

Women for Refugee Women briefing on the Nationality and Borders Bill: Implications for the immigration detention of women

July 2021

Summary

- Immigration detention retraumatizes already vulnerable women. Its use is also often pointless: over 90% of asylum-seeking women who are detained are released back into the community to continue with their cases.
- In 2016 the government committed to reduce its use of detention. By the end of 2019 the number of women detained had reduced by two-thirds – to 121.
- During the pandemic the number of women in detention has fallen still further. In March 2021, there were just 25 women detained.
- **Yet, despite the historically low numbers of women in detention, the Home Office is now planning to open a new detention centre for women in County Durham, in October 2021.**
- The Home Office insists it remains committed to detention reduction, and that this new detention centre for women will not mean detention expansion. **But there are a number of measures in the Nationality and Borders Bill that will likely lead to an increase in women's detention – and so which undermine this claim.**

Detention reduction for women and the planned new detention centre at Hassockfield

1. Most women seeking asylum who are locked up in immigration detention are **survivors of rape and other forms of gender-based violence**. Women for Refugee Women's research has consistently found that around 80% of asylum-seeking women in detention have experienced violence such as rape, forced marriage, forced prostitution or FGM.
2. Locking up women who have already survived trauma and violence has a devastating effect on their mental health. One in five of the women we spoke to for our 2014 report *Detained* said they had tried to kill themselves in detention. Forty per cent of the women interviewed for our 2015 report *I Am Human* said they had self-harmed in detention.
3. The purpose of detention is supposed to be to removal from the UK. Yet the vast majority of asylum-seeking women who are detained are released back into the community, to continue with their cases. **Home Office figures show that in 2019, just 8% of asylum-seeking women were released from detention to be removed from the UK. In 2020 this figure was even lower, at 6%.**
4. Following major reviews of detention in 2016 and 2018, the Home Office committed to reduce its use of detention. By the end of December 2019, the number of women in detention had reduced by two-thirds, to 121. During the pandemic the number of women detained has fallen still further. In March 2021, there were just 25 women in

detention.

5. Despite the historically low numbers of women in detention, the Home Office is proposing to open a new detention centre for women, at Hassockfield in County Durham. This new detention centre will hold up to 84 women.
6. The Home Office insists that Hassockfield's opening will not mean detention expansion. Yet, alongside Hassockfield, there will also be a unit for up to 50 women at Yarl's Wood. Additionally, there are units for women at Dungavel detention centre in Scotland, and Colnbrook, near Heathrow. The Home Office is also opening a new short-term holding facility for women and men at Morton Hall – even though, from the end of July, Morton Hall will once more operate as a prison.
7. Additionally, there are a number of provisions in the Nationality and Borders Bill that undermine the Home Office's stated commitment to detention reduction, **as they will likely lead to an increased use in detention for women.**

Nationality and Borders Bill: Clauses that will increase the use of detention for women

Clause 10: Differential treatment of refugees

- This creates 'Group 1' and 'Group 2' refugees. People who have their asylum claim recognised will only be designated as a 'Group 1' refugee if they have 'come to the UK directly from a country or territory where their life or freedom was threatened' and 'they have presented themselves without delay to the authorities'.
- Those designated as Group 2 refugees will have more limited protections upon grant of status – including being given shorter periods of leave to remain.
- Many of the women we work with make 'late' asylum claims (i.e. they do not claim asylum immediately upon arrival in the UK) because of the shame and stigma they feel about their experiences of gender-based violence; they find it very difficult to disclose what has happened to them. Women also often do not realise that their experiences of gendered violence make them eligible for asylum, so they do not apply straight away.
- Being designated as a 'Group 2 refugee' and given limited leave to remain, will mean that if this leave is not renewed by the Home Office, a woman will become liable for detention.

Clauses 16-17 & 23: 'One-stop' process/restrictions in bringing in late evidence

- Clause 16 requires an asylum claimant to give all the reasons for their claim at the outset. If they do not do this, without 'good reason', Clause 17 specifies that their credibility will be damaged; Clause 23 adds that 'late' evidence provided by the claimant will be given 'minimal' weight.
- These clauses go against the Home Office's own guidance on *Gender issues in the asylum claim*, which recognises the reasons why women may disclose their experiences of gender-based-violence 'late' – for instance, because of shame and guilt – and states that this should not damage their credibility.
- As highlighted above, moreover, many women do not realise that their experiences of gendered violence may constitute an asylum claim. Poor legal advice compounds this problem – so that women do not raise these experiences in their initial claim.
- Clauses 16, 17 & 23 will result in more women being wrongly refused protection and so becoming liable for detention.

Clauses 46-48: Survivors of trafficking

- Clauses 46 and 47 specify that asylum claimants who are served with a 'slavery or trafficking information notice' will be required to provide relevant information relating to being a victim of slavery or human trafficking within 'a specified period'. If they provide this information after the specified period, 'without good reason', this will damage their credibility in relation to a 'reasonable grounds' or 'conclusive grounds' decision from the National Referral Mechanism (NRM).
- Penalising individuals for not disclosing details of their exploitation when required goes against the Home Office's own guidance on *Victims of modern slavery*, which recognises that trafficking victims may take a long time to disclose what has happened to them because of the trauma to which they have been subjected.
- Many women we work with also find disclosure of their exploitation difficult because of fear of reprisals from their traffickers, as well as the shame and stigma they feel.
- Clauses 46 and 47 will mean that fewer women are recognised as victims of trafficking – meaning that they will become liable for detention or, if they are already detained, that they will not be released.
- Clause 48 raises the threshold for being recognised as potential victim of trafficking (PVOT), through a 'reasonable grounds' decision from the NRM. A positive decision will now be made when there are reasonable grounds to believe the individual 'is' – rather than 'may be' – a victim of slavery or human trafficking.
- In the *New Plan for Immigration*, the government states that raising the threshold for a reasonable grounds decision is necessary to prevent 'abuse' of the NRM. Yet there is no evidence of abuse.
- The [Home Office's own statistics](#) show that almost 60% of people leaving detention who were referred into the NRM were recognised by the Home Office as a PVOT through a positive reasonable grounds decision. [Recent research](#) has also shown that in 2020, 81% of challenges to negative reasonable grounds decisions by the Home Office were successful. So, the Home Office is making the wrong decision in a significant number of cases.
- Raising the threshold for a positive reasonable grounds decision will make it more difficult for women to be recognised as victims of trafficking. This will make more women liable for detention – or, if they are already detained, it will mean they will not be released.