professionals within detention centres should give full consideration to medical advice or evidence from independent medical professionals and should be trained to support the healthcare needs of all detainees.</p>
<p><b>Discontinuity of medication for physical and mental health conditions</b> including those related to torture. This is often because people are detained directly from reporting centres or from their</p>	<p>Review of medication should be an urgent priority during the detention admission process. All necessary steps should be taken to ensure continuity of access to prescribed medication, including contacting GPS and other health</p>	

<p>homes without a chance to find their medication - see Appendix 1 for examples.</p> <p>Interruptions to regular medication may cause exacerbation of the condition for which it is required.</p>	<p>practitioners in the community. Changes to medication regimes should be discussed with detainees and existing health practitioners.</p>	
<p><b>Discontinuity of psychological therapy</b> – torture rehabilitation therapy with Freedom from Torture (or elsewhere) is interrupted by detention and set back as a consequence of the harm caused by detention.</p>	<p>Detention is not a suitable context for the provision of trauma focused therapy, but mental health care should be provided to torture survivors who are detained and should include regular face to face contact with a suitably qualified and trained mental healthcare practitioner (at least twice weekly/daily where necessary).</p>	<p>Confidential, 24-hour psychological support should be available to all detainees and this should be clearly signposted.</p> <p>Those survivors of torture who are detained should be immediately referred to a specialist rehabilitation organisation for treatment and support upon their release.</p>
<p><b>Survivors of torture are forced to share rooms with strangers in circumstances where this is clinically inappropriate</b> due to flashbacks, nightmares (leading to shouting out, acute anxiety symptoms etc.) and hypervigilance. This exacerbates trauma symptoms and may cause disturbances which further compound mental health problems - see Appendix 1 for examples.</p> <p>Note that UKVI recognises the inappropriateness of forcing survivors of torture to share rooms with strangers in non-detained contexts (see the <a href="#">Dispersal – accommodation requests policy</a>)</p>	<p>Survivors of torture should not be forced to share rooms with strangers where this is clinically inappropriate. For as long as torture survivors are in detention it should be a matter of standard practice to provide single room accommodation, unless otherwise requested or required.</p> <p>The Room Sharing Risk Assessment procedures should be revised to include risks to mental health (and not just a risk of violence).</p>	

We also have concerns about the following healthcare problems affecting survivors of torture: poor sexual health screening and advice services; lack of access to hospital services for those requiring a transfer; use of shackles to attend hospital appointments; discharge back to the IRC of detainee in-patients with serious mental health problems who should instead be discharged into the community; and poor interpreting services.

Many of the problems outlined above are long-standing and we hope very much that your review will make the difference for torture survivors and other vulnerable groups detained, often inappropriately, for immigration purposes.

Please do not hesitate to contact me should you require any further information,

A handwritten signature in cursive script, appearing to read "Sonya Sceats".

Sonya Sceats  
Director of Policy and Advocacy