# EVALUATION OF HOME OFFICE REPORTING CONDITION

Research Report by Migrants Organise

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migrants organise

migrants and refugees acting for justice

# ABOUT THE AUTHORS

Brian Dikoff is the Legal Organiser at Migrants Organise. He manages the strategic Migrants Mental Capacity Advocacy project and undertakes advice and policy work. Jennifer Blair is a barrister at No5 Chambers and she provides outreach advice at Migrants Organise.

Migrants Organise is a registered charity based in London. Its Community Programme focuses on providing ongoing and holistic support for vulnerable migrants, in particular those who suffer from disabilities and mental or physical illness.  Migrants Organise works with survivors of torture, human trafficking and modern slavery, as well as those supported by social services, such as care leavers.

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Registered Charity No. 1077116
A Company Limited by Guarantee No. 3673737
2 Thorpe Close London W10 5XL

Telephone number: 020 89644815

info@migrantsorganise.org
www.migrantsorganise.org @migrantsorg

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# EXECUTIVE SUMMARY

Restrictions or conditions imposed on migrants as a means to keep track of their whereabouts have existed since at least the Immigration Act 1971. Schedule 3, paragraph 2 of said Act provided the power to set "restrictions", including reporting at police stations, for people who were facing deportation but not detained.

Over the years, with the enactment of a sequence of pieces of immigration legislation, the contexts in which these "restrictions" could be imposed on migrants have increased. The Immigration Act 2016 subsequently overhauled and codified the imposition of restrictions on migrants by introducing the new immigration bail regime. Under the said Act, the Secretary of State has the power to grant immigration bail if a person is detained or 'liable' to be detained (which is interpreted broadly).

The trigger for this systemic overhaul was a development in the case law. The case of B v The Secretary of State for the Home Department[1] dealt with the question of whether, where an individual could not lawfully be detained, there was a lawful power to grant bail (and therefore impose restrictions on them). The Court of Appeal and Supreme Court found that there was not. Separately from the bail regime, the Secretary of State could still impose some conditions when granting temporary admission, but not everyone would in practice be granted temporary admission. The claimant in B, for example, would not have been granted temporary admission because he was subject to a deportation order; his case had previously been before SIAC (a specialist tribunal that deals with national security cases). Paragraph 33 of Lord Lloyd-Jones' judgement states:

> *"[Where there is no prospect of removal,] however grave the risk of absconding or the risk of serious offending, it ceases to be lawful to detain a person pending deportation. Once that position is reached there is, in my view, no longer a power of detention under paragraph 16 and there is therefore no longer a power to grant bail under paragraphs 22 or 29."*[2]

It appears that the Secretary of State was unhappy with the result that there were people without leave to remain who could not be subject to monitoring restrictions. This resulted in the consolidated bail regime under the Immigration Act 2016. The concept of temporary admission was collected together with other legal powers to place restrictions on people subject to immigration enforcement and replaced by the concept of 'immigration bail'.[3]

A very wide range of people, from adults with criminal deportation orders to unaccompanied asylum-seeking children, and young children living with their parents, have since then received notification that they are on immigration bail.

> *"Our experience has shown that reporting conditions can be (and are) imposed on extremely vulnerable individuals"*

When someone is granted immigration bail, the Immigration Act 2016 requires at least one condition to be imposed. The Act provides for a number of options (reporting, work or study restriction, residence condition, tagging) and, further, the Secretary of State or immigration judge is given significant flexibility to set a tailored condition (to set "*such other conditions as the person granting the immigration bail thinks fit*"[4]). One of the most common conditions imposed is a reporting condition, whereby a migrant is asked to go to a Home Office reporting centre on a specified regular basis in order to sign a form.

1. [2015] EWCA Civ 445 and [2018] UKSC 5.
2. Ibid.
3. The explanatory notes for the original bill for the Immigration Act 2016 explains that the immigration bail clause was: "… retrospective in its effect because it is intended to clarify the law following a recent Court of Appeal judgment (B v The Secretary of State for the Home Department [2015] EWCA Civ 445) on when immigration bail conditions can be imposed. The Court of Appeal judgment disturbed previously settled case law in this area. If the Court of Appeal's judgment stands (it is under appeal) then it will have a significantly limiting impact on judges' and the Home Office's ability to impose bail conditions and manage individuals, including those who pose a risk to the public where deportation is being pursued". See Explanatory Notes to Immigration Bill introduced in the House of Commons on 17 September 2015 (Bill74), p.27
4. Immigration Act 2016, sch 10, pt 1, para 3(2)(F).



This research examines the impact that the current immigration bail regime has on migrants, in particular, the imposition of a reporting condition. Our freedom of information request has revealed that, as of 13 September 2019, 76.4% of migrants who are placed on immigration bail by the Home Office are given a reporting condition.[5] We understand that a significant proportion of those that are not asked to report are young children. They therefore may nevertheless still be impacted by reporting conditions because they live with parents who are subject to reporting conditions.

Our experience has shown that reporting conditions can be (and are) imposed on extremely vulnerable individuals, including unaccompanied children and young migrants, those with mental and/or physical disabilities, victims of torture and trafficking, and those who are otherwise vulnerable. We are concerned that there is a lack of adequate safeguards to protect the rights and welfare of those being asked to report. We have identified the following four core interrelated concerns with reporting conditions.

Firstly, the frequency of the reporting condition. Migrants Organise has worked, for example, with an individual who was asked to report every day at 8 am, despite being physically disabled (see case study 5). She has mobility issues and walks with a cane. She tried to comply with her bail conditions for a week, but ultimately was unable to endure the early morning journey and hours of queueing. In the end, she could not sustain this and failed to report, which is likely to count against her in any future immigration application that she makes. In our experience, the success of challenging the frequency of reporting conditions depends greatly on the immigration officer who looks at the case. This indicates an arbitrary system and a lack of cohesion in the Home Office's understanding of the purpose of imposing reporting conditions in the first place, along with a lack of awareness of the burden that they place on individuals.

Secondly, the cost to migrants of reporting. While the Home Office policy on reporting conditions indicates that transport costs can be provided to allow people to report, our experience is that this is very rarely implemented by the Home Office. Requests for travel costs are often refused, if not ignored, by the Home Office. This is a major issue for many migrants who do not have recourse to public funds and are not allowed to work. Asylum seekers who are on asylum support are expected to use their subsistence payment in order to report, even though this amounts to approximately just £5 a day.[6] Destitute migrants can thus be placed in the impossible position of either not being able to report for financial reasons or attempting fare evasion in order to reach a reporting centre, which is a criminal offence.

Thirdly, the distance migrants may have to travel to report. The option of reporting locally, for example at a local police station, seems to be rarely used in practice. Instead, those who are required to report will be given the address of one of the 14 reporting centres in the United Kingdom. For example, there is one reporting centre in Glasgow for the entirety of Scotland. We have worked with a high number of people who have reported for years, at times as often as weekly. The open-ended imposition of a condition that requires regular, expensive and highly time-consuming reporting – often in a way that feels intimidating but also quite pointless for the individual involved – can, in our view, become disproportionate and dehumanising.

Fourthly, we have been informed of discourteous and humiliating treatment during reporting by some security guards and immigration officers. People we work with have even reported being told the conditions are deliberately made harsh in order to make them leave the UK. One disabled victim of trafficking we worked with reported that he was told by a staff member that he needed to be 'punished' for failing to answer re-documentation interview questions properly. This was done by increasing his reporting frequency. Many of our clients report having to

5. See FOI 14.
6. Subsistence payment for a single individual who is receiving support under section 95 of the Immigration and Asylum Act 1999 is £37.75 per week. Those who are receiving support under section 4 of the same Act receive £35.39 per week on a payment card, which is only accepted in certain stores and cannot be used on public transport.

queue for hours, including during bad weather conditions. There are often no shelters and accessing a toilet means that they would have to go back to the end of the queue and start again.

We believe that the law as it stands, together with Home Office guidance and policies concerning the setting of bail conditions (and reporting conditions specifically), is inadequate to safeguard the rights and welfare of vulnerable migrants. Reporting conditions seem to have become the default bail condition set by the Home Office (replacing residence conditions in that role), even though there is no statutory obligation to impose reporting conditions specifically. This is partly due to a lack of clear guidance as to how the Secretary of State is supposed to choose a bail condition to impose, and also partly due to the fact that the current policy adopts a condition-specific approach. In other words, instead of providing a clear overarching framework, the current policy focuses on individual conditions and when they are appropriate to impose. This is done without sufficiently clarifying the relationship between the different conditions. Other conditions (restrictions on residence and studying, for example) have been the focus of more detailed policy guidance which narrows their use. The result of this (presumably unintended) is a shift to the use of reporting conditions.

Equally, there is a lack of clarity in the policy relating to the implementation of reporting conditions, leading to inappropriate frequency or location being imposed, and a lack of financial support being provided. On the other hand, even where clear guidance is available, they are often not followed. For instance, current guidance requires decision makers to provide a refusal decision when a request to vary a bail condition is made. In our experience, such requests are either apparently ignored (meaning no acknowledgment or decision is provided and no change made) or the outcome varies greatly depending on the officer who receives the request. The evidential threshold to change the frequency of reporting or to remove a bail condition can also be set so high by immigration officers, that there are also insurmountable barriers for some vulnerable migrants in obtaining this evidence (usually a detailed medical letter is needed and many people cannot provide this, particularly when NHS GPs will often charge up to £50 for a simple supporting letter).

The combination of these issues means that reporting conditions can often become extremely burdensome, especially for certain categories of individuals who are vulnerable. Freedom of Information requests confirm that there was no policy equality statement or equality impact assessment produced concerning the introduction of the bail provisions for the Immigration Act 2016 and the current bail immigration regime.[7] The only available relevant impact assessment is the overarching one, which only addresses economic impact of the bill in a generic way. We have real concerns about the operation of the current bail regime and its compliance with the Public Sector Equality Duty.[8]

*"We believe that the law as it stand is inadequate to safguards the rights and welfare of vulnerable migrants"*

We are aware of individual cases where reasonable adjustments to reporting conditions have been made (for example, one case where a client with mobility issues had 'DOES NOT HAVE TO QUEUE' hand written on her paper bail form by one immigration officer). However, the making of reasonable adjustments appears to be arbitrary and insecure, and they are difficult to obtain due to the level of evidence often required. Indeed, at best, what tends to result is less frequent reporting rather than a review of the conditions imposed altogether (with the idea that a different and perhaps more appropriate bail condition could be imposed instead). The adjustment is also at serious risk of being 'forgotten' by the Home Office when there is a change in the person's immigration case. For example, a refusal of a fresh claim may result in reporting frequency being immediately increased, apparently disregarding that the less frequent reporting was previously considered to be a reasonable adjustment for a disability.

This research has thus been produced to shed light on these issues, in the hope that meaningful changes will be made.

7. See FOI 13.
8. Home Office, Impact Assessment (HO0214), 25 November 2015.



# METHODOLOGY

In order to produce this research note, we have used case studies gathered through Migrants Organise's Community Programme as qualitative data. The Community Programme provides ongoing and holistic support for more than 500 vulnerable migrants and refugees, which includes supporting our service users with challenges they may face around compliance with bail conditions. We have completed data collection forms when meeting with service users and undertaken in-depth case studies where there are particular concerns or detailed information is available.

This information is based on actual casework experience, which has the advantage of providing real-life, verifiable examples of the process individuals face within the current bail conditions regime. In some cases, the authors of this report have supported service users or their legal representatives in writing to the Home Office about bail conditions and so we also have direct experience of some good practice but also some serious barriers to access meaningful engagement with an individual client's vulnerabilities.

We have undertaken legal research of Home Office policies, legislation and case law. Please refer to annex A for a full list of the primary legislative sources we have taken into account.

This report is not based on quantitative analysis for the main part. We conducted a series of freedom of information requests to different reporting centres and the Home Office in order to obtain quantitative data surrounding the issue of bail conditions. Please refer to annex B for a list of questions posed and responses received. Some of the requests did not yield a substantive response - in such cases the reason for the refusal has been provided.

We have then sought to draw together the different threads of this research into our main conclusions.

# KEY AREAS OF CONCERNS

There are a number of ways in which a reporting condition can impact the welfare of migrants, particularly young people. There can be safeguarding risks involved in the journey to report; reporting can be open-ended and time-consuming, thus disrupting education; reporting can be impoverishing for people struggling already to meet essential living needs; reporting can be stressful and trigger mental illness, and; for people with physical disabilities or illness, reporting can cause physical distress and pain. For victims of trafficking and abuse there is also a risk of re-trafficking or being identified by an abuser. For those in a strange country being asked to travel between unknown places there is also a risk of getting lost.

Where people struggle with understanding (most often due to mental illness), the link between reporting and 'ad hoc' Home Office interviews can also lead to risks of detention, changes in bail conditions, inappropriately signed voluntary return forms, or high levels of fear and distress. Unlike at other stages in the immigration process (where vulnerable people can be accompanied or at least supported or prepared by a lawyer) regular reporting is something a migrant does on their own. Key case studies from our research are set out below.



## 1. Children, Care Leavers and Parents (Affecting Children)

### Case Study 1 - EH

*EH is a former relevant child accommodated by social services. EH has diagnosed mental health conditions, and the Home Office has been sent a detailed medico-legal report concerning these by his lawyer. He is also under investigation for physical health issues, including cardiovascular problems, which have required hospitalisation. EH has been looked after by the same local authority since he arrived in the UK and they have always provided him with a stable address. He is in full time education.*

*Even so, he has been required to report regularly for over four years, since he was 16 years old and was an unaccompanied minor with a pending first asylum claim. EH suffers from anxiety and describes reporting as a serious trigger for this, fearing he will be detained and sent back to his country of origin (despite reassurances from his legal representative). EH reports on his own, despite fears of traffickers from whom he escaped in his home country, and who he has learned have a presence in London. Aged 21, he has now been recognised as a refugee and only now has been able to stop reporting.*

### Case Study 2 - AW

*AW arrived in the UK as an unaccompanied minor and then became a care leaver. He is no longer a care leaver because he is over 25. AW is undocumented (unremovable) and apparently stateless. He has a pending asylum claim, which is supported by detailed expert evidence about his nationality and mental health (the claim has been pending for around two years). He is a survivor of child trafficking and he has been diagnosed with severe mental health conditions. As a result, he has been deemed unfit for interview and his fresh asylum claim was permitted to be submitted by post. As with EH, the Home Office has detailed evidence of AW's history and current condition.*

*AW has been required to report for many years, even though he struggles to remember dates and finds the process of reporting very distressing. He has limited regular income (he receives limited weekly income through the National Referral Mechanism (NRM) for victims of trafficking to prevent destitution, but nevertheless struggles to afford travel costs). There is an ongoing risk he may be subject to an ad hoc interview during reporting, which he would be too unwell to engage with. He would either participate, which would be deleterious to his mental health, or refuse to participate, which would likely be taken as non-compliance. He also sometimes forgets to report (linked with his mental illness), which could be counted against him. It seems impossible to prevent a risk of interview or missed appointments while he is subject to a reporting condition. At times, AW's reporting has been reduced to six monthly, but then he will miss a reporting date and it is then increased (typically to weekly). He presents as confused and distressed whenever he reports. AW is in a long-term, stable, private hosting arrangement, so a residence condition would be a realistic alternative.*

Reporting can often be a terrifying experience, particularly for young people with no parental or family support. It is difficult to understand the justification for requiring people who are so plainly vulnerable, who can be found easily, who have never absconded and who have every incentive to keep in touch to undergo such long term and disruptive reporting conditions. We would strongly advocate for looked after children and care leavers being given a tailored residence condition as opposed to a reporting condition, given the high-risk nature of this client group combined with the fact that they are accommodated in statutory support. This would retain the focus on their social worker as the lead professional and the statutory actor best placed to keep in touch with them and safeguard their welfare.

> *"There are currently 456 children on immigration bail who are subject to reporting condition, 97 of whom are asylum seeking"*

Our freedom of information request revealed that there are currently 456 children on immigration bail who are subject to a reporting condition, 97 of whom are asylum seeking.[1] The Home Office states that asylum seeking children may be asked to report between the age of 17.5 and 18 in order to introduce the child to the reporting processes. However, cases like EH above show that reporting conditions can be imposed earlier or more regularly than a one-off introduction appointment. In our view, it is difficult to see how it is appropriate or consistent with their best interests to impose reporting conditions on children. If young people need to be inducted into the reporting process at all, then this could surely be done once they reach adulthood and by arranging a specific appointment. More significantly, it is unclear to us why people who are acknowledged to be vulnerable should be asked to report in the default way that these conditions are now imposed.

There does not seem to be a way to mitigate the risk of ad hoc interviewing when a reporting condition is in place. This is highly problematic when unexpected interviews would cause a person to become highly distressed or when the person is not able to engage with the interview (or advocate that it should not go ahead) due to a disability. The risks are, for example, that AW could feel pressured into signing a voluntary return form without really understanding what it was, despite the risk this could be treated as automatically cancelling his pending claim, or that AW may feel unable to tolerate the interview and disengage which could be perceived as hostile or aggressive by the interviewer and could even result in detention.

JB's reporting condition is much less burdensome than that of many others. However, given her child's disability, it is questionable whether reporting is the most appropriate condition to impose in the first place. She was housed by the local authority and then in an NRM safe house, so a residence condition would appear more appropriate. In any case, we are concerned that not enough steps have been taken to accommodate the children's needs or meaningfully assess their best interests. For example, the availability of childcare should have been discussed with JA in advance and assistance should have been provided if necessary. At the very least, JA and her children should not be asked to queue.

1. See FOI 1.



## Case Study 3 - JB

*JA is a single mother of 2 young children, currently aged 5 and 3. She is a victim of trafficking, and has a received a positive conclusive grounds decision. Her oldest child is autistic and has significant difficulties in public and crowded places. When distressed, he would start shouting and crying, or refusing to move. JA has been reporting for 4 years. She used to report every two weeks, when her oldest child was just 2 years old. Her reporting frequency was then reduced to 6 months around 2.5 years ago. She reported around July 2019 during the school holidays. As such, JA had to bring her 2 children to report. She told us that they had to travel to the appointment on public transport and then queue for about 35 minutes on that day (this is comparatively short to the time others reporting sometimes have to wait), during which time her oldest child became distressed.*

*JA has never received any financial assistance from the Home Office, even though she was referred to the NRM in May 2017. Before receiving subsistence payment from the NRM, she did not have any regular income at all, but was still expected to report. Similarly, she was unaware of the possibility for childcare costs to be covered by the Home Office, in order to allow her to report without her children and has not been able to access this.*

## II. Mental and Physical Health Disabilites

Reporting can be physically exhausting, and with some disabilities, it can even be painful. The journey to the reporting centre can be arduous and after arrival, the individual may have to queue for hours. Many reporting centres do not have an indoor area in which to queue, which means that individuals have to wait for hours outside, regardless of the weather. They are also often unable to go to the toilet because otherwise they will have to go to the back of the queue. We are concerned that the way reporting conditions are imposed and carried out fail to adequately take into account individuals' health and disabilities and so fail to comply with the Home Office's Public Sector Equality Duty.

*OA is an elderly asylum seeker who suffers from mobility issue . She uses a cane for mobility and standing, and walking any distance is painful to her. She was asked to report every day at 8 am in the past, but could not maintain this*



### Case Study 4 - AS

*AS suffers from Crohne's Disease. He is asked to report every month. He grows so distressed near the reporting event that he is not be able to sleep the night before and feels ill for days afterwards. Stress impacts on his digestion, his ability to maintain adequate nutrition and his health. AS's journey to and from the reporting centre takes him 3 hours in total. He typically leaves at 9 am on his reporting days and returns at 4 pm.*

*His immigration solicitor is preparing his fresh asylum claim and so, in the meantime, he is ineligible for s4 NASS support. Migrants Organise found him a private hosting placement where he stays in a private individual's spare bedroom. This is supposed to be a temporary solution and, in the meantime, he receives no income. We have assisted him in obtaining some one-off destitution grants and he also goes to different charities for donated clothes and other essential needs, but effectively he has no income.*

*We have requested 3 times for his reporting conditions to be changed. We asked that his reporting frequency be reduced and that he be allowed to report at a local police station. Otherwise, we asked that his travel cost to the reporting centre of £7.80 be reimbursed. We sent our request by post and also asked AB to hand the request to a Home Office employee when he reported. We have yet to receive any substantive response from the Home Office. AS told us that when he handed the letter to the Home Office officer at the reporting centre, he was told that he did not look destitute or in need of travel reimbursement because of how he was dressed (in clean, neat clothing) and that was all that was said.*

### Case Study 5 - OA

*OA is an elderly asylum seeker who suffers from mobility issues. She has a historic criminal conviction. She was asked to report every day at 8 am in the past. She uses a cane for mobility and standing, and walking any significant distance is painful for her. She tried to comply with the daily reporting condition, but in the end could not maintain this. She tried asking the Home Office staff to reduce her reporting frequency but this was refused. She subjectively described that she felt that she was being punished because the immigration officer who set the reporting frequency took a dislike to her.*

# III. People with Issues with Mental Capacity

Those who suffer from ongoing mental health issues, or other disturbances of the mind, can sometimes reach a point where they lack mental capacity to make immigration-related decisions. Migrants Organise runs a strategic project looking into this issue and we are concerned about some of our clients who are still being asked to report despite their issues with mental capacity. Once again, it is very difficult to see how this complies with the Public Sector Equality Duty or in individual cases the duty to make reasonable adjustments or to create a system where it is possible for disabled people to effectively request reasonable adjustments be made.

In the case of HS and HA, it is entirely unclear whether they truly understand the immigration bail conditions with which they need to comply. The Home Office also often uses reporting events as an opportunity to conduct ad hoc interviews with individuals, including to discuss voluntary return. It would be extremely concerning, and in our view procedurally unfair, if HA or HS were to be interviewed, particularly without any adequate safeguards.

## Case Study 6 - HS

*HS suffers from paranoid schizophrenia and has been assessed as lacking capacity to litigate in his immigration asylum appeal. His mental health issues also form a big part of his immigration case. He has been reporting regularly every two weeks for the past year, and before that, every week. HS can present quite well at first glance, however after conversing with him for some time, it would become clear that his answers are often muddled and affected by his paranoia. He is highly vulnerable to exploitation and would also be at risk in an ad hoc interview context, given that a lot of his paranoia relates to the government whom he believes is keeping track of him.*

*Those who suffer from ongoing mental health issues can sometimes reach a point where the lack mental capacity to make immigration-related decision.*



## Case Study 7 - HA

*HA is an asylum seeker from Nigeria. She has been in the UK since 2002 and there are some indications that she might have been trafficked by a family member for domestic servitude in the UK (but she is unable to give a coherent account and lacks insight into this). She suffers from schizophrenia and holds the delusional belief that she is a British citizen. She went to charities in the past asking for assistance to apply for a national insurance number and benefits, and was not able to understand the fact that she does not have any status. HA has no regular income and becomes very distressed about her destitution. She becomes confused and angry and believes people are keeping her benefits from her. She begs us and other organisations to give her money. We believe occasionally a family member may be give her a little money or food.*

*She informed us around 6 months ago that she has been going to the Home Office, but was not able to explain explicitly that it was "to report". She told us the Home Office ask to see her, because they can see she is British. We tried to discuss with her asking the Home Office to stop her reporting condition but she was confused insisted that it was important for her to continue going to see the Home Office to get her benefits. She was assessed, in the past, as lacking mental capacity to make immigration related decisions. As a safeguarding issue, and given she lacks capacity to meaningfully refuse consent (she is a client in our specialist mental capacity project) we worked with her lawyer to ask the Home Office to remove her reporting condition, providing clear medical evidence. We have yet to receive a response from the Home Office after two months. In the meantime, HA continues to go and report.*

# IV. Victims of Human Trafficking, Modern Slavery, Torture, and Other Forms of Human Cruelty

There are strong positive obligations to promote the rehabilitation of survivors of human trafficking and to provide sufficient time for them to reflect and recover. There can also be important safeguarding concerns where people have been trafficked to the UK, in respect of the risks of re-trafficking from previous traffickers or exploitation or abuse of vulnerable people by new abusers. It is hard to reconcile these risks with a blanket imposition of reporting conditions.

Some of the most vulnerable victims of trafficking are those most likely to be asked to report over long distances. For example, children trafficked in cannabis cultivation sites who may also have received an associated criminal conviction (often incorrectly and later successfully appealed), and who may speak no English, may be asked to report a long distance from social services accommodation following their conviction. Safe House and NASS accommodation is often a substantial distance from any immigration reporting centre: we know of clients reporting from the south coast and throughout Kent to reporting centres in London.

Experiences of abuse, trafficking, and torture create a higher incidence of mental illness, fear of the authorities (often used as a control mechanism by abusers) and vulnerability to further cycles of violence and exploitation. The authors of this report remember PE's case keenly as one where statutory and charitable agencies alongside legal representatives seemed to be doing everything they could to demonstrate the unsuitability of a reporting condition, but without any change. PE would attend the office of Migrants Organise weeping and terrified of getting into trouble with the Home Office (who sent her absconder letters even when her clinician explained she could not report). We considered reporting system to be directly retraumatising her.

## Case Study 8 - PE

*PE is a very vulnerable asylum seeker and victim of sex trafficking who suffers from severe mental health issues and has been assessed as being at unmanageable risk of suicide following Home Office reporting. She was asked to report weekly for over a year, and during one of the reporting events, she was asked to sign a document which we believe was a voluntary return form. PE became extremely distressed during the interview and suffered from an apparent panic attack; she disassociated and seemed catatonic. She called us during the appointment and told us that she was not able to understand what was happening. She was so upset that she was not able to read back to us the form which she was asked to sign or hand to the immigration officer a letter her we had given her. She was at the reporting centre for three hours and afterwards had to seek immediate medical treatment.*

*Evidence of her health and her risk of potentially fatal self-harm, including from her care coordinator (a psychiatric nurse) was submitted to the Home Office to request an exemption from reporting. PE was accommodated by social services under the Care Act and had been for some time. The Home Office did not agree to exempt her from reporting, despite months of correspondence from our charity and PE's mental health team. All they did was offer to change her reporting to fortnightly and forward on the correspondence to the caseworker dealing with her substantive case. It took a threat of legal action after months of exhaustive correspondence for the Home Office to agree to exempt her from reporting. PE has now been recognised as a refugee. She says that she believes she 'would be dead' if not for persistent charitable casework interventions on her behalf to stop her reporting condition.*

## Case Study 9 - MA

*MA is a survivor of human trafficking. We assisted him in October 2017 to make representations to the Home Office explaining this and requesting that he should be referred to the NRM to be identified as such. He is a disabled adult and suffers from chronic back pain, post traumatic stress disorder and depression. A few weeks after his representations were submitted, MA went for a reporting event when the Home Office conducted a redocumentation interview. MA was unable to answer some of the questions and he reported that he was told that he would have to be "punished" by increasing the frequency of his reporting condition to weekly. We submitted a formal written complaint of the treatment endured and his reporting was changed back to monthly.*

*Recently, MA came back to our service. When asked, he told us again that reporting was still a problem for him. It takes him 4 hours in total to travel to and from the reporting centre. It takes him a long time because he needs to take the bus (he could not afford any faster mode of transport). He told us that last year he faced a fare evasion charge for getting the bus without credit. He had to weigh up the pros and cons of fare evasion compared with being classed as an absconder for missing a reporting event.*

*We sent a letter to the reporting centre asking that his reporting frequency be reduced to at most once every three months, in line with the Home Office's policy. We also asked that his travel cost be reimbursed. We did not receive any response. We also provided a copy of the letter to MA to be brought during his next reporting event. He was then told that he would need to show a medical letter to support the request. When he went to his GP, he was asked to pay £50 for a supporting letter, which he could not afford.*

*"Some of the most vulnerable victims of trafficking are those most likely to be asked to report over long distances"*

## V. Inappropriate Reporting Conditions

The case of JA and OO show how reporting conditions can be extremely burdensome, irrespective of the individual's specific vulnerabilities. Unfortunately, there seems to be a blanket approach taken to the imposition of reporting conditions.

### Case Study 10 - JA

*JA is an asylum seeker and victim of trafficking. She has received a positive reasonable grounds decision from the NRM. She is accommodated by her friend in Hertfordshire but receives s95 NASS subsistence support. She is required to report at Eaton House in Hounslow every month. The journey costs £21.80 and takes around 5 hours in total. We have asked multiple times for her reporting condition to be reduced and for her reporting to take place at a nearby police station. We also requested that her transport costs associated with her current reporting arrangements are covered. The Home Office has now reduced her reporting conditions to every 3 months, but our other requests have so far been ignored.*

### Case Study 11 - OO

*OO is an asylum seeker with a diagnosis of chronic post traumatic stress disorder and a physical disability which makes it painful to walk and requires her to use a stick to walk. She was served a letter from the Home Office requiring her to report, which stated that "all asylum seekers are required to report to an Immigration reporting centre whilst their case is being considered" [emphasis added]. She reports every two weeks. She tried to explain how difficult reporting is for her and an immigration officer made a hand-written note on her reporting form, stating that she should not have to queue when she reports. Nonetheless the process of getting to and from reporting is physically painful and mentally exhausting for her.*



# SOURCES OF THE ISSUES

After reviewing relevant legislative sources (see annex A), we have identified three particular issues with the current immigration bail regime, which we believe create the problematic situations highlighted in the case studies in this report.

Firstly, reporting conditions seem to have become the de facto condition which the Secretary of State uses, over the other possible conditions of immigration bail listed in Schedule 10 of the Immigration Act 2016. This is largely due to a failure in the current policy and guidance to provide an overarching framework to choose a suitable immigration bail condition.

Secondly, there is a lack of clear guidance as to how a reporting condition should be implemented, which is coupled with the failure of decision-makers to reliably follow the guidance and policies that do exist.

Thirdly, there is a lack of clarity as to how a person would challenge the imposition of a reporting condition, and it appears that there is no effective oversight of the Secretary of State's decision-making.

# ISSUE ONE: Imposing a Reporting Condition as Standard

The requirement to impose a condition when granting immigration bail and the possible conditions that can be imposed are contained in paragraph 2 of Schedule 10 of the Immigration Act 2016. The conditions that can be imposed are:

*(a) A condition requiring the person to appear before the Secretary of State or the First-tier Tribunal at a specified time and place;*

*(b) A condition restricting the person's work, occupation or studies in the United Kingdom;*

*(c) A condition about the person's residence;*

*(d) A condition requiring the person to report to the Secretary of State or such other person as may be specified;*

*(e) An electronic monitoring condition;*

*(f) Such other conditions as the person granting the immigration bail thinks fit.*

Paragraph 3(2) of Schedule 10 of the Immigration Act 2016 sets out different factors that must be considered when deciding: (1) whether to grant bail in the first place; and (2) which condition to impose on a grant of bail. These are:

*(a) the likelihood of the person failing to comply with a bail condition,*

*(b) whether the person has been convicted of an offence (whether in or outside the United Kingdom or before or after the coming into force of this paragraph),*

*(c) the likelihood of a person committing an offence while on immigration bail,*

*(d) the likelihood of the person's presence in the United Kingdom, while on immigration bail, causing a danger to public health or being a threat to the maintenance of public order,*

*(e) whether the person's detention is necessary in that person's interests or for the protection of any other person, and*

*(f) such other matters as the Secretary of State or the First-tier Tribunal thinks relevant.*

In our view, the conditions specified at (a) to (e) above are likely to be more relevant to those granted bail from detention or those with criminal convictions than people in the community. By way of a worked example, we take the case of EH (case study 1). EH was a 16-year-old child of good character who had a pending first asylum claim and lived with foster carers. The analysis would look like this:

*(a) The likelihood of the person failing to comply with a bail condition.*

*Presumably low, so long as the condition is realistic and feasible.*

*(b) Whether the person has been convicted of an offence (whether in or outside the United Kingdom or before or after the coming into force of this paragraph).*

*Not applicable.*

*(c) The likelihood of a person committing an offence while on immigration bail.*

*Presumably low.*

*(d) The likelihood of the person's presence in the United Kingdom, while on immigration bail, causing a danger to public health or being a threat to the maintenance of public order.*

*Presumably very low.*

*(e) Whether the person's detention is necessary in that person's interests or for the protection of any other person.*

*No (this is someone wholly unsuitable for detention and who could not be lawfully detained).*

*(f) Such other matters as the Secretary of State or the First-tier Tribunal thinks relevant.*

In this case, considering the factors listed at paragraph 3(2) provides little indication as to which bail conditions are or are not likely to be imposed, or whether they would be necessary or appropriate. Most of these factors are of limited relevance to EH, and factor (f) becomes important because it acts as a gateway to allow consideration of other issues, including EH's level of vulnerability. However, there is very little guidance as to how factor (f) is to be applied.



*"We are concerned that when it comes to guidance on how to select the appropriate bail conditions to impose, the Immigration Bail policy is inadequate"*

The Home Office's Immigration Bail policy[1] sets out its approach to determining which bail condition(s) to impose. In our view, it fails to provide sufficiently clear guidance as to how the factors at Schedule 10, paragraph 3(2) should lead to the selection of a particular bail condition over another, or which 'other matters' should usually be taken into account under Schedule 10, paragraph 2(1)(f).

The three aims of the Home Office decision-maker when setting bail conditions are listed in the Immigration Bail policy as ensuring that they:

*• enable the Home Office to maintain appropriate levels of contact with the individual.*

*• reduce the risk of non-compliance, including absconding.*

*• minimise potential delay in the Home Office becoming aware of any noncompliance.*[2]

The policy provides some limited guidance as to what must be taken into account by Home Office officials when deciding which bail condition to set. For example:

*When setting a condition of immigration bail, the Secretary of State must be satisfied that the individual will be able to comply with that condition from the start of a grant of immigration bail.*[3]

The number and type of immigration bail conditions to impose will vary depending on the circumstances of the individual case. For example, a person being granted immigration bail from detention while barriers to removal are resolved may require more stringent bail conditions than a person being granted immigration bail from a position of liberty (for example, on arrival at a port of entry or on submission of an in-country application) while an outstanding application is considered. This is because, at their respective stages of the process, the latter would generally have more of an incentive to cooperate with the authorities than the former.

In addition:

*Decision makers should be aware that breach of bail conditions gives rise to the possibility of criminal proceedings and a fine or imprisonment…(the gravity of the breach should be such that prosecution could be a proportionate outcome).*[4]

The Immigration Bail policy also recognises the need to regularly reassess an individual's bail condition:

*Decision makers must use each meaningful interaction with the person or the case as an opportunity to proactively review the person's bail conditions. This is to ensure that bail conditions remain appropriate in all the circumstances. Decision makers must consider all requests for variation and grant reasonable request where it is appropriate to do so.*[5] *[emphasis added]*

In terms of determining the 'other' conditions that could be applied under paragraph 2(1)(f) of Schedule 10, the Immigration Bail policy gives examples of a requirement to notify the Home Office of a change of circumstances, a curfew, and the surrender of a person's passport, but the only other guidance given is that:

*Any such condition must be reasonable and it must be necessary to meet the purpose of the grant of immigration bail.*[6]

The guidance provides a helpful emphasis on the individual assessment of each case, and a recognition

1. Home Office, Immigration Bail, version 4.0 (5 April 2019).
2. Ibid, page 11.
3. Ibid, page 11.
4. Ibid, page 12.
5. Ibid, page 50.
6. Ibid, page 23.

that the Secretary of State should not set people up to fail by imposing unrealistic conditions. Nevertheless, we are concerned that when it comes to guidance on how to *select* the appropriate bail conditions to impose, the Immigration Bail policy is inadequate. As we can see from the cases of OA (case study 5) and JA (case study 10), the lack of clarity on which conditions should be imposed risks the imposition of conditions that are unrealistic.

It is of particular concern that the policy does not provide adequate guidance in relation to the requirement of Schedule 10, paragraph 3(2)(f) that, in choosing the appropriate condition, the Secretary of State must consider "such other matters" as are relevant. This, we believe should have been recognised in the policy as obliging the decision-maker to consider an individual's vulnerabilities and disabilities and whether other duties arise in relation to that individual, for example from other Home Office policies or statutory sources.

Going back to the case of EH (case study 1), we believe that relevant 'other matters' include:

- That he is a minor, meaning that the Home Office section 55 safeguarding duty and 2009 statutory guidance 'Every Child Matters: Change for Children'[7] apply and that his best interests must be a primary consideration in all decisions;
- That he should also be identified as a vulnerable individual as per the Home Office policy Identifying People at Risk (enforcement) policy[8];
- That he is a looked after child in the care of the state and accommodated with a foster carer by social services;
- His history of trauma and additional needs or disability (set out in the medico legal evidence) which would impact on which reporting conditions may be appropriate – this may also raise a duty to make reasonable adjustments under the Equality Act 2010;
- Other practical concerns: his attendance in school or college, the distance to reporting centres, the feasibility of him being able to cope with reporting on his own, the practical difficulties of arranging for him to be accompanied, the risk of him getting lost and his suitability for ad hoc interviews.

*"the Immigration Bail policy also lacks a framework for balancing different matters, failing to address how a particular individual's vulnerabilities would be relevant in choosing which bail condition is appropriate to apply."*

In addition to the failure to identify important considerations that need to be taken into account when setting a bail condition, the Immigration Bail policy also lacks a framework for balancing different matters, failing to address how a particular individual's vulnerabilities would be relevant in choosing which bail condition is appropriate to apply. This can be contrasted, for example, with the Home Office's Adults at Risk in Immigration Detention policy[9], under which people with particular experiences or characteristics (for example victims of trafficking) are regarded as adults at risk, with certain outcomes flowing from that in relation to their suitability for detention.

It is therefore unclear, for instance, whether reporting would still be appropriate for a victim of trafficking, even if it may impact on their rehabilitation and/or raise safeguarding concerns (for example, if they have to travel to or through an area they were trafficked in order to report or would be at risk from new abusers in an unknown urban environment). Although there are other Home Office policies which feature safeguarding information, the Immigration Bail policy does not, in our opinion, dovetail sufficiently with these other policies to protect the rights of affected individuals. In addition, our freedom of information request has also confirmed that the Home Office does not currently have any other internal individual risk assessment or safeguarding process specific to reporting events.[10]

Rather than setting out overarching guidance on how to determine the appropriate condition(s) to apply for each individual, the Immigration Bail policy adopts a condition-specific approach. Despite the primary legislation treating all conditions equally in a list, in our view the policy effectively produces a hierarchy of conditions.

*"Rather than setting out overarching guidance on how to determine the appropriate condition(s) to apply for each individual, the Immigration Bail policy adopts a condition-specific approach."*

Amongst the seven conditions (including curfew and financial conditions) which are mentioned explicitly in the Home Office's Immigration Bail policy, six of them contain a caveat as to when imposition will be either appropriate or inappropriate. The only condition which does not contain any indication of when it would be appropriate or inappropriate to impose it is the reporting condition. The section on the reporting condition on pages 18-19 of the policy is two paragraphs long. It details the location of the current 14 immigration reporting centres and elaborates that *"if reporting to a police station is considered essential the frequency will need to be agreed"*[11] with the police station.

By contrast, following a campaign and legal challenges against the imposition of "no study" conditions, the guidance now states that a restriction on study can only be imposed by a senior decision maker and that:

> *A person does not have to be given a study condition permitting or prohibiting study. They must have at least one other condition of bail. If there is any doubt over whether study should be restricted, no study condition should be applied [emphasis in original].*[12]

This is then supplemented by a detailed table specifying when it is appropriate to impose the condition.

Similarly, with residency conditions, given the current prohibitions on the 'right to rent' for those without status, the guidance states clearly that a residence condition must not be imposed when an individual is disqualified from renting. It is perverse and counter-intuitive for the Home Office to anticipate that the right to rent restrictions will make people homeless and without entitlement to stable accommodation, but at the same time, be insisting that they must closely monitor such a person. Where a residence condition was deemed necessary for bail, but the person is destitute, the Home Office has a power to themselves accommodate the individual. However, in our experience, the only times this happens is where it is directed by a Tribunal judge granting bail. Instead, reporting condition is imposed and residence condition is not.

7. UK Border Agency, Every Child Matters: Change for Children (November 2009).
8. See Home Office, Identifying people at risk (enforcement) version 2.0 (22 May 2019). While this policy is geared towards Immigration Enforcement officers, our FOI request (FOI 7) confirms that the Home Office does not have an individual risk assessment or safeguarding process specific to reporting events and that guidance relevant to reporting conditions includes this policy.
9. Home Office, Adult at risk in immigration detention version 5.0 (6 March 2019).

10. FOI 7.
11. n10, page 19.
12. ibid, page 13.

A further concern is the emphasis in the Immigration Bail policy on administrative convenience. The intention to use bail conditions to ensure that migrants keep in touch and ensure that the Home Office is able to locate them to progress their cases. This is clear from the policy's three aims mentioned above.

The problem with a focus on administrative convenience as a key factor is that it becomes more difficult to identify which bail conditions are necessary and appropriate in the individual's circumstances. Logically, from the Home Office's perspective, administrative convenience can be achieved most easily by imposing the most restrictive conditions, such as immigration detention. This will ensure that the Home Office can maintain a high level of contact with the individual. Furthermore, the individual would not be able to abscond. This would allow the Home Office to process the case quickly and at their own convenience. The same logic is exemplified clearly in the previous Detained Fast Track regime, in which asylum seekers were deprived of their liberty for the administrative convenience of the Home Office. This regime has since been found to be unlawful by the courts.

Also relevant is the Reporting and Offender Management policy[13], which deals specifically with reporting conditions. But as with the Immigration Bail policy, there is little guidance as to whether or not it is appropriate to impose a reporting condition, as opposed to another condition, in the first place. Under the section "Identifying Individuals to Report"[14] the policy simply states that people who are on immigration bail are liable to report . In relation to children, the policy states that the Secretary of State should not normally require them to report at page 10. The option however remains available although it would be *"rare and the decision will be made on a case by case basis".*[15]

Under the issue of eligibility for travel cost for reporting, the Reporting and Offender Management policy does discuss the issue of people with medical conditions and Article 3 of the European Convention of Human Rights (ECHR). This discussion, however, relates primarily to varying a particular reporting condition (frequency, distance, etc.) instead of whether or not a reporting condition is appropriate in the first place.

The result of the lack of an overarching framework for assessing the suitability of bail conditions and the condition-specific approach in the Immigration Bail policy, appears to be that reporting conditions have become the de facto condition which the Secretary of State imposes. This is supported by data gathered through our freedom of information request which reveals that, as of 13 September 2019, more than 83,000 or 76.4% of migrants who are put on bail conditions are also given a reporting condition.[16] It is also worth noting that the Home Office's Asylum and Screening Routing policy states that:

> *If the individual does not have current leave to be in the UK and an asylum claim has not been accepted, you should set a reporting event in line with the guidance in the general instruction reporting and offender management (if the individual is not to be detained).*[17]

*As of 13 September 2019 more than 83,000 or 76.4% of migrants who are put on bail conditions are also given reporting conditions. In 2018 the rate of absocnding was 3%*

This explains the experience of OO (case study 11), who received a letter from the Home Office stating that all asylum seekers have to report. This is of course incorrect as a matter of primary legislation.

Another freedom of information request we carried out further reveals that, in 2018, the rate of absconding was only 3%.[18] Compliance with conditions is therefore very high and to us, it appears disproportionate to require sometimes very vulnerable people to report at substantial personal cost for an open-ended period of time. There are cases where we believe the risk of absconding cannot be said to be high, again such as in the case of care leavers who are supported by social services like EH (case study 1). In these cases, we believe the Home Office should recognise the burden of a reporting requirement and should note the need for proportionality; that if a less invasive bail condition would be sufficient, that option should be pursued.

We believe that there should be a clear statement in Home Office policy recognising that bail conditions can amount to a serious interference with individual interests and rights, and that when deciding when and if to impose bail conditions, the condition needs to be both necessary to the risk posed and proportionate to the level of disadvantage and inconvenience it is likely to cause.

13. Home Office, Reporting and Offender Management policy version 3.0 (19 March 2019).
14. ibid, page 7.
15. ibid, page 10.
16. FOI 1.
17. Home Office, Asylum screening and routing version 4.0 (16 December 2019), page 19.

18. FOI 14.

# ISSUE TWO: Burdensome Reporting

## Lack of Clarity in the Relevant Policies and Guidance in Implementing Reporting Conditions and Failures to Follow Them

In certain cases, like PE (case study 8), in our view, the high level of vulnerability would mean that the imposition of a reporting condition would be inappropriate per se. In the majority of cases, however, the impact of reporting conditions would depend to a significant extent on the specific condition imposed. We have identified three main aspects of reporting which contribute to how burdensome the condition would be. Firstly, the frequency of the reporting, secondly the distance to the reporting centre and thirdly, the treatment of individual people during reporting.

We believe the current policies provide unclear guidance as to how burdensome a reporting should be. This is combined with the fact that when some guidance is available or clear, there is often a failure to follow them properly.

### A. Frequency of Reporting

Reporting frequency is central to the effect that a reporting condition has on an individual. OA (case study 5), for instance, was asked to report every day at 8am in the morning, despite having ongoing physical health issues. She complained about the frequency but without success. It was so burdensome that in the end she decided to stop reporting (before she approached our charity), which of course means that she falls to be treated as an absconder. This appears to be an example of setting someone up to fail, contrary to what is encouraged by the policy.[1]

*"It is not immediately clear, however, how someone's vulnerability should impact the frequency of reporting imposed"*

The current Reporting and Offender Management policy deals specifically with the implementation of reporting conditions (after a decision has been made to impose them) and states that frequency needs to be decided on a case-by-case basis:

> *If you are setting reporting conditions, you must consider the person's vulnerability, removability, and assessed risk of harm to the general public when deciding the frequency of any reporting.*[2]

The policy also directs the Home Office Reporting and Offender Manager to consider factors such as resources available, the size of the reporting population or an individual's special medical needs. It categorizes reporting frequency of three monthly or less as "infrequent" and more than that as "frequent". It sets out the case of people who are pregnant and children and states simply, *"for further details on assessment of vulnerability, see identifying people at risk"* [3].

It is not immediately clear, however, how someone's vulnerability should impact the frequency of reporting imposed. Under the section addressing the criteria for entitlement to receive Home Office assistance with the travel costs of reporting, the Reporting and Offender Management policy discusses individuals who have medical needs. It states:

> *[the reporting and offender manager] must, first and foremost consider if requiring the reportee to travel long distances would constitute a breach of their article 3 rights. This is most likely to be the case where the person is known to have serious physical or mental health issues which have been confirmed by written evidence from a medical professional*[4]

To illustrate the point, the policy gives one example of :

> *a person with a confirmed heart condition who, as part of their journey to a reporting event, has to climb a steep set of stairs, where there is no accessible access, or a person with documented agoraphobia being required to travel on public transport.*[5]

In such cases, the policy encourages the reporting and offender manager to reduce the distance travelled or to reduce the frequency of reporting, *"up to and including suspending physical reporting by using alternatives to physical reporting events, such as telephone reporting"*.[6] This clearly should have been done in the case of OA, particularly given the duty to regularly reassess bail conditions. In our experience, it is often extremely difficult to persuade the Home Office to reduce a person's frequency of reporting, let alone suspend a reporting condition (see case study 8).

In our view, there is a lack of clarity in the policy, which contributes to the problem significantly. While there does seem, technically, to be a lot of discretion available to vary the frequency of reporting, the possibility of reducing or suspending a reporting condition is provided more as an afterthought in the Reporting and Offender Management policy. In the first place, the impact of medical conditions on a person's ability to report is discussed in relation to the criteria for financial support with travel costs, rather than under the frequency of reporting section in the policy.

More importantly, we do not believe that the example provided above provides sufficient guidance for decision maker. It is unclear, for instance, whether a person with physical or mental health issues should automatically be provided "infrequent" reporting condition; and if not, what other factors should be considered and in what circumstances should "frequent" reporting should still be imposed. It is also unclear, for example, what frequency of reporting should be imposed on victims of trafficking who might not suffer from serious mental or physical health issues, but should still be identified as at risk following the Home Office's Identifying People at Risk policy[7].

In addition, it cannot be correct that a breach, or a risk of a breach, of an individual's rights under Article 3 ECHR is the test for whether a reporting condition should be varied. There are many reasons why a reporting condition would not be appropriate for a particular individual even when it would not constitute a breach of the very high Article 3 ECHR standard. Applying such a high standard is inconsistent with equalities principles as enshrined in the Equality Act 2010.

In our opinion, the assessment of vulnerabilities should be a part of an overarching framework for considering whether to require someone to report at all. The current lack of clarity makes it easier for inappropriate reporting condition to be imposed or to continue.

1. Home Office, Immigration Bail, version 4.0 (5 April 2019), page 50. See discussion on page 19 above.
2. Home Office, Reporting and Offender Management policy v3.0 (19 March 2019), page 5.
3. ibid, page 10.
4. ibid, page 32
5. ibid.
6. ibid.
7. Home Office, Identifying people at risk (enforcement) version 2.0 (22 May 2019), page 6.

## B. Distance to the Reporting Centre

The Reporting and Offender Management policy allows, in principle, for reporting events to take place other than at a reporting centre, including at a local police station. It states:

> *when deciding reporting conditions, you must give due consideration to the young, elderly and those with medical issues and the potential impact of frequent travel over long distances (in excess of 2 hours' journey time each way). You should also consider requiring reporting to a police station, or other specified location, if possible. However, there will be occasions where that person will be required to attend a reporting centre, such as to attend an interview.*[1]

However, the policy also states clearly that there is no *"upper limit to the distance which an individual may be required to travel in order to attend their nearest reporting centre"*[2], and we have yet to encounter anyone who has been asked to report at the police station rather than travel to a reporting centre. In the case of JA (case study 10), after numerous requests, the Home Office finally reissued JA's BAIL201 form and allowed her to report every 3 months. However, our request for her travel costs to be paid was ignored, as was our request that she should be allowed to report at a local police station situated less than 10 minutes' walk from her accommodation.

In addition to the difficulties that people with health problems will have with travelling long distances, and the disruption caused to all by regular long journeys to report, the distance an individual has to travel will also have a financial impact on them. Many people who are subject to reporting conditions will be living on extremely limited resources. At the moment, those without immigration status are not allowed to work, nor have recourse to public funds. Asylum support is generally only available to asylum seekers who are destitute, that is those who are homeless and/or cannot afford basic living expenses. A single person who receives asylum support under s95 of the Immigration Act 1999 receives only £37.75 a week. This comes down to about £5 a day.

Transport costs can therefore be a significant expenditure for migrants. Again, take the example of JA, who has to report at Eaton House, Hounslow, despite living in Hertfordshire. Every time JA reports, she has to pay £21.80 for the train ticket, which is close to 60% of her weekly allowance.

The Reporting and Offender Management policy provides for the Secretary of State to cover transport costs when the individual needs to travel more than 3 miles to the reporting centre, or if they live within a three-mile radius, and there is an *"exceptional need such as medical grounds"*[3]. The policy then goes on to lay out the test to qualify for extra support which, in essence, appears to be whether the refusal of support would lead to a breach of the individual's Article 3 ECHR rights, including whether the requirement would render the individual destitute, following the definition under the Immigration Act 1999.

The policy then states, in deciding whether an individual is destitute, the reporting and offending manager should take into account:

> • *whether the individual has, or has had, access to alternative support, accommodation or financial support: if yes, from whom and for what period*
>
> • *whether any alternative support is ongoing*
>
> • *where section 95 or 98 support has ended, the time elapsed between that support ending and the individual applying for section 4(2) of the Immigration and Asylum Act 1999 support.*[4]

1. Home Office, Reporting and Offender Management policy v3.0 (19 March 2019), page 8.
2. ibid.
3. ibid, page 31-32.
4. ibid, page 33.



One concern is that it is unclear from the Reporting and Offender Management policy how the provision of asylum support affects whether the Home Office will provide assistance with the cost of travelling to report. The provision of asylum support is intended to prevent people from being destitute. However, as is clear from the case of JA, people who are receiving asylum support, and so living on roughly £5 a day, can currently be expected to use some of that limited sum to pay to travel to report.

We had sent a freedom of information request to the Home Office asking for the number of people who have been provided with financial support for reporting. It was refused on the basis that it would exceed the cost limit for dealing with such requests. The Home Office states that this information is not held in a reportable field on the case management system, and therefore they would have search their records case by case.[5]

A further, related, concern is the approach taken to the child-care needs of people who have to report. The Reporting and Offender Management policy states:

> *You also need to give consideration to any childcare needs. The reportee may be able to leave a child with another person whilst they attend their reporting event, but you may need to consider reasonable requests for childcare costs.*[6]

We have never heard of this type of support being provided in practice and instead have known vulnerable people, like JB (case study 3), who have had to bring their children with them to report because of a lack of childcare.

5. FOI 11.
6. n27, page 33.

*"The provision of asylum support is intended to prevent people from being destitute. However, as is clear from the case of JA, people who are receiving asylum support, and so living on roughly £5 a day, can currently be expected to use some of that limited sum to pay to travel to report"*

## C. Treatment and attitudes during reporting

The Reporting and Offender Management policy provides guidance in relation to a reporting centre's infrastructure, and health and safety requirements. In terms of infrastructure, the policy states that the aim is:

- *The ROM Centre will be clean with furniture in good repair*
- *There will be access to toilets*
- *There will be easy access for mobility-restricted visitors*
- *Ideally there will be a multi-faith room and baby feeding facility available*
- *Counters will be clear of extraneous items.*[1]

The policy also states that when engaging with people reporting, staff must be "*courteous and professional*". They are supposed to greet individuals reporting at the counter, answer questions posed by the person, make use of separate room where privacy is required, and provide interpreters. Importantly, the policy states clearly that:

> *As a member of ROM staff, you have a duty of care to both reportees and colleagues in terms of health and safety.*[2]

Our clients' experiences indicate that the treatment received by those reporting is regularly far from courteous, from both security and Home Office staff. Take for instance the case of MA (case study 9), who was told that he had to be "punished" for failing to answer interview questions. We have worked with many individuals who complain about staff being rude and unpleasant during reporting events, from telling people with pending human rights or asylum submissions to leave the UK, to making remarks on personal appearance. Individuals also often have to queue for hours in front of the reporting centres, without access to toilets or shelter when it is raining and/or during winter-time.

The Reporting and Offender Management policy provides for a "discretion" to allow for accompanied reporting, including when the individual is regarded as vulnerable or when they are reporting for the first time. The policy however makes clear that accompanied reporting should not be a routine, and can only be permitted in "exceptional cases" where a "specific request" to do so has been made (it is not clear whether or not this request must be made in advance). A person accompanying the reportee must also only be allowed into the waiting area and must not be permitted to intervene at the counter.

We consider this approach to be unduly restrictive. A person such as PE (case study 8), who suffers from extreme anxiety during her reporting event, should be permitted to be accompanied without a specific request and throughout the reporting event. There is no obvious prejudice to the Home Office or the public interest in taking a more permissive approach here.

*"We have worked with many individuals who complain about staff being rude and unpleasant during reporting events, from telling people with pending human rights or asylum submissions to leave the UK to making remarks on personal appearance."*

1. Home Office, Reporting and Offender Management policy v3.0 (19 March 2019), page 28.
2. ibid page 29.

# ISSUE THREE: Lack of Clarity on How to Challenge or Vary a Reporting Condition

As mentioned above, under the Immigration Bail policy, there is a duty on the part of the Secretary of State to review bail conditions. To reiterate the relevant part:

> *Decision makers must use each meaningful interaction with the person or the case as an opportunity to proactively review the person's bail conditions. This is to ensure bail conditions remain appropriate in all the circumstances. Decision makers must consider all requests for variation and grant reasonable requests where it is appropriate to do so.*[1]

Importantly, the Immigration Bail policy also states that:

> *If the Secretary of State refuses a request to vary immigration bail conditions, the decision maker must issue a notification of refusal of request to vary bail conditions form (BAIL 406).*[2]

The Reporting and Offender Management policy then indicates that requests relating to the variation of reporting conditions, such as to change the frequency and location of reporting, or for financial support, should be made to the Reporting and Offender Management staff, who will be the decision maker. For cases involving individuals with criminal offences, the decision seems to fall on the criminal caseworker.

When it comes to requests for financial support, the policy also states clearly that the reportee will have a right to have a negative decision reviewed by the Reporting and Offender Manager. There is no mention of such a right of review when it comes to other requests, such as to vary the frequency of the reporting condition.

In our experience however, the Home Office rarely provides the BAIL406 notification. In all of the cases discussed above, where they have agreed to vary bail conditions, the Home Office has simply issued another BAIL201 form reflecting the amended conditions. Otherwise, they do not respond at all. We usually send a request to vary a bail condition by letter, while also providing another copy to the individual to be presented directly to the Home Office during the next reporting event. Typically, the staff respond orally to the individual, such as in the case of AS (case study 4), where the request for additional payment was refused as AS did not look destitute. In that case, AS had also made informal requests for financial assistance during his reporting events, complaining to the staff that he did not have enough money, but his requests were not actioned.

*"Part of the problem, in our view, is that the possibility of requesting a variation to bail conditions is not widely publicised, and many people do not seem to know how to go about making such a request."*

Part of the problem, in our view, is that the possibility of requesting a variation to bail conditions is not widely publicised, and many people do not seem to know how to go about making such a request. In all of the case studies discussed in this report, the individuals we worked with only came to us for advice when they were unable to comply with the reporting condition imposed. The impetus, most of the time, is the fear that they would be regarded as an absconder, instead of whether the condition is appropriate in the first place. This is illustrated in the case of MA (case study 9), who would force himself to comply with reporting conditions, despite his physical disabilities, for fear of being deemed an absconder and detained under immigration powers. On the other hand, the regular review mechanism set out in the policy also does not seem to always be followed.

1. 1. Home Office, Immigration Bail, version 4.0 (5 April 2019), page 50.
2. ibid.



With certain limited exceptions, there is also limited legal aid to request a change of bail conditions, and therefore not all immigration solicitors would assist their client with this pro bono, particularly if the request raises serious welfare issues, which requires a lot of evidence collection. This will of course disadvantage vulnerable individuals the most, who often will need assistance in making any request to vary or challenging a refusal.

Another freedom of information request we made to the Home Office was for the number of BAIL406 forms that had been issued in the last 12 months.[3] Again, the response was that the information was not held in a reportable field on the Home Office's case management system, and they would have search the record case by case, which would exceed the cost limit. It is curious that the issuance of BAIL406 is not a reportable field when the Home Office Immigration Bail policy indicates a clear duty to use the form when there is a request to vary bail condition and there is also a duty to regularly review bail conditions.

Another issue is the evidence that is required to vary a reporting condition. As mentioned above, when it comes to medical treatment, the Home Office Reporting and Offender Management policy requires *"written evidence from a medical professional"*[4]. This is borne out by our experience of requesting a variation of bail conditions on welfare grounds; evidence from people who are not medically qualified seems to be accorded very little, if any, weight by Home Office decision-makers.

As illustrated in the case of MA (case study 9), it might not be practically feasible to obtain such evidence. Since the decentralisation of GP surgeries, it has become less and less common for GPs to provide detailed letters of this kind. Generally, they will only complete a pro forma 'fit for work' form or will provide a print-out of a person's medical records. For a personalised letter, GPs can charge up to £50 (this varies depending on surgery), which must be paid in advance. This is outside the budget of many of the vulnerable people who are subject to immigration reporting conditions.

In addition, the sole reliance on evidence from a medical professional seems to be at odds with the Home Office's own policies relating to identifying people at risk, in which it is accepted that people may be at risk if they fall within certain categories, including victims of trafficking, children, and those who are in need of community care services by reason of mental or other disability, age, or illness.[5] In addition, under those policies, individuals can also be regarded at risk if:

- *they declare that they are suffering from a condition, or have experienced a traumatic event (such as trafficking, torture or sexual violence), that would be likely to render them particularly vulnerable to harm if they are placed in detention or remain in detention;*
- *those considering or reviewing detention are aware of medical or other professional evidence which indicates that an individual is suffering from a condition, or has experienced a traumatic event, that would be likely to render them particularly vulnerable to harm if they are placed in detention or remain in detention – whether or not the individual has highlighted this themselves;*
- *observations from members of staff lead to a belief that the individual is at risk, in the absence of a self-declaration or other evidence.*[6]

However, as illustrated by the case studies above, requesting a change of reporting conditions (particularly requesting that the individual is not asked to report at all) is rarely successful even when the Home Office has appropriate medical evidence available. Even if an individual has been identified as "at risk", as discussed above, there is a lack of clarity as to how their vulnerabilities should inform which bail condition to impose or what kind of reporting condition would be appropriate.

In our view, the Home Office guidance should make clear that any information or evidence received about the suitability of a particular condition should be given due consideration. Furthermore, if evidence from a medical professional is a necessity, the Home Office needs to provide the individual with a letter stating this. Importantly, if the individual cannot afford a GP's fee, the Home Office should pay it (as they sometimes do in asylum support cases).

3. FOI 6.
4. Home Office, Reporting and Offender Management policy v3.0 (19 March 2019), page 32.
5.Home Office, Identifying People at Risk (enforcement) version 2.0 (22 May 2019), page 5.
6. Ibid.

# CONCLUSION AND THE WAY FORWARD

This research reveals some of the ways in which the current immigration bail regime and reporting conditions could affect the welfare of vulnerable individuals, including young migrants, those who have suffered from past traumatic events, and those who have mental and/or physical health disabilities.

We believe that the main sources of the problems are the current Home Office policies, which lack a clear framework to choose a suitable bail condition. Additionally, the policy also often do not provide a clear guidance to safeguard the welfare of vulnerable individuals. On the other hand, when guidance is clear / available, it is often not followed in practice.

Similar to the immigration detention policy, we believe that there needs to be an overarching framework, which provides a clear, structured and logical method in the way that immigration bail conditions are imposed. This framework can take into account the Home Office's aims of keeping touch with migrants subject to immigration control and for administrative convenience – however, it should also take into account the impact of a particular bail condition on an individual's welfare, taking into account their risks, vulnerabilities and disabilities. The present lack of such a framework, in our opinion, contributes significantly to the different issues that we encountered in our case studies

We hope that, through this research, the Home Office will reconsider its approach to the imposition of immigration bail conditions and, specifically, reporting conditions.

At the same time, we also hope that this research will raise awareness amongst professionals in the field, in order to assist vulnerable migrants who have been given inappropriate bail and/or reporting conditions. As per the case of Lumba v Secretary of State for the Home Department[1], it would be unlawful for the Home Office not to follow its own published policies. Similarly, it should also not be forgotten that as a public authority, the Home Office has duties under the Equality Act 2010. There is also a duty under section 55 of the Borders and Citizenship Act 2002 to consider the best interests of the children. Lastly the interference of a reporting condition on an individual's private and family life should be proportionate. As discussed above, these important considerations do not yet have a prominent place in the Home Office's policies relating to immigration bail and reporting.

1. (2011) UKSC 2

# ANNEX A

## Legal Framework

The Immigration Act 2016 provides (key section on conditions of bail in red font):

Section 61 of the Immigration Act 2016

*61 Immigration bail*
*(1) Schedule 10 (immigration bail) has effect.*
*[...]*

Schedule 10 of the Immigration Act 2016 then sets out the details of the new bail scheme:

*[...]*
*2 Conditions of Immigration Bail*
*(1) Subject to sub-paragraph (2), if immigration bail is granted to a person, it must be granted subject to one or more of the following conditions—*
*(a) a condition requiring the person to appear before the Secretary of State or the First-tier Tribunal at a specified time and place;*
*(b) a condition restricting the person's work, occupation or studies in the United Kingdom;*
*(c) a condition about the person's residence;*
*(d) a condition requiring the person to report to the Secretary of State or such other person as may be specified;*
*(e) an electronic monitoring condition (see paragraph 4);*
*(f) such other conditions as the person granting the immigration bail thinks fit.*
*[...]*

*3. Exercise of Power to Grant Immigration Bail*
*(1) The Secretary of State or the First-tier Tribunal must have regard to the matters listed in sub-paragraph (2) in determining—*
*(a) whether to grant immigration bail to a person, and*
*(b) the conditions to which a person's immigration bail is to be subject.*
*(2) Those matters are—*
*(a) the likelihood of the person failing to comply with a bail condition,*
*(b) whether the person has been convicted of an offence (whether in or outside the United Kingdom or before or after the coming into force of this paragraph),*
*(c) the likelihood of a person committing an offence while on immigration bail,*
*(d) the likelihood of the person's presence in the United Kingdom, while on immigration bail, causing a danger to public health or being a threat to the maintenance of public order,*
*(e) whether the person's detention is necessary in that person's interests or for the protection of any other person, and*
*(f) such other matters as the Secretary of State or the First-tier Tribunal thinks relevant.*

Schedule 9 then sets out a provision for financial support or accommodation to be provided to allow someone to meet a condition of bail, such as a residence requirement or reporting condition:

9 (1) Sub-paragraph (2) applies where—
(a) a person is on immigration bail subject to a condition requiring the person to reside at an address specified in the condition, and
(b) the person would not be able to support himself or herself at the address unless the power in sub-paragraph (2) were exercised.
(2) The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of that person at that address.
(3) But the power in sub-paragraph (2) applies only to the extent that the Secretary of State thinks that there are exceptional circumstances which justify the exercise of the power.
(4) The Secretary of State may make a payment to a person on immigration bail in respect of travelling expenses which the person has incurred or will incur for the purpose of complying with a bail condition.
(5) But the power in sub-paragraph (4) applies only to the extent that the Secretary of State thinks that there are exceptional circumstances which justify the making of the payment.

In terms of understanding the intention behind the bail provisions in the Immigration Act 2016, we have reviewed Hansard, but found little of relevance to when different kinds of bail condition would be imposed. The focus of the Parliamentary debates on the relevant parts of the Immigration Bill 2015 were on liberty versus detention and on the language of 'bail' replacing temporary admission, rather than on how and what conditions would be imposed. However, the Minister did state in a Public Bill Committee debate on 3 November 2015:

*"James Brokenshire:*

*The Minister also stated at 362: "I point to cases where detention may be appropriate. For example, it may be necessary and appropriate in exceptional circumstances to maintain a short period of immigration detention when an individual is to be transferred to local authority care where otherwise they would be released on to the streets with no support and care. It may also be necessary for safeguarding reasons; for example, if an unaccompanied child arrives at a port, especially late at night, and there is uncertainty over whether there are any complicating factors... On the broader power to impose conditions as appropriate, it is designed to maintain current flexibility in the ability to impose bail conditions specific to the facts of the case. That is most readily seen in Special Immigration Appeals Commission bail, but it is also seen in some of the most harmful foreign national offender cases. SIAC bail conditions are often bespoke, based on the risk the individual poses. Some cases will require specific conditions to mitigate specific risks. For example, we may want to impose an overnight curfew based on the risk posed, or it may be appropriate to create an exclusion zone if a convicted paedophile is bailed pending deportation."*

There was therefore some indication that the Minister had in mind individually tailored bail plans. Schedule 10.2(1)(f) provides for the Secretary of State to be able to impose not only a set list of conditions but "such other conditions as the person granting the immigration bail thinks fit", so again, in principle, this allows individually tailored conditions to be imposed.

# Statutory Guidance, Policies and Other Home Office Documents

There was no Equality Impact Assessment of the bail provisions in the Immigration Act 2016 (the Home Office has confirmed this in response to an FOI request we made and there is none published online[1]). There was a general overarching impact assessment (final version dated 25 November 2015;), but this does not assess the equality impact of the bail provisions or the financial cost of these provisions to the public. This impact analysis merely states (p.7) that the act "*consolidates the complex legislative framework surrounding the imposition of bail conditions for illegal migrants and deportees awaiting removal*". This does not acknowledge that immigration bail provisions may be applied to people who are not awaiting removal, such as asylum seekers who are awaiting a decision on their claim or the family members of EEA nationals awaiting an appeal on whether they are accepted to be exercising treaty rights.

There is no statutory guidance specifically concerning immigration bail, but some of the existing statutory guidance is of relevance to immigration bail decisions. Statutory guidance is legally binding and one would not expect a government department to fail or refuse to follow it.

In respect of children, the Home Office has statutory guidance on the section 55 duty to both safeguard and promote the welfare of children (Every Child Matters: Change for Children, 2009). This guidance specifically references the UN Convention on the Rights of the Child (p.3), Article 3 which provides that the best interests of the child must be a primary consideration in all decisions concerning them[2]. Alongside this, the Department for Education has issued statutory guidance for local authorities on the 'Care of Unaccompanied Migrant Children and Child Victims of Modern Slavery', November 2017 and there is an accompanying Home Office and Department for Education Safeguarding Strategy, which notes the vulnerability of unaccompanied children and emphasises the importance of safeguarding children from exploitation and going missing from care.

In addition, the Home Office Adults at Risk in Immigration Detention guidance (current version v.5.0 6 March 2019) was issued as required by section 59 of the Immigration Act 2016 and sets out where, due to particular vulnerabilities, a person may be unsuitable for immigration detention.

The Home Office has a number of different policies which cover immigration bail, reporting and how the Home Office would be expected to treat more vulnerable people. These policies are mostly in the form of internal caseworker guidance, but there is a legitimate expectation that the Home Office will follow their published policies and a failure to do so can be legally challengeable.

This research note has reviewed the following Home Office policies as the most relevant:

1. Identifying People at Risk (enforcement) v2, 22 May 2019; this policy contains sections on identifying victims of trafficking and modern slavery, safeguarding children, identifying vulnerable adults and procedures to follow where a vulnerable adult or child is identified as absent or missing (the focus being on safeguarding as opposed to enforcement). The policy treats as normal that children, particularly those aged 17, may be expected to report (p.20) and notes that where a person is supported by the local authority, the local authority will notify the Home Office if they go missing (p.23).

2. Immigration Bail v 4.0, 5 April 2019; this policy outlines in detail the Home Office's approach to bail. It notes that reporting will usually be to a reporting centre, but can be to a police station 'where this is essential' (p.18-19). Due to the hostile environment right to rent measures this policy anticipates that residence conditions will not be imposed unless a high level of contact is needed; it also notes that where someone is accommodated by the Home Office a residence condition would not usually be required (p.17). Page 70 of the policy notes that requests to vary bail conditions should be granted if reasonable and each interaction with someone should be used to consider whether bail conditions should be varied. It is very noticeable that the sections on imposing a restriction on studying and on imposing a residence condition are far more detailed and nuanced than the section on reporting.

3. Reporting and Offender Management v 3.0; 19 March 2019; this is the policy on reporting conditions. This policy does not really deal in detail with the decision to impose a reporting condition as opposed to a different bail condition in the first place (dealing predominantly with what happens when someone reports and frequency/location of reporting): it may be that it is just assumed that a reporting condition will be imposed. A duty of care over those reporting is accepted in this policy (p.29).

The policy takes the view that a 4 hour round journey or 6 mile round trip on foot are not long travel times/distances for each reporting event (p.8 and p.31). Reporting frequency is set on a case by case basis and the decision-maker is supposed to assess whether a person is vulnerable and take into account a medical condition – noting the availability of 'alternative reporting' (which would in our experience usually be by telephone); reporting can be infrequent (3 monthly or less often) or frequent (monthly or more often – the policy permits daily reporting, p.9).

Page 10 of the policy notes that the frequency of reporting can be reduced where a person is assessed as vulnerable or at risk due to e.g. pregnancy (reporting would be suspended for 12 weeks, longer with a medical certificate), medico-legal evidence of because the person is under 18 (p.27 notes vulnerability should be considered when varying conditions). The policy goes on to say that children should not usually be invited to report save for a one-off appointment for looked after children aged 17 to introduce them to the process or in rare cases, which must take into account the child's best interests; parents should be invited (p.10).

Page 12 of the policy notes that reporting events can allow gathering of information, voluntary return offers, redocumentation processes and updates in the individual's information (see also p.20-21 on interviews). This is reiterated at p.14 "You must conduct an individual's reporting event with the aim of maintaining contact with the person and, where appropriate, carrying out interviews and updating the person on actions on their case". Staff at reporting events are meant to persuade people to undertake voluntary return (p.19).

Accompanied reporting is described as only exceptionally allowed and even then the accompanier is only allowed into the waiting area, not to the counter (p.14). There is a disconnect between the Identifying People at Risk policy (above) and this policy, where here any failure to attend a reporting event follows the non-compliance and absconder report without any consideration of vulnerability as a reason/concern for being absent (p.15).

Quite detailed requirements are set out for staff to be courteous to those reporting (p.28-28) and

1. See FOI 13.

2. The Supreme Court has repeatedly accepted that domestic fundamental rights obligations should be understood in line with the UK's obligations under the Convention on the Rights of the Child, e.g. in ZH (Tanzania) v SSHD [2011] UKSC 4.

p.30 notes briefly there may be suicide or self-harm threats and referrals can be made to social services.

Page 30 (within the section on the Home Office paying for travel expenses) notes that reporting should not breach Article 3 ECHR, but no mention is made of Article 8 ECHR (although p.33 does discuss looking at whether the financial cost of reporting is reasonable and proportionate). The focus of p.30 is on documented medical evidence from a medical professional and notes that reporting distance or frequency could be changed "including suspending physical reporting by using alternatives to physical reporting events, such as telephone reporting"

4. Enforcement Interviews v1.0, 12 July 2016; this policy deals with Home Office investigative interviews (not for example asylum interviews). Page 17 recognises that children should have an appropriate adult for all interviews – no such acknowledgment is made regarding vulnerable adults. The policy does not deal with issues of disability or the duty to make reasonable adjustments under the Equality Act 2010.

5. Asylum Seekers with Care Needs v.2, 3 August 2018; this policy deals with the interaction between Home Office accommodation and support for asylum seekers and local authority duties under the Care Act for disabled adults. The one point we would make at this stage is that the policy vastly under-estimates the difficulty in reality of obtaining a proper Care Act assessment from social services, which in practice can be subject to substantial gate-keeping.

6. Asylum Screening and Routing v4.0, 16 December 2019; page 18 notes that due to a disability some people may not be able to articulate their claim; pages 49-51 of this policy include a detailed analysis of who may have additional needs (including nursing mothers), vulnerability and disability and the way in which interviewers must remain alive to issues of disability that may become clearer during an interview. The duty to make reasonable adjustments is explicitly mentioned and the option of pausing or even stopping an interview noted. It is a shame this analysis is not replicated in some of the policies above for contexts other than asylum screening interviews.

Reporting as a bail condition for those without an asylum claim is treated as a blanket condition: "If the individual does not have current leave to be in the UK and an asylum claim has not been accepted, you should set a reporting event in line with the guidance in the general instruction reporting and offender management (if the individual is not to be detained)." (p.19) Page 63 notes that where a medical condition may affect reporting or access to the asylum process this should be recorded on the person's file.

# ANNEX B

Below is a full list of Freedom of Information questions which were submitted. Some of the questions were sent only to the Home Office directly by email, while some were sent both to the Home Office, and to all 14 immigration reporting centres throughout the UK by post. In all cases however, the requests made to the reporting centres were passed to the Home Office and as such, we would only receive one response.

The questions were grouped and broken down into 14 different requests, and we have provided a copy of the responses we received from the Home Office. Out of the 14 requests:

1. 2 requests were not answered by the Home Office
2. 12 requests were answered, out of those:
    a. 4 Requests were deemed exempt from disclosure under section 12(4)(B) of the Freedom of Information Act
    b. 3 requests exceeded the cost limit as the Home Office would have to manually check each casefile. However, they also confirm that they have the information requested.
    c. 5 requests received substantive response.

| Requests number | Questions asked | Comment |
|---|---|---|
| 1 | Please tell us how many people are currently on immigration bail | Substantive response received |
| | Please tell us how many of the people on immigration bail, or what percentage of them, are children. | |
| | Please tell us how many people on immigration bail are currently subject to a reporting condition. | |
| | Please tell us how many children (defined as people under the age of 18 or where age disputed who assert they are under the age of 18, where this is known) on immigration bail are subject to a reporting condition? | |
| 2 | Please tell us how many people on immigration bail who are subject to a reporting condition are awaiting an initial decision or the outcome of an appeal in relation to a first asylum claim. | Deemed exempt under section 12(4)(B) of the Freedom of Information Act |
| | Please tell us how many of those people enumerated in answer to question five above are children (as defined in question four above). | |
| 3 | Please tell us how many people on immigration bail who are subject to a reporting condition are reported as having dependent children. | Request exceeded cost limit |
| | Please tell us how many people who have a positive reasonable grounds decision in the National Referral Mechanism for victims of Modern Slavery and are awaiting a Conclusive Grounds decision are subject to immigration bail with a reporting condition? | |

| | | |
|---|---|---|
| 4 | Please tell us how many people who are subject to a reporting condition are:<br>a. recorded as having a mental and/or physical disability; or<br>b. recorded as being an adult at risk level 1-3 under your adults at risk policy; or<br>c. recorded as both. | Deemed exempt under section 12(4)(B) of the Freedom of Information Act |
| | Please tell us how many people have had their reporting conditions suspended during pregnancy and for six weeks after birth in the last 12 months or last recorded 12-month period. | |
| 5 | Please provide us with copies of all internal documents that contain the procedures to be followed by those responsible for setting conditions of immigration bail when:<br>a. Deciding what conditions to set when granting immigration bail;<br>a. Deciding whether or not to vary conditions of immigration bail in response to requests for variation, including requests for the variation of the location and frequency of reporting events. | No response received |
| 6 | Please tell us how many requests for a variation of bail have been granted in the last 12 months, or last recorded 12-month period. | Request exceeded cost limit |
| | Please tell us how many times form BAIL 406 has been issued in the last 12 months or last recorded 12-month period. | |
| 7 | Please disclose all documents containing or referring to your internal risk assessment and safeguarding procedures to be followed when a safeguarding issue arises during an immigration bail reporting event. | Substantive response received |
| 8 | Please explain to us what training staff at reporting centres receive on risk assessments and safeguarding issues, and provide us with copies of all relevant training materials. | No response received |
| 9 | Please disclose the “Safeguarding children: advice from the Office of the Children’s Champion” guidance referred to at page 28 of the Identifying people at risk v1.0 guidance, and any related forms, procedures, tools and checklists. | Substantive response received |
| | Please disclose the guidance “Suicide and self-ham: Links with local agencies” referred to at page 28 of the Identifying people at risk v1.0 guidance, and any related forms, procedures, tools and checklists. | |
| 10 | Please tell us how many people have been provided with financial support to meet a reporting condition of immigration bail under schedule 10 paragraph 9(4) Immigration Act 2016 in the last 12 months or the most recently recorded 12-month period. | Request exceeded cost limit |
| | Please tell us how many of the people enumerated in response to question 19 above were provided with their first payment of financial support under schedule 10 paragraph 9(4) Immigration Act 2016 in advance of their first reporting event (i.e. not applied for in person at the reporting centre). | |
| 11 | Please tell us the total value of the financial support provided to people under schedule 10 paragraph 9(4) Immigration Act 2016 in the last 12 months or most recently recorded 12-month period. | Deemed exempt under section 12(4)(B) of the Freedom of Information Act |
| | Please explain the process by which it is decided whether an individual is entitled to financial support under Schedule 10 paragraph 9(4) Immigration Act 2016. | |
| 12 | Please provide us with all internal documents containing information about the processes for determining whether an individual is entitled to financial support under Schedule 10 paragraph 9(4) Immigration Act 2016. Examples of such documents that we would expect to be disclosed include (but are not limited to) any internal checklists, tools, pro-forma documents, training materials or unpublished policies. | Deemed exempt under section 12(4)(B) of the Freedom of Information Act |
| 13 | There does not appear to be a publicly available Equality Impact Assessment or Public Equality Statement relating to the Immigration Act 2016 provisions specifically on immigration bail (section 61 and schedule 10 particularly). Please disclose to us any impact assessment/PES/equality impact assessment or internal costs/ equality analysis produced in anticipation of or otherwise in relation to the changes to immigration bail introduced by the Immigration Act 2016. | Substantive response received |
| 14 | Please provide us information on absconding rates for people released from immigration detention in 2018 and 2017. I have enclosed a similar request made in 2015 and would like an update on this number. | Substantive response received.<br><br>Previous FOI was done by the International Coalition on Detention. We have enclosed the response that they have received as well. |

| | | |
|---|---|---|
| 1 | Please tell us how many people are currently on immigration bail | Substantive response received |
| | Please tell us how many of the people on immigration bail, or what percentage of them, are children. | |
| | Please tell us how many people on immigration bail are currently subject to a reporting condition. | |
| | Please tell us how many children (defined as people under the age of 18 or where age disputed who assert they are under the age of 18, where this is known) on immigration bail are subject to a reporting condition? | |

Immigration Enforcement

Immigration Enforcement
Secretariat
Sandford House
41 Homer Road
Solihull
B91 3QJ

www.gov.uk/home-office

[redacted]

Friday 13 September 2019

Dear [redacted]

**Re: Freedom of Information request – 54053**

Thank you for your e-mail of Freedom of information request on 5th June 2019, in which you ask for:

1. Please tell us how many people are currently on immigration bail;
2. Please tell us how many of the people on immigration bail, or what percentage of them, are children;
3. Please tell us how many people on immigration bail are currently subject to a reporting condition;
4. Please tell us how many children (defined as people under the age of 18 or where age disputed who assert they are under the age of 18, where this is known) on immigration bail are subject to a reporting condition?

Your request has been handled as a request for information under the Freedom of Information Act 2000 (FOIA). I apologise for the delay in responding. We are now able to provide a full reply to your request.

I can disclose the following information:

Annex A shows that 109,450 individuals are currently on immigration bail; 7,015 of these are children. 83,652 individuals on immigration bail are subject to a reporting condition which includes 456 children also subject to reporting conditions.

Annex B provides a detailed breakdown of the 456 individuals under the age of 18 subject to a reporting condition.

It should be noted, the current data set shows that there are 456 individuals under the age of 18 subject to a reporting condition, 336 of these are dependents of a main asylum applicant and 23 of these dependents of a main non-asylum applicant who also is required to report.

However, requiring a child to report with the main applicant will be rare and the decision will be made on a case by case basis by the reporting and offender management teams, taking into account every child matters: statutory guidance and the best interests of the child.

Out of the 456 individuals under the age of 18 subject to a reporting condition, 97 are unaccompanied asylum-seeking children (UASC) and accompanied asylum-seeking children(AASC). It should be noted that UASCs and AASCs are asked to report between their seventeenth and a half and eighteenth birthdays where the reporting and offender management (ROM) teams may schedule a one-off event, liaising with local social services, in order to introduce the child to the reporting process the reporting and offender management teams will invite an appropriate adult (care worker or guardian) to accompany the child.

Individuals with children are still required to report but we take steps to vary their reporting frequency on case by case basis, considering any impact the normal time and day of reporting, safeguarding, welfare and travel distance may have on the child, also adhering to every child matters: Statutory guidance.

This will take into consideration the young, elderly and those with medical issues and the potential impact of frequent travel over long distances (more than 2 hours' journey time each way).

During the asylum process while the Adult Main applicant is waiting for an asylum decision, the asylum casework will explain the asylum process to the individual and may setup regular reporting meetings to maintain regular contact with the individuals (Discuss and identify welfare needs within the family).

As part of the initial asylum claim UASC /AASC Individuals are placed on initial reporting event for them to attend an interview (Welfare assessment interview (In-order to contact Children Services, Social Services and Welfare agency to arrange foster care), Substantive Asylum Interview, Statement of evidence).

Prior to arranging an interview, we would review all the available information, including in relation to their physical and mental health, to establish whether it is in the child's best interests to be interviewed.

In all cases, contact must be made with social workers and legal representatives to advise them of the position and if necessary to obtain further information prior to making the decision whether to interview.

**Please note:**

Immigration bail replaced the various pre-existing alternatives to detention (Temporary admission, temporary release on bail, temporary release, and release on restrictions) by a single power to grant immigration bail.

Following a change in the law, Applicants status in the UK is now described as 'immigration bail'. Their presence in the UK was previously subject to restrictions or conditions under the Immigration Act 1971. The Immigration Act 2016 has replaced these parts of the Immigration Act 1971. The restrictions on their presence in the UK remain the same.

These statistics have been taken from a live operational database. As such, numbers may change as information on that system is updated.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gov.uk, quoting reference **54053**. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request will be reassessed by staff not involved in providing you with this response. If you remain dissatisfied after this internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

Yours sincerely

**Immigration Enforcement Secretariat**
ImmigrationEnforcementFOIPQ@HomeOffice.gov.uk

**FOI Number 54053**

FOI Requestor and Question

1) How many people are currently on immigration bail;
2) How many of the people on immigration bail, or what percentage of them, are children;
3) How many people on immigration bail are currently subject to a reporting condition;
4) How many children (defined as people under the age of 18 or where age disputed who assert they are under the age of 18, where this is known) on immigration bail are subject to a reporting condition?

**Please note:** For question 2 and 4, age has been calculated using Date of Birth as it is recorded on our system at the time of extraction. Data using any claimed or disputed age/DOB cannot be reported on by us.

**Our records indicate that...**

**Table 1 - Number of individuals on immigration bail on 31-Mar-2019**

| | |
|---|---|
| Number of individuals on Immigration bail on 31-Mar-2019 | **109,450** |

**Table 2 - Children as a percentage of all individuals on immigration bail who were subject to a reporting condition, on 31-Mar-2019**

| | |
|---|---|
| Number of individuals on immigration bail on 31-Mar-2019 | **109,450** |
| ***of which*** | |
| Number of children on immigration bail on 31-Mar-2019 | **7,015** |

**Table 3 - Number of individuals on immigration bail who were subject to a reporting condition, on 31-Mar-2019**

| | |
|---|---|
| Number of individuals on immigration bail on 31-Mar- 2019 subject to a reporting condition | **83,652** |

**Table 4 - Number of children on immigration bail who were subject to a reporting condition, on 31-Mar-2019**

| | |
|---|---|
| Number of children on immigration bail on 31-Mar-2019 subject to a reporting condition | **456** |

**Notes**

1 **These statistics have been taken from a live operational database. As such, numbers may change as information on that system is upd**

**FOI 54053 - follow-up**

Further information on the 456 children on immigration bail who were subject to a reporting condition on 31-Mar-2019 (totals provided in the original response) to identify their asylum claim association type

**Table 1 - Number of children on immigration bail who were subject to a reporting condition on 31-Mar-2019, split by asylum claim catgeory**

| Category | Total |
|---|---|
| Dependant on an Asylum Claim | 336 |
| Asylum Main Applicant | 97 |
| No Asylum Claim | 23 |
| **Total** | 456 |

| | | |
|---|---|---|
| 2 | Please tell us how many people on immigration bail who are subject to a re-porting condition are awaiting an initial decision or the outcome of an appeal in relation to a first asylum claim. | Deemed exempt under section 12(4)(B) of the Freedom of In-formation Act |
| | Please tell us how many of those people enumerated in answer to question five above are children (as defined in question four above). | |

Immigration Enforcement

Immigration Enforcement Secretariat
Sandford House
41 Homer Road
Solihull
B91 3QJ

www.gov.uk/home-office

[redacted]

Tuesday 4 June 2019

Dear [redacted]

**Re: Freedom of Information request – 52934**

Thank you for your e-mail of 19 March, in which you ask the following:

***Please tell us how many people on immigration bail who are subject to a reporting condition are awaiting an initial decision or the outcome of an appeal in relation to a first asylum claim.***

***Please tell us how many of those people enumerated in answer to the question above are children (defined as people under the age of 18 or where age disputed who assert they are under the age of 18, where this is known).***

Your request has been handled as a request for information under the Freedom of Information Act 2000 (FOIA).

I can confirm that the Home Office holds the information that you have requested. However, after careful consideration we have decided that the information is exempt from disclosure under section 12(4)(b) of the Freedom of Information Act. This provides that information can be withheld if it is intended for different persons who appear to the public authority to be acting in concert or in pursuance of a campaign.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gsi.gov.uk, quoting reference 52934. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request would be reassessed by staff who were not involved in providing you with this response.

If you were to remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the FOIA.

Yours sincerely,

Immigration Enforcement Secretariat
ImmigrationEnforcementFOIPQ@HomeOffice.gov.uk

Home Office

Performance, Assurance and Governance Directorate
2 Marsham Street
London SW1P 4DF
Switchboard 0207 035 4848

www.gov.uk

[redacted]

6 August 2019

Dear [redacted]

**Freedom of information request (our ref. 52934: internal review)**

Thank you for your email dated 16 June in which you asked for an internal review of our response to your Freedom of Information (FOI) request for information on the number of people on immigration bail who are subject to a reporting condition and are awaiting an initial decision or the outcome of an appeal in relation to a first asylum claim. A full copy of your request has been set out in Annex A.

I have now completed the review. I have consulted the policy unit which provided the original response and have considered whether the correct procedures were followed. I can confirm that I was not involved in the initial handling of your request.

The Home Office response of 4 June 2019 explained that we hold the requested information, but that your request had been refused under section 12(4)(b) of the FOIA. The response explained that this provides that information can be withheld if it is intended for different persons who appear to the public authority to be acting in concert or in pursuance of a campaign.

This was not quite correct, in point of detail. Section 12(4)(b) of the FOIA enables regulations to be made prescribing that where two or more requests for information are made by different persons who appear to be acting in concert or in pursuance of a campaign, the estimated cost of complying with all of them can be taken to be the estimated cost of complying with any of them, for the purposes of section 12(1). The regulations in question are the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 and the relevant provision is in paragraph 5 of the Regulations. Your request therefore should have been refused under section 12(1) rather than section 12(4)(b), although this makes no difference to the substance of the response.

The reasons for our decision to refuse your request under the cost limit were set out in our response.

I have considered your original request, the response provided by the Home Office and the reasons why the cost limit was applied. Our records show that the Home Office has received in excess of ten individual FOI requests which are asking for similar or identical information to your request. These individual requests have used the same format when asking for information and were received by the Home Office within 60 consecutive working days. Although the requests have been received from different named individuals, the format of your letter suggests that your request may be acting in concert or in pursuance of a campaign. We have therefore estimated that the cost limit has been exceeded due to the aggregated estimated cost of answering all the requests which we have received.

Although we are unable to provide the details of other individual requests that we have received, I can confirm that at least six of the requests asked for information relating to immigration bail.

The Information Commissioner's Office has issued the following guidance on the costs of compliance. We have judged that paragraphs 39, 40, 41, 42, 43 and 44 of the guidance apply to your request.

https://ico.org.uk/media/1199/costs_of_compliance_exceeds_appropriate_limit.pdf

My conclusion is that the original response was correct to aggregate the cost of answering all the requests to which I have referred and to refuse your request under section 12(1) accordingly.

Yours sincerely

J Conquest
Information Rights Team

| | | |
|---|---|---|
| 3 | Please tell us how many people on immigration bail who are subject to a reporting condition are reported as having dependent children. | Request exceeded cost limit |
| | Please tell us how many people who have a positive reasonable grounds decision in the National Referral Mechanism for victims of Modern Slavery and are awaiting a Conclusive Grounds decision are subject to immigration bail with a reporting condition? | |

Immigration Enforcement

Immigration Enforcement Secretariat
Sandford House
41 Homer Road
Solihull
B91 3QJ

[redacted]

www.gov.uk/home-office

Wednesday 1st May 2019

Dear [redacted]

**Re: Freedom of Information request – 53189**

Thank you for your e-mail of Freedom of information request on 5th April, in which you ask for:

1) ***Please tell us how many people on immigration bail who are subject to reporting conditions are reported to have dependent children.***
2) ***Please tell us how many people who have a positive reasonable ground decision in the National Referral Mechanism for victims of modern slavery and are awaiting a conclusive grounds decision, are subject to immigration bail with a reporting condition.***

Your request has been handled as a request for information under the Freedom of Information Act 2000 (FOIA).

I can confirm that the Home Office holds the information that you have requested. However, after careful consideration we have decided that the information is exempt from disclosure under section 12, (4) B of the Freedom of Information Act. This provides that information can be withheld if it is intended for different persons who appear to the public authority to be acting in concert or in pursuance of a campaign.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gsi.gov.uk, quoting reference 53189. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request would be reassessed by staff who were not involved in providing you with this response.

If you were to remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the FOIA.

Yours sincerely,

Immigration Enforcement Secretariat
**ImmigrationEnforcementFOIPQ@HomeOffice.gov.uk**

| | | |
|---|---|---|
| 4 | Please tell us how many people who are subject to a reporting condition are:<br>a. recorded as having a mental and/or physical disability; or<br>b. recorded as being an adult at risk level 1-3 under your adults at risk policy; or<br>c. recorded as both. | Deemed exempt under section 12(4)(B) of the Freedom of Information Act |
| | Please tell us how many people have had their reporting conditions suspended during pregnancy and for six weeks after birth in the last 12 months or last recorded 12-month period. | |

Immigration Enforcement

Immigration Enforcement Secretariat
Sandford House
41 Homer Road
Solihull
B91 3QJ

[redacted]
Mailto: [redacted]

www.gov.uk/home-office

Wednesday 1st May 2019

Dear [redacted]

**Re: Freedom of Information request – 53145**

Thank you for your e-mail of Freedom of information request on 3rd April, in which you ask for:

1. ***Please tell us how many people who are subject to a reporting condition are:***
   a. ***recorded as having a mental and/or physical disability; or***
   b. ***recorded as being an adult at risk level 1-3 under your adults at risk policy; or***
   c. ***recorded as both.***
2. ***Please tell us how many people have had their reporting conditions suspended during pregnancy and for six weeks after birth in the last 12 months or last recorded 12-month period.***

Your request has been handled as a request for information under the Freedom of Information Act 2000 (FOIA).

I can confirm that the Home Office holds the information that you have requested. However, after careful consideration we have decided that the information is exempt from disclosure under section 12, (4) B of the Freedom of Information Act. This provides that information can be withheld if it is intended for different persons who appear to the public authority to be acting in concert or in pursuance of a campaign.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gsi.gov.uk, quoting reference 53145. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request would be reassessed by staff who were not involved in providing you with this response.

If you were to remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the FOIA.

Yours sincerely,

Immigration Enforcement Secretariat
ImmigrationEnforcementFOIPQ@HomeOffice.gov.uk

| | | |
|---|---|---|
| 5 | Please provide us with copies of all internal documents that contain the procedures to be followed by those responsible for setting conditions of immigration bail when:<br><br>a. Deciding what conditions to set when granting immigration bail;<br><br>a. Deciding whether or not to vary conditions of immigration bail in response to requests for variation, including requests for the variation of the location and frequency of reporting events. | No response received |

| | | |
|---|---|---|
| 6 | Please tell us how many requests for a variation of bail have been granted in the last 12 months, or last recorded 12-month period. | Request exceeded cost limit |
| | Please tell us how many times form BAIL 406 has been issued in the last 12 months or last recorded 12-month period. | |

Immigration Enforcement

Immigration Enforcement
FOI and PQ Team
Sandford House
41 Homer Road
Solihull
B91 3QJ

www.gov.uk/home-office

[redacted]

Tuesday 16 April 2019

Dear [redacted]

**Re: Freedom of Information request – 52988**

Thank you for your email of 19 March, in which you requested the following information:

1) *Please tell us how many requests for a variation of bail have been granted in the last 12 months, or last recorded 12-month period.*

2) *Please tell us how many times form BAIL 406 has been issued in the last 12 months or last recorded 12-month period.*

Your query has been handled as a request under the Freedom of Information Act 2000 and we are now in a position to provide the following response.

Under section 12 of the Act, the Home Office is not obliged to comply with an information request where to do so would exceed the cost limit.

We hold some of the information which you have requested but we have estimated that the cost of meeting your request would exceed the cost limit of £600 specified in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. We are therefore unable to comply with it.

The £600 limit is based on work being carried out at a rate of £25 per hour, which equates to 24 hours of work per request. The cost of locating, retrieving and extracting information can be included in the costs for these purposes. The costs do not include considering whether any information is exempt from disclosure, overheads such as heating or lighting, or items such as photocopying or postage.

Our bail management systems are designed to record reporting events and the bail conditions but do not record requests for changes to those conditions in a reportable format. In order to answer your question, we would have to conduct a manual search of our bail management system for each person on bail for the period concerned to extract the information requested. This could only be done at prohibitive cost.

If you refine your request, so that it is more likely to fall under the cost limit, we will consider it again. However, due to the way this information is recorded I do not believe any refinement is possible in this case.

Please note that if you simply break your request down into a series of similar smaller requests, we might still decline to answer it if the total cost exceeds £600.

Even if a revised request were to fall within the cost limit, it is possible that other exemptions in the Act might apply.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gsi.gov.uk, quoting reference **52988**. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request would be reassessed by staff who were not involved in providing you with this response. If you were to remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the FOIA.

Yours sincerely

**Immigration Enforcement Secretariat**

| | | |
|---|---|---|
| 7 | Please disclose all documents containing or referring to your internal risk assessment and safeguarding procedures to be followed when a safeguarding issue arises during an immigration bail reporting event. | Substantive re-sponse received |

Immigration Enforcement

Immigration Enforcement
Secretariat
Sandford House
41 Homer Road
Solihull
B91 3QJ

www.gov.uk/home-office

[redacted]
Sent by email: [redacted]

Wednesday 10 April 2019

Dear [redacted]

**Re: Freedom of Information request – 53005**

Thank you for your email of 19 March, in which you ask for all documents containing or referring to our internal risk assessment and safeguarding procedures to be followed when a safeguarding issue arises during an immigration bail reporting event.

Your request has been handled as a request for information under the Freedom of Information Act 2000 (FOIA).

Our Reporting and Offender Management Teams follow the guidance set out in our Immigration Enforcement General Instructions available at gov.uk. We do not have an individual risk assessment or safeguarding process specific to reporting events for individuals who are subject to immigration bail. The guidance available at the links below is relevant to our reporting procedures and safeguarding vulnerable individuals. If a medical issue arises with a reportee, staff will call an ambulance where the situation demands.

General instruction on reporting and offender management:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/787234/reporting-and-offender-management-v3.0-ext.pdf

Identifying individuals at risk:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/537709/Identifying-people-at-risk-v1.0.pdf

Immigration bail which includes a section on reporting and Immigration bail:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733313/immigration-bail-v3.pdf

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gsi.gov.uk, quoting reference 53005. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request would be reassessed by staff who were not involved in providing you with this response. If you were to remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the FOIA.

Yours sincerely

**Immigration Enforcement Secretariat**
ImmigrationEnforcementFOIPQ@HomeOffice.gov.uk

| | | |
|---|---|---|
| 8 | Please explain to us what training staff at reporting centres receive on risk assessments and safeguarding issues, and provide us with copies of all relevant training materials. | No response received |

| | | |
|---|---|---|
| 9 | Please disclose the "Safeguarding children: advice from the Office of the Children's Champion" guidance referred to at page 28 of the Identifying people at risk v1.0 guidance, and any related forms, procedures, tools and checklists. | Substantive response received |
| | Please disclose the guidance "Suicide and self-ham: Links with local agencies" referred to at page 28 of the Identifying people at risk v1.0 guidance, and any related forms, procedures, tools and checklists. | |

Home Office

Crime, Policing and Fire Group
2 Marsham Street
London
SW1P 4DF

Tel: 020 7035 4848
Fax: 020 7035 4745
www.gov.uk/home-office

[redacted]

24 April 2019

Dear [redacted]

**Freedom of Information request reference: 53004**

Thank you for your email of 25th March 2019 in which you ask:

1) *Please disclose the "Safeguarding children: advice from the Office of the Children's Champion" guidance referred to at page 28 of the Identifying people at risk v1.0 guidance, and any related forms, procedures, tools and checklists.*
2) *Please disclose the guidance "Suicide and self-ham: Links with local agencies" referred to at page 28 of the Identifying people at risk v1.0 guidance, and any related forms, procedures, tools and checklists.*

Your request has been handled as a request for information under the Freedom of Information Act 2000.

Note that the Home Office has obligations under data protection legislation and in law generally to protect personal data. We have concluded that some of the information you have requested is exempt from disclosure under section 40(2) of the FOI Act, because of the condition at section 40(3A)(a). This exempts personal data if disclosure would contravene any of the data protection principles in Article 5(1) of the General Data Protection Regulation and section 34(1) of the Data Protection Act 2018.

I am, however, able to disclose the following information as set out in the attached Annexes:

1) Annex 1A - Office of the Children's Champion webpage text

   Contacting the children's champion inbox guidance

   Annex 1B - Copy of Safeguarding referral form

   Annex 1C - Copy of Safeguarding referral form with instructional text

   Annex 1D - "Child safeguarding referrals to local authorities guidance"

Annex 1E - Serious Case Review guidance

3) Annex 2A – Suicide and self-harm: Links with local authorities guidance

Annex 2B – Suicide and self-harm referral form

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gov.uk, quoting reference 53004. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request would be reassessed by staff who were not involved in providing you with this response. If you were to remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the FOIA.

Kind regards

**Lauren Hickson**
Office of the Children's Champion

| | | |
|---|---|---|
| 10 | Please tell us how many people have been provided with financial support to meet a reporting condition of immigration bail under schedule 10 paragraph 9(4) Immigration Act 2016 in the last 12 months or the most recently recorded 12-month period. | Request exceeded cost limit |
| | Please tell us how many of the people enumerated in response to question 19 above were provided with their first payment of financial support under schedule 10 paragraph 9(4) Immigration Act 2016 in advance of their first reporting event (i.e. not applied for in person at the reporting centre). | |

Immigration Enforcement

Immigration Enforcement Secretariat
Sandford House
41 Homer Road
Solihull
B91 3QJ

www.gov.uk/home-office

[redacted]

Wednesday 1st May 2019

Dear [redacted]

**<u>Re: Freedom of Information request – 53207</u>**

Thank you for your letter of 19th March, regarding financial support under Schedule 10 under the Immigration Act 2016.

Your request has been handled as a request for information under the Freedom of Information Act 2000 (FOIA).

You have asked:

**<u>For us to provide current data (as of today's date, or data from the most recent date or period available).</u>**

1. ***Please tell us how many people have been provided with financial support to meet a reporting condition of immigration bail under Schedule 10 paragraph 9(4) Immigration Act 2016 in the last 12 months or the most recently recorded 12-month period.***
2. ***Please tell us how many of the people enumerated in response to the question above were provided with their first payment of financial support under Schedule 10 paragraph 9(4) Immigration Ac 2016 in advance of their first reporting event (i.e. not applied for in person at the reporting centre).***

Under section 12 of the Act, the Home Office is not obliged to comply with an information request where to do so would exceed the cost limit.

We have estimated that the cost of meeting your request would exceed the cost limit of £600 specified in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. We are therefore unable to comply with it. This is because the information is not held in a reportable field on our case management system. In order to answer your question, we would have to search each record case by case which would exceed the cost limit.

The £600 limit is based on work being carried out at a rate of £25 per hour, which equates to 24 hours of work per request. The cost of locating, retrieving and extracting information can be included in the costs for these purposes.

The costs do not include considering whether any information is exempt from disclosure, overheads such as heating or lighting, or items such as photocopying or postage.

Section 16 of the Act states that we must include advice, wherever possible, on how you might refine the request to bring it under the limit. If you were to refine questions to the following questions, it is more likely to fall under the cost limit and we will consider it again:

- The number of Foreign National Offenders that have been provided with financial support to meet a reporting condition of immigration bail under Schedule 10 paragraph 9(4) Immigration Act 2016 in the last 12 months or the most recently recorded 12-month period.

Even if a revised request were to fall within the cost limit, it is possible that other exemptions in the Act might apply.

If you are dissatisfied with this response you may request an independent *internal review* of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gsi.gov.uk, quoting reference: 53207. If you ask for an *internal review*, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request would be reassessed by staff who were not involved in providing you with this response. If you were to remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the FOIA.

Yours sincerely,

**Immigration Enforcement Secretariat**
ImmigrationEnforcementFOIPQ@HomeOffice.gov.uk

| | | |
|---|---|---|
| 11 | Please tell us the total value of the financial support provided to people under schedule 10 paragraph 9(4) Immigration Act 2016 in the last 12 months or most recently recorded 12-month period. | Deemed exempt under section 12(4)(B) of the Freedom of Information Act |
| | Please explain the process by which it is decided whether an individual is entitled to financial support under Schedule 10 paragraph 9(4) Immigration Act 2016. | |

Immigration Enforcement

Immigration Enforcement Secretariat
Sandford House
41 Homer Road
Solihull
B91 3QJ

[redacted]

www.gov.uk/home-office

Wednesday 1st May 2019

Dear [redacted]

**Re: Freedom of Information request – 53187**

Thank you for your e-mail of Freedom of information request on 9th April, in which you ask for:

1) ***Please tell us the total value of the financial support provided to people under Schedule 10 paragraph 9(4) Immigration Act 2016 in the last 12 months or most recently recorded 12-month period.***
2) ***Please explain the process by which it is decided whether an individual is entitled to financial support under Schedule 10 paragraph 9(4) Immigration Act 2016.***

Your request has been handled as a request for information under the Freedom of Information Act 2000 (FOIA).

I can confirm that the Home Office holds the information that you have requested. However, after careful consideration we have decided that the information is exempt from disclosure under section 12, (4) B of the Freedom of Information Act. This provides that information can be withheld if it is intended for different persons who appear to the public authority to be acting in concert or in pursuance of a campaign.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gsi.gov.uk, quoting reference 53187. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request would be reassessed by staff who were not involved in providing you with this response.

If you were to remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the FOIA.

Yours sincerely,

Immigration Enforcement Secretariat
**ImmigrationEnforcementFOIPQ@HomeOffice.gov.uk**

| | | |
|---|---|---|
| 12 | Please provide us with all internal documents containing information about the processes for determining whether an individual is entitled to financial support under Schedule 10 paragraph 9(4) Immigration Act 2016. Examples of such documents that we would expect to be disclosed include (but are not limited to) any internal checklists, tools, pro-forma documents, training materials or unpublished policies. | Deemed exempt under section 12(4)(B) of the Freedom of Information Act |

Immigration
Enforcement

Immigration Enforcement Secretariat
Sandford House
41 Homer Road
Solihull
B91 3QJ

[redacted]
Mailto: [redacted]

www.gov.uk/home-office

Wednesday 1st May 2019

Dear [redacted]

**Re: Freedom of Information request – 53147**

Thank you for your e-mail of Freedom of information request on 3rd April, in which you ask for:

***Please provide us with all internal documents containing information about the processes for determining whether an individual is entitled to financial support under Schedule 10 paragraph 9(4) Immigration Act 2016. Examples of such documents that we would expect to be disclosed include (but are not limited to) any internal checklists, tools, pro-forma documents, training materials or unpublished policies.***

Your request has been handled as a request for information under the Freedom of Information Act 2000 (FOIA).

I can confirm that the Home Office holds the information that you have requested. However, after careful consideration we have decided that the information is exempt from disclosure under section 12, (4) B of the Freedom of Information Act. This provides that information can be withheld if it is intended for different persons who appear to the public authority to be acting in concert or in pursuance of a campaign.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gsi.gov.uk, quoting reference 53147. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request would be reassessed by staff who were not involved in providing you with this response.

If you were to remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the FOIA.

Yours sincerely,

Immigration Enforcement Secretariat
ImmigrationEnforcementFOIPQ@HomeOffice.gov.uk

Home Office

Performance, Assurance and Governance Directorate
2 Marsham Street
London SW1P 4DF
Switchboard 0207 035 4848

www.gov.uk

[redacted]

24 July 2019

Dear [redacted]

**Freedom of information request (our ref. 53147: internal review)**

Thank you for your email dated 9 June 2019, in which you asked for an internal review of our response to your Freedom of Information (FOI) request for copies of all internal documents relating to the processes for determining whether an individual is entitled to financial support under paragraph 9(4) of Schedule 10 to the Immigration Act 2016. A full copy of your request has been set out in Annex A.

I have now completed the review. I have consulted the policy unit which provided the original response and have considered whether the correct procedures were followed. I can confirm that I was not involved in the initial handling of your request.

The Home Office response of 1 May 2019 explained that we hold the requested information, but that your request had been refused under section 12(4)(b) of the FOIA. The response explained that this provides that information can be withheld if it is intended for different persons who appear to the public authority to be acting in concert or in pursuance of a campaign.

This was not quite correct, in point of detail. Section 12(4)(b) of the FOIA enables regulations to be made prescribing that where two or more requests for information are made by different persons who appear to be acting in concert or in pursuance of a campaign, the estimated cost of complying with all of them can be taken to be the estimated cost of complying with any of them, for the purposes of section 12(1). The regulations in question are the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 and the relevant provision is in paragraph 5 of the

Regulations. Your request was therefore refused under section 12(1) rather than section 12(4)(b), although this makes no difference to the substance of the response.

The reasons for our decision to refuse your request under the cost limit were set out in our response.

I have considered your original request, the response provided by the Home Office and the reasons why the cost limit was applied. Our records show that the Home Office has received in excess of ten individual FOI requests which are asking for similar or identical information to your request. These individual requests have used the same format when asking for information and were received by the Home Office within 60 consecutive working days. Although the requests have been received from different named individuals, the format of your letter suggests that your request may be acting in concert or in pursuance of a campaign. We have therefore estimated that the cost limit has been exceeded due to the aggregated estimated cost of answering all the requests which we have received.

Although we are unable to provide the details of other individual requests that we have received, I can confirm that at least four of the requests asked for information relating to paragraph 9(4) of Schedule 10 to the Immigration Act 2016.

The Information Commissioner's Office has issued the following guidance on the costs of compliance. We have judged that paragraphs 39, 40, 41, 42, 43 and 44 of the guidance apply to your request.

https://ico.org.uk/media/1199/costs_of_compliance_exceeds_appropriate_limit.pdf

My conclusion is that the original response was correct to aggregate the cost of answering all the requests to which I have referred and to refuse your request under section 12(1) accordingly.

Yours sincerely

J Conquest
Information Rights Team

| | | |
|---|---|---|
| 13 | There does not appear to be a publicly available Equality Impact Assessment or Public Equality Statement relating to the Immigration Act 2016 provisions specifically on immigration bail (section 61 and schedule 10 particularly). Please disclose to us any impact assessment/PES/equality impact assessment or internal costs/equality analysis produced in anticipation of or otherwise in relation to the changes to immigration bail introduced by the Immigration Act 2016. | Substantive response received |

Home Office

Border, Immigration &
Citizenship System Policy and
International Group
2 Marsham Street
London
SW1P 4DF

Tel: 020 7035 4848
Fax: 020 7035 4745
www.gov.uk/homeoffice

[redacted]

By Email: [redacted]

FOI Reference: 53007

Date: 16 April 2019

Dear [redacted]

Thank you for your e-mail of 25 March, in which you ask for any policy equality statement or equality impact assessment specifically concerning the changes to immigration bail that were introduced by the Immigration Act 2016. Your request has been handled as a request for information under the Freedom of Information Act 2000.

The Home Office does not hold the information which you have requested because a policy equality statement specifically concerning the changes mentioned has not been produced. The only available relevant impact assessment is the overarching one published on Parliament's website at:
https://services.parliament.uk/Bills/2015-16/immigration/documents.html

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gov.uk, quoting reference 53007. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request would be reassessed by staff who were not involved in providing you with this response. If you were to remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the FOIA.

Yours sincerely,

**Sheri Yusuf**
Border, Immigration & Citizenship System Policy and International Group

| | | |
|---|---|---|
| 14 | Please provide us information on absconding rates for people released from immigration detention in 2018 and 2017. I have enclosed a similar request made in 2015 and would like an update on this number. | Substantive response received.<br><br>Previous FOI was done by the International Coalition on Detention. We have enclosed the response that they have received as well. |

Immigration Enforcement

Immigration Enforcement
Secretariat
Sandford House
41 Homer Road
Solihull
West Midlands
B91 3QJ

www.gov.uk/home-office

[redacted]

11 September 2019

Dear [redacted]

**Re: Freedom of information request - 54858**

Thank you for your email dated 2 August, in which you ask for information relating to absconders. Your full request can be found at **Annex A**.

Your request has been handled as a request for information under the Freedom of Information Act 2000.

I am able to disclose absconding rates for the period in question are as follows:

| Year | Percentage of individuals absconding after being released from immigration detention |
|---|---|
| 2017 | 7% |
| 2018 | 3% |

- These statistics have been taken from a live operational database. As such, numbers may change as information on that system is updated.
- Data extracted on 08/08/2019.
- All absconder breaches have been considered even if the breach has been resolved
- Please note the data includes only those who were 'released' from detention, for example, those with a detention closure reason of 'removed' or 'extradited' have been excluded from the results.
- Where an individual has been detained on more than one occasion within the same year, this is recorded as only one person.
- Absconder breaches data has been limited up to 31/03/2019 in line with Published data timescales.
- This information has not been quality assured under National Statistics protocols.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gsi.gov.uk, quoting reference **54858**. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

Home Office

Immigration Enforcement
Freedom of Information Team
Sandford House
41 Homer Road
Solihull
West Midlands
B91 3QJ

www.gov.uk/home-office

[redacted]
Sent via e-mail: [redacted]

Monday 16 February 2015

Dear [redacted]

**Re: Freedom of information request – 34114**

Thank you for your e-mail dated 20 January, in which you ask for information relating to absconders. You specifically asked:

> ***Could I please make a freedom of information request on absconding rates for people released from immigration detention in 2013 and 2014.***

Your request has been handled as a request for information under the Freedom of Information Act 2000.

I am able to disclose the following information.

To answer your question we have looked at people who were released from immigration detention and given temporary admission; temporary release or bail. We have excluded data on people who were released and could not abscond due to the circumstances of their release, for example cases where the person had been removed from the UK or where the person had been granted leave.

Absconding rates for the period in question are as follows:

| Year | People released from immigration detention on temporary admission, temporary release or bail | Open Absconder Breaches | Percentage |
|---|---|---|---|
| 2013 | 12,335 | 1,132 | 9.2% |
| 2014* | 9,395 | 764 | 8.1% |

Please note the statistics above are subject to the following conditions:

- Date of absconder refresh: 30.01.2015
- *Data for 2014 is for the period between Jan 14 to Sep 14 (inclusive).
- Data on people released from detention has been obtained from Migration Statistics, it only includes those released on bail or given temporary admission or temporary release.
- The above rates are derived by matching current open absconder breaches against detention release data.
- Data on people who might have absconded and subsequently re-entered the immigration process is not included in the above.
- This information has not been quality assured under National Statistics protocols.
- All figures quoted have been derived from management information and are therefore provisional and subject to change.



Home Office

In keeping with the Freedom of Information Act, we assume that all information can be released to the public unless it is exempt. In line with normal practice we are therefore releasing the information which you requested via the Home Office website.

I hope that this information meets your requirements. I would like to assure you that we have provided you with all relevant information that the Home Office holds.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to the address below, quoting reference 34114. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

Information Access Team
Home Office
3rd Floor
Peel Building
2 Marsham Street
London
SW1P 4DF
e-mail: info.access@homeoffice.gsi.gov.uk

As part of any internal review the Department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. If you remain dissatisfied after this internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

Yours sincerely,

**Immigration Enforcement**
**Freedom of Information & Parliamentary Questions Team**