



**International Covenant on
Civil and Political Rights**

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Human Rights Committee

**Eighth periodic report submitted by the United
Kingdom of Great Britain and Northern Ireland
under article 40 of the Covenant pursuant to the
optional reporting procedure, due in 2021***

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1. The UK government is grateful to the Human Rights Committee for providing its List of Issues prior to the submission of the eighth periodic report. The Committee has asked for general information about the implementation of the recommendations set out in both its last concluding observations report and its follow-up report, and on the implications of the UK's departure from the European Union. It has also asked for specific information on a number of articles of the Covenant.

2. The UK government is committed to protecting and respecting human rights. The UK has strong human rights protections within a comprehensive and well-established constitutional and legal system, and a longstanding tradition of ensuring rights and liberties are protected domestically and of fulfilling our international human rights obligations.

3. The UK government strongly supports the work of the United Nations treaty bodies and regards them as central to the broader human rights system.

I. General information on the national human rights situation, including new measures and developments relating to the implementation of the covenant

A. Optional Protocol

4. The UK government has considered its position on accepting the right of individual petition to the UN treaties, including the ICCPR, beyond the CEDAW and the CRPD. It concluded that the benefits of the communication procedure remain unclear, especially for the applicant. In particular, the UN process is not an appeal mechanism, it cannot reverse decisions of the domestic courts, and it cannot result in an enforceable award of compensation for the applicant.

5. The UK is party to the European Convention on Human Rights, thus people in the UK already have access to the application process to the European Court of Human Rights after having exhausted the various domestic remedies within the UK.

6. The UK believes that effective domestic laws already exist, under which individuals may seek enforceable remedies in the courts if their rights have been breached.

B. Withdrawal from the Charter of Fundamental Rights

7. The UK has a longstanding tradition of ensuring our rights and liberties are protected domestically, and of fulfilling our international human rights obligations. The decision to leave the European Union does not change this. Most of the rights protected in EU law are also protected in other international instruments to which the UK is a signatory, notably the European Convention on Human Rights, which is given further effect by the Human Rights Act 1998 (HRA). This is in addition to other UN treaties ratified by the UK.

8. The non-incorporation of the Charter of Fundamental Rights into UK law by the EU (Withdrawal) Act 2018 does not affect the substantive rights that individuals already benefit from in the UK, as the Charter was never the source of those rights. Retained EU law will continue to be interpreted by UK courts in a way that is consistent with the rights which the Charter reaffirms, so far as it is possible to do so. Insofar as cases have been decided by reference to those underlying rights, that case law will continue to aid the interpretation of retained EU law.

C. Funding

9. It has not yet been decided what funding UK organisations will be able to apply for after the spending framework ends. At time of writing, UK citizens can still apply for funding from the European Instrument for Democracy and Human Rights programme.

II. Constitutional and Legal Framework within which the Covenant is implemented

A. Reform of the Human Rights Act

10. The government has established an independent review to examine the framework of the Human Rights Act 1998 (HRA), how it is operating in practice and whether any change is required. The HRA has been in force for 20 years, it is timely to undertake a review into its operation. The UK's constitutional framework has always evolved incrementally over time, and it will continue evolving. The UK government needs to make sure that our human rights framework, as with the rest of our legal framework, develops and is refined to ensure it continues to meet the needs of the society it serves. The government is committed to remaining a signatory to the European Convention on Human Rights (ECHR).

11. The review will look at two key themes, which are outlined in the Terms of Reference as follows:

- The relationship between domestic courts and the European Court of Human Rights (ECtHR);
- The impact of the HRA on the relationship between the judiciary, the executive and the legislature.

12. The review will consider the approach taken by domestic courts to jurisprudence of the ECtHR. It will also consider whether the HRA currently strikes the correct balance between the roles of the Courts, the government and Parliament, including whether the current approach risks domestic courts being unduly drawn into questions of policy. The panel will then consider whether, and if so what, reforms might be justified.

13. The panel will report back in Summer 2021 and their report will be published, as will the government's response.

B. Northern Ireland Bill of Rights

14. The government is firmly committed to upholding the Belfast (Good Friday) Agreement in all its parts, including its successor agreements and the institutions it established, which includes provision for a Bill of Rights in Northern Ireland. Consensus, including between the Northern Ireland parties, is needed before any agreement can be reached on what a Bill of Rights should include for Northern Ireland. This approach was always envisaged in the Belfast (Good Friday) Agreement.

15. The New Decade, New Approach Agreement on the restoration of devolved government in Northern Ireland contained a commitment to establish an Ad-Hoc Assembly Committee to consider the creation of a Bill of Rights that is faithful to the stated intention of the 1998 Belfast (Good Friday) Agreement. The work of the Committee is underway and ongoing.

C. References to the covenant in national courts and other law-applying institutions

16. In light of the UK's dualist legal system, unincorporated international conventions will only be considered by the domestic courts in certain circumstances. The ICCPR has been cited in a number of cases in UK courts, including:

- In the matter of an application by Veronica Ryan for judicial review [2020] NIQB 47. The case concerned the application of the miscarriages of justice test in Northern Ireland which gives effect to Art. 14(6) ICCPR;
- *Suffolk CC v RD* [2020] EWHC 323 (fam) – concerned an application (which was granted) for a Female Genital Mutilation Protection Order – in the judgment Mr Justice Newton referred to the words of Baroness Hale in *Fornah v SSHD* [2006]

UKHL 56 at [94] that FGM will “almost inevitably” amount to treatment contrary to, amongst other rights, Art. 8 ICCPR;

- DH (Particular Social Group: Mental Health) Afghanistan [2020] UKUT 00223 (IAC) the ICCPR was referred to when considering that the “family is a socially cognisable group in society”. “Article 23(1) of the 1966 International Covenant on Civil and Political Rights states that the family “is the natural and fundamental group unit of society and is entitled to protection by society and the State”.

D. Awareness Raising

17. All public authorities need to comply with the domestic legal framework, including on human rights obligations. The UK considers that framework remains compliant with the covenant. Anyone acting as, or on behalf of a public authority in the UK must act compatibly with the HRA. Individuals who believe their rights under the HRA have been breached can uphold those rights in the domestic courts.

18. To preserve the independence of the judiciary, training responsibilities are exercised through Judicial College. Judicial College designs and delivers appropriate training to promote awareness and understanding of instruments such as international covenants and conventions, among the judiciary of England and Wales.

19. Lawyers are regulated by independent regulators.

20. The College of Policing sets and maintains training standards for policing. In 2014, it introduced the Code of Ethics, which includes a set of principles for policing, including that all officers and staff should take active steps to oppose discrimination and make their decisions free from prejudice.

21. There is an active network of ethics panels in police forces, engaging at both a regional and national level across England and Wales. The UK Police Ethics Guidance Group provides oversight at a national level and, together, provide the opportunity to discuss ethical dilemmas.

22. Prosecutors must be fair, objective and independent. When deciding whether to prosecute a criminal case, lawyers must follow the Code for Crown Prosecutors ‘The Code’. The Code gives guidance to prosecutors on the general principles to be applied when making decisions about prosecutions. These general principles help to ensure groups, including minority groups, are treated fairly and include a number of provisions to consider when making decisions.

23. Training on the Public Sector Equality Duty is also a mandatory requirement for all lawyers as of February 2020. This is to ensure that prosecutors understand the importance of ‘consciously considering’ the needs of victims, witnesses and defendants that fall within particular protected characteristics including ethnic minority groups, through the prosecution process.

E. Extraterritoriality

24. UK personnel on military operations overseas are subject to the law of England and Wales and are required to act in accordance with applicable human rights law and international humanitarian law.

25. As set out in the UK’s seventh periodic report under the ICCPR, the UK’s human rights obligations are primarily territorial and the ICCPR can only have effect outside the territory of the UK in exceptional circumstances. Similarly, the ECtHR has held that the ECHR only applies extra-territorially in exceptional circumstances, although international human rights treaties do not necessarily have the same scope of application. The UK is committed to complying with its human rights obligations in relation to all persons detained by its Armed Forces.

F. Withdrawal of Reservation Article 10, 14, 24

26. The remaining reservations and declarations are maintained for the reasons set out in the UK's response to the List of Issues in response to the seventh periodic report. The UK government will review them again as part of its eight periodic report and will update the Committee where the position has changed.

III. Accountability for past Human Rights violations

A. Northern Ireland

27. The Stormont House Agreement made between the UK and Irish Government and the largest political parties of Northern Ireland has not been implemented and investigations continue to be taken forward by the independent Police Ombudsman Northern Ireland; the Coroners Service Northern Ireland and police forces across the United Kingdom.

28. The Police Service of Northern Ireland (PSNI) is hierarchically and institutionally independent of the former Royal Ulster Constabulary and military although it is noted that the ability of the police to demonstrate the necessary practical independence to investigate certain deaths remains the subject of litigation in the domestic courts including an appeal to the UK Supreme Court. Where it is determined that PSNI does not have the requisite independence to investigate a particular case powers exist to appoint independent officers from a police service in Great Britain to ensure an effective investigation takes place. As demonstrated by recent referrals (for example to former Chief Constable of Bedfordshire police, Jon Boutcher) investigative teams may be drawn from across UK enforcement services and can explicitly exclude personnel who are serving in, or have previously served in, the Royal Ulster Constabulary, Police Service of Northern Ireland, Ministry of Defence or Security Services or who might otherwise have a conflict of interest depending on the specific circumstances of any investigation.

29. The UK government remains committed to reform and to introducing legislation to address the legacy of the Troubles. The UK government is committed to working with civic society, including victims' groups, the political parties in Northern Ireland and the Irish Government on the way forward on these complex and sensitive issues.

30. The New Decade, New Approach (NDNA) agreement to restore devolved Government in Northern Ireland was published on 9th January 2020. The UK government has made good progress in implementing its NDNA commitments. £555.9 million of the £2billion of funding agreed in the deal has been released. A Veteran's Commissioner was appointed in August last year, and the immigration rules governing how the people of Northern Ireland bring their family members to the UK also took effect from August 2020. The governance structures underpinning NDNA have been established, with Joint Board and Implementation Review meetings taking place periodically.

31. The Justice and Security Act 2013 empowers senior courts to apply a "closed material procedure" (CMP) in civil cases involving sensitive material, the disclosure of which would be damaging to national security. The process contains various judicial safeguards and its use is closely monitored by the UK government in the form of public annual reports to the UK Parliament. The statistics show that this CMP was used in a very limited number of cases in Northern Ireland in the past three years.

B. Intelligence and Security Committee Inquiry into Handling of Detainees overseas and Rendition

32. The government set out its position in relation to inquiries into detainee matters in a statement to Parliament on 18 July 2019.¹ This included the provision of evidence to the Intelligence and Security Committee for its 2018 report.

C. Iraq

33. Any allegations and investigations that had not been discontinued by the time the Iraq Historic Allegations Team (IHAT) closed on 30 June 2017 transferred to Service Police Legacy Investigations (SPLI). Having worked diligently to complete that allocated caseload as promptly as possible, SPLI are now very close to completing the few remaining cases.

34. The Armed Forces Act 2006 requires the Service Police to consult the Service Prosecuting Authority before discontinuing investigations in any cases where the statutory test for referral to a prosecutor (sufficient evidence to charge a relevant person with an offence) is not met, and to refer any cases where the statutory test is met for a prosecution decision. In all of the cases referred by IHAT or SPLI, the Director of Service Prosecutions decided – having obtained advice from external senior counsel where appropriate – that the separate tests for prosecution were not met. In all cases where the complainant or next of kin exercised their right (under the victim’s right of review) to request reconsideration of the non-prosecution decision, separate external senior counsel upheld that decision.

35. Service Police are also currently working on a small number of historical allegations that did not form part of the SPLI’s allocated caseload. In addition, to meet its wider investigative obligations, the UK Ministry of Defence continues to refer cases to the Iraq Fatalities Investigation (IFI) process as necessary. In November 2020, the IFI Inspector (a retired Court of Appeal judge) was appointed to examine a ninth case.

36. The government has delivered the *Overseas Operations (Service Personnel and Veterans) Act 2021* to help reduce the uncertainty for our Service personnel and veterans in relation to historical allegations or claims arising from overseas operations. The Act also provides a better legal framework for dealing with allegations or claims arising from any future overseas conflicts, recognising the unique burden and pressures placed on personnel.

37. The Act received Royal Assent on 29 April 2021. More information about the Act can be found here: <https://www.gov.uk/government/publications/overseas-operations-service-personnel-and-veterans-bill/overseas-operations-service-personnel-and-veterans-act-2021-guidance>.

IV. Non-Discrimination

A. Gypsy, Roma and Travellers

38. We remain committed to delivering a cross-government strategy to tackle the inequalities faced by Gypsy, Roma and Traveller (GRT) communities.

39. The UK has invested £400,000 into education and training programmes for over 100 GRT children and young people, to receive extra tuition to catch up on lost learning during the pandemic, one-to-one support and expert guidance to help them progress in education or find employment. This is in addition to the UK’s National Tutoring Programme, worth £350 million, which will increase access to high-quality tuition for the most disadvantaged young people over the 2020–21 academic year.

40. As part of the £25m Community Champions scheme, we are funding both local authorities and community organisations to improve the reach of official public health

¹ <https://hansard.parliament.uk/Commons/2019-07-18/debates/86F17839-026E-4F7A-9E1C-06C7219621E5/Detainees>.

guidance and other messaging or communications about the virus into specific places and groups most at risk from COVID-19. The scheme will work with GRT communities in specific areas across the country from small grants to support to develop communications campaigns.

41. The UK is firmly committed to delivering a cross-government strategy to tackle the inequalities faced by GRT communities.

42. The UK will continue to prioritise the understanding and tackling of disproportionality within the youth justice system and recognise that there is a particular over-representation of children from a GRT background in custody.

43. The UK engages with GRT stakeholders to explore particular challenges facing this group and have published a briefing for practitioners² which identifies and proposed opportunities to address key issues. In 2018 the Youth Justice Board amended requirements to follow the 18+1 standard to include 'Gypsy/Irish Traveller'. Within custody, the Youth Custody Service have developed an effective briefing practice for staff on working with GRT children.

44. This is supplemented by wider work on connecting and understanding the issues for GRT groups more broadly including via the GRT in the CJS stakeholder forum run by the Ministry of Justice's race disparity team and wider initiatives around Gypsy Roma Traveller History Month (such as through events within the youth secure estate).

45. More broadly, much of the UK's wider work on tackling race disparity is intended to address all inequalities and as such also relevant to GRT groups amongst other BAME communities. In some areas we include a specific focus on GRT groups, for example the Youth Justice Board's COVID pathfinders we have linked Local Authority with the Traveller Movement to assist in accessing GRT communities.

46. The Planning (Scotland) Act 2019³ includes new duties for planning authorities in Scotland to set out how they have engaged with Gypsy/Travellers in their local development plan evidence reports. They will also have to report on how they have met the accommodation needs of Gypsy/Travellers. The Scottish government is also currently reviewing national planning policies because they should support a wider range of new and innovative delivery solutions including for Gypsy/Travellers. On publication, National Planning Framework 4 will be a key strand in ensuring that the current and future accommodation needs of Gypsy/Travellers are met.

B. Racial Discrimination

47. The UK government launched the Race Disparity Audit (RDA) and its website, Ethnicity Facts and Figures in October 2017. The website is a world first and has been welcomed internationally for its open and data-driven approach to highlighting inequalities of outcomes.

48. In response to the findings of the RDA, the government has taken action to address disparities in criminal justice, increasing diversity in employment, mental health, school exclusions, and barriers to progress for young people.

49. To date, the Race Disparity Unit (RDU) has worked across government and with local authorities to co-produce interventions to address disparities. These include:

- Undertaking work to improve trust between police forces and the local communities that they serve, including increasing diversity in the police workforce and developing additional training;

² <https://yjresourcehub.uk/over-representation-and-disproportionality/item/753-working-with-gypsy-roma-traveller-children-and-young-people-effective-practice-for-youth-offending-teams-august-2020.html>.

³ [The Planning \(Scotland\) Act 2019](#).

- Continuing to provide targeted employment support in twenty areas around the country with high rates of ethnic minority unemployment to boost earning potential;
- Launched the Race at Work Charter, giving businesses a clear set of actions to help create greater opportunities for ethnic minorities at work;
- Establishing measures to drive change in tackling inequalities between ethnic groups in higher education, and the last 10 years have seen a significant increase in the rates of 18 year olds from ethnic minority groups going to university;
- Considering the drivers of ethnic disparities in COVID-19 infection and mortality rates, to ensure the government response to the pandemic takes the right steps to protect and minimise the risks to ethnic minority groups.

50. The independent Commission for Race and Ethnic Disparities was launched by the Prime Minister on 16 July 2020, and was supported by the RDU.

51. The Commission has reviewed inequality in the UK and focused on areas including education, employment, health and the criminal justice system.

52. On 31 March 2021 the Commission published its report to the Prime Minister. The report made a series of recommendations covering aspects of change which the Commission believes will be the most effective to meaningfully address disparities and inequalities for all.

53. The UK government is considering the Commission's recommendations and will respond in due course.

54. Every young person deserves the opportunity to progress and fulfil their potential, regardless of their ethnic background, and to do so in an environment free from fear, prejudice and hate. Education settings play a vital role in promoting integration, and ensuring the next generation learns the shared values underpinning our society: democracy – the rule of law – individual liberty – mutual respect and tolerance of those with different faiths and beliefs. Under the Equalities Act 2010, schools must not discriminate against a pupil in a number of respects because of a characteristic protected by the Act. State-funded schools are under a duty to have due regard to the need to eliminate harassment, advance equality of opportunity, and foster good relations across all characteristics. Ofsted looks at how a school complies with its statutory duties and holds schools to account for racism or other behaviour issues.

C. Profiling

55. The UK's response to counter-terrorism is built on an approach that unites the public and private sectors, communities, citizens and overseas partners around the single purpose to leave no safe space for terrorists to recruit or act. The UK's strategy, CONTEST, is the framework that enables the organisation of this work to counter all forms of terrorism.

56. Government and academic research have consistently indicated that there is no single socio-demographic profile of a terrorist in the UK, and no single pathway or 'conveyor belt' leading to involvement in terrorism. Terrorists come from a broad range of backgrounds and appear to become involved in different ways and for differing reasons. The CONTEST strategy is therefore not framed around particular identities – ethnicity and/or religion.

57. The Prevent programme is a key part of the CONTEST strategy and is fundamentally about safeguarding and supporting vulnerable individuals to stop them from becoming terrorists or supporting terrorism. Prevent safeguards people who are vulnerable to radicalisation in a similar way to safeguarding processes designed to protect people from gangs, drug abuse, and physical and sexual abuse.

58. The cornerstone of Prevent is local work with communities and civil society organisations. Prevent does not target a specific faith or ethnic group – it deals with all forms of extremism. The government supports civil society organisations across the country to deliver a wide range of projects working with schools, families and in local communities to build their awareness of the risks of radicalisation, their resilience to terrorist narratives and propaganda, and to help them know what to do if they have concerns that someone has been

radicalised. The government supports these groups to develop bespoke projects, best suited to tackle the threat from radicalisation in local communities.

59. The government also ensures that all aspects of our work are properly monitored and evaluated to inform decision-making and future developments of work programmes.

D. Hate Crime

60. The UK takes hate crime very seriously, which is why the Hate Crime Action Plan (Action Against Hate: The UK government’s plan for tackling hate crime) was published in 2016, and refreshed in October 2018. The Hate Crime Action Plan has improved the response to all forms of hate crime and the refreshed publication has ensured a renewed commitment that victims remain at the heart of tackling hate crime.

61. Some of the UK’s proud achievements include providing over 240 grants funding security measures at places of worship across the country in addition to funding for vulnerable faith institutions; funding innovative projects to tackle hate; working with the Crown Prosecution Service (CPS) to produce important guides for victims of hate crime; requiring police forces to disaggregate hate crime data by faith; and commissioning the police inspectorate to undertake a thematic report into police effectiveness in responding to hate crime, as well as engaging directly with over 17,000 young people to challenge hatred and prejudice. The government has also made £3.2 million in funding available to improve security at places of worship at risk from hate crime attacks for 2020–21.

62. Last year, the Faith, Race and Hate Crime Grants scheme invited established community groups and civil society organisations across England to apply for funding for projects that champion the government’s commitment to building a diverse and tolerant society for all faiths and races. £1.8 million was awarded to help organisations deliver interventions that encourage greater integration in their local communities and to tackle discriminatory behaviour.

63. The UK government will build on these achievements in the years ahead. This includes supporting the ongoing Law Commission review of the coverage and approach of current hate crime legal provisions, to ensure the criminal law is working effectively.

64. With regard to recording of hate crime, increases in police recorded hate crime in recent years have been driven by improvements in crime recording and a better identification of what constitutes a hate crime. In contrast, the Crime Survey for England and Wales (CSEW) which is not affected by changes in crime recording, shows a long-term decline in hate crime, with a 38% fall in these incidents between the combined 2007/08 and 2008/09 and the combined 2017/18, 2018/19 and 2019/20 surveys. Overall, 47% of hate crime incidents came to the attention of the police, a higher proportion than for CSEW crime overall (38%). Reporting rates for hate crime have been consistently higher than for CSEW crime overall.

65. Transport Scotland have committed to launch a Hate Crime Charter on public transport which aims to ensure people can travel without bullying and harassment; challenge hate crime; encourage reporting and provide training to increase knowledge and awareness of hate crime for staff.

66. In April 2020, the Hate Crime and Public Order (Scotland) Bill was introduced to the Scottish parliament. The Bill provides for consolidating, modernising and extending existing hate crime legislation, ensuring it is fit for 21st century Scotland. The provisions ensure that characteristics currently protected within the hate crime legislative framework continue to be protected to the same extent with updated language, including the definition of sexual orientation and transgender identity.

V. Sexual and Reproductive Rights in Northern Ireland

67. The Northern Ireland (Executive Formation etc) Act 2019 (NI EF Act), which was passed by Parliament in July 2019, placed a duty on the UK government to reform Northern

Ireland's abortion law given the ongoing absence of devolved government by 21 October 2019. The legislative changes resulted in the immediate decriminalisation of abortion through the repeal of sections 58 and 59 of the Offences Against the Person Act 1861 (OAPA), which came into effect on 22 October 2019. At this time a moratorium on abortion-related criminal prosecutions also came into effect, meaning that any police investigations or prosecutions currently underway at that time, in respect of an offence under sections 58 and 59 of the OAPA (regardless of when an offence may have been committed), will not be carried out, and no criminal proceedings may be brought or continued.

68. The UK government made the Abortion (Northern Ireland) Regulations 2020, which came into effect on 31 March 2020 as the new law on access to abortion services in Northern Ireland. The Abortion (Northern Ireland) (No. 2) Regulations 2020 revoked the earlier regulations but are materially identical in terms of the conditions in which abortions can be provided in Northern Ireland. The Regulations provide access in the circumstances set out in the 2018 Report of United Nations Committee on the Elimination of Discrimination Against Women report, Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Report), as required by section 9 of the NIEF Act.

69. However, the commissioning of full abortion services, consistent with the conditions set out in the 2020 Regulations, has still not taken place. Services have not been formally commissioned, supported or funded by the Northern Ireland Department of Health, and there has been no guidance issued or official support measures put in place. The UK Government therefore made The Abortion (Northern Ireland) Regulations 2021, which came into force on 31 March 2021. These regulations provide the Northern Ireland Secretary with a power to direct a Northern Ireland Minister, a Northern Ireland department and the Health and Social Care Board of the Public Health Agency to take action necessary to implement all the recommendations in paragraphs 85 and 86 of the CEDAW report. If concrete steps are not made towards the commissioning of services in Northern Ireland before the summer recess, the Northern Ireland Secretary stands ready to issue a direction. It remains the UK Government's preference that the Department of Health drive forward commissioning of abortion services, and officials and ministers will continue to work to see if progress can be made on the ground in Northern Ireland before the Secretary of State has to consider issuing a direction.

VI. Prohibition of Torture, Inhuman and Degrading Treatment or Punishment, Right to Liberty and Security, Counter terrorism

A. Criminal Justice Act

70. Torture is a criminal offence in the UK under section 134 of the Criminal Justice Act 1988, and it carries a maximum penalty of life imprisonment. The HRA gives further effect in UK law to the ECHR, including Article 3 (prohibition of torture). The HRA places a statutory obligation upon all public authorities to act compatibly with the Convention rights and strengthens a victim's ability to rely upon the Convention rights in civil and criminal proceedings. The UK is also a party to the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT) and has fully cooperated with Council of Europe's Committee on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visits to its detention facilities.

71. The UK Government has no plans to reform the offence of torture under s.134 Criminal Justice Act 1988. The rationale for this position was set out in the 4th UK periodic report under the CAT [1].

B. Terrorism Act and Terrorism legislation

72. The UK's definition of terrorism is set out in [section 1 of the Terrorism Act \(TACT\) 2000](#). This definition applies equally to UK citizens and residents and non-UK citizens and residents. This definition is kept under regular review to ensure it remains fit for purpose, including by the Independent Reviewer of Terrorism Legislation (IRTL) who has considered the definition in his most recent annual report (published March 2021). TACT 2000 defines terrorism as: the use or threat of action; which is designed to influence the government or an international governmental organisation, or to intimidate the public or a section of the public; and which is made for the purpose of advancing a political, religious, racial or ideological cause. The action used or threatened must involve serious violence against a person, serious damage to property, endangering a person's life, creating a serious risk to public health or safety, or the intention to interfere with or seriously disrupt an electronic system. (N.B. The use or threat of this type of action which involves the use of firearms or explosives is terrorism whether or not it is designed to influence the government or an international governmental organisation, or to intimidate the public or a section of the public).

73. This definition of terrorism applies equally to politically, religiously, racially, and ideologically motivated causes. It is designed to counter all forms of terrorism, irrespective of the ideology that inspires them. They are managed on the basis of the threat they are deemed to pose. It is for the police and security services to apply this definition through identifying and investigating individuals and managing their risk. Prosecution is the preferred means of disrupting a terrorist threat and where this is possible it is led by the CPS). The Counter-Terrorism Division of the CPS publishes online summaries of some of its successful prosecutions here: <https://www.cps.gov.uk/crime-info/terrorism/counter-terrorism-division-crown-prosecution-service-cps-successful-prosecutions-2016>.

74. Following the terrorist attacks at Fishmongers' Hall and in Streatham, which were committed by known terrorist offenders the UK government introduced the [Counter-Terrorism and Sentencing Bill](#). The Bill has recently completed its passage through Parliament and will shortly receive Royal Assent. The Bill strengthens every stage in the process of dealing with terrorist offenders across the UK, from sentencing and release through to monitoring in the community. It will ensure that serious and dangerous terrorist offenders spend longer in custody and on licence and will also improve our ability to monitor and manage the risk posed by terrorist offenders and individuals of terrorism concern upon release from custody.

75. Key measures within the Bill include:

- A new 'Serious Terrorism Sentence' for dangerous offenders with a 14-year minimum jail term and up to 25 years spent on licence;
- Ending early release for the most serious terrorist offenders who receive Extended Determinate Sentences instead the whole time will be served in custody;
- Increasing the maximum penalty for three terror offences (including membership of a proscribed organisation) from 10 to 14 years;
- Ensuring a minimum period of 12 months on licence for all terrorist offenders as well as requiring adult offenders to take polygraph tests;
- Widening the list of offences that can be classed as terror-connected by the Courts at the point of sentencing to ensure they carry tougher sentences;
- Boosting the disruption and risk management tools available to the Security Services and Counter-Terrorism Policing, by strengthening Terrorism Prevention and Investigation Measures, supporting the use of Serious Crime Prevention Orders in terrorism cases, and expanding the list of offences that trigger the Registered Terrorist Offender (RTO) notification requirements.

76. In March the UK government introduced the Police, Crime, Sentencing and Courts Bill which contain provisions to assist the police with the management of terrorist offenders in the community. These new police powers were recommended by Jonathan Hall QC following his independent review into the effectiveness of Multi-Agency Public Protection

Arrangements (MAPPA) when it comes to managing terrorist offenders and other offenders who may pose a terrorism risk. These measures will improve the ability of operational partners to manage the risk posed by offenders of terrorism concern and to safeguard themselves and the public from terrorism-related activity.

77. Existing treason offences, along with other relevant legislation, are being considered as part of the Home Office's ongoing wider review of legislation related to state threats. This work is ongoing and has not reached conclusions yet.

78. As part of HMG's recently published consultation on counter state threats legislation, we have asked consultees to submit any additional or reformed tools or powers that could be utilised to address state threats, such as treason reform. Any evidence submitted as part of this consultation will be examined as part of the ongoing review.

79. The Counter-Terrorism and Border Security Act 2019 was enacted in the context of the UK experiencing five terrorist attacks in London and Manchester from both Islamist and Far Right extremists, between March and September 2017. The terrorist threat was rapidly evolving, with much radicalisation taking place online, and with the operational pace for the police and Security Service faster than seen before. The Act updated and closed gaps in existing counter-terrorism legislation to ensure that law enforcement and intelligence agencies have the powers they need to help keep the country safe. In response to the poisoning of Sergei and Yulia Skripal in Salisbury on 4 March 2018, it also introduced new powers to harden the UK's defences at the border against hostile state activity.

80. Key aspects of the Act include:

- Amending offences to update them for the digital age and to reflect contemporary patterns of radicalisation;
- Strengthening the sentencing framework for terrorism-related offences and the power for managing offenders following their release from custody;
- Strengthening the powers of the police to prevent terrorism and investigate terrorist offences; and
- Introducing a power to stop, question, search and detain an individual at a port or border area for the purpose of determining whether they are, or have been, involved in hostile state activity.

81. One specific change made has seen the offence contained in section 12 of the Terrorism Act (TACT) 2000 extended to ensure that the police can act against people who promote proscribed terrorist organisations, by making it clear that it is illegal to make statements in support of a terrorist organisation being reckless as to whether others will be encouraged to support the organisation. The UK government has not made it unlawful to hold a private view in support of a terrorist organisation. But it is right to criminalise those who make clear expressions of support for terrorist organisations, and who are reckless as to whether that will encourage others to support the organisation. This type of activity can lead to a real risk of harm to the public. We are clear that this type of radicalisation should be illegal in order to stop support for these groups and to protect the public.

82. Measures within the Act were based on the principle that the UK government does not restrict anyone's freedom of speech so long as they do not break the law in doing so. This is part of the UK's core values. However, the government is clear that any group or individual that causes harm to our society and promote hatred and division will not be tolerated. Articles 9 and 10 of the ECHR are qualified rights, which means that restrictions can be imposed that are in accordance with the law and that are necessary in a democratic society, for purposes including protecting national security and public safety.

83. Once a suspect has been arrested by the police, they may be held for a specified period of time before being charged, giving the police time to investigate and gather evidence related to potential terrorism offences. The current maximum period of pre-charge detention under s.41 of TACT 2000 is 14 days (which reduced from the previous limit of 28 days on 25 January 2011) and the average period between September 2001 and June 2020 was 3.6 days.

More information can be found in our published statistics on the operation of police powers under TACT 2000.⁴

84. Use of arrest powers under section 41 of TACT 2000 is a matter for the police. It is right that it is possible to make an arrest without a warrant of a person whom an officer reasonably suspects to be a terrorist. This strikes the correct balance between civil liberties and public protection, the implications of which in individual cases is appropriately exercised by the police. Where an arrest leads to a need to search or detain a suspect, these scenarios are covered in detail by primary legislation, including TACT 2000, as well as Codes of Practice to guide the police. Furthermore, the IRTL provides oversight of the use of police powers such as this and includes sections on arrest and detention in his published annual reports.

85. A power to grant bail under section 41 TACT 2000 could put the public at risk. The need to charge or release within 14 days provides a clarity and focus to the investigation and is an invaluable lever for demanding the immediate release of resources such as technical assistance. In the immediate aftermath of a section 41 arrest, this enables investigators to command resources from the rest of the counter-terrorism machine in a way that would not otherwise be possible. The timing of arrests, and the management of risk to the public (for example, the tipping off of co-conspirators) following arrest are meticulously planned. The ability to detain for up to 14 days, subject only to obtaining a warrant of further detention, without the distraction of having to consider what bail conditions might be sufficient to safeguard the public and how to manage risk in the event that a court granted conditional bail in spite of police submissions, is extremely useful. In *Magee v United Kingdom*, the ECtHR concluded that the applicants' detention under Schedule 8 of TACT 2000 did not breach Article 5(3) of the convention.

86. TACT 2000 is fully compatible with article 9 of the Covenant. The UK is clear that everyone has the right to liberty and security of person. This reflects our fundamental values and, in particular, our commitment not only to protect the people of this country and our interests overseas but to do so in a way that is consistent with and indeed advances our commitment to human rights and the rule of law. It is proportionate to the risks we face, and we only engage in activity which is necessary to address those risks. It is transparent: wherever possible and consistent we seek to make more information available in order to help the public to hold the government to account over its policy and spending decisions.

87. The Convention for the Suppression of the Financing of Terrorism has been extended to Bermuda (2014, Anguilla (2015) and to Gibraltar⁵ (2020).

C. Rendition

88. The government supports the rule of law and opposes any form of deprivation of liberty that amounts to placing a detained person outside the protection of the law, including so-called extraordinary rendition. The government's policy on rendition was set out by former Foreign and Commonwealth Office Parliamentary Under Secretary of State Tobias Ellwood during an adjournment debate on the UK's involvement in rendition in June 2016.

89. The UK remains fundamentally opposed to rendition and as such we do not use rendition – it is not part of our security apparatus and nor do we support, enable or endorse its use by other states. Since 2010, UK intelligence and security personnel have operated under the published Consolidated Guidance and, since January 2020, its replacement, The Principles. The Principles provide direction for UK personnel and governs their interaction with detainees held by others overseas and the handling of intelligence derived from them and is overseen by the Investigatory Powers Commissioner. The Principles expressly reaffirm UK policy on rendition and extraordinary rendition. The UK government

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918494/police-powers-terrorism-jun2020-hosb2620.pdf.

⁵

https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-11&chapter=18&lang=en#8.

investigates allegations against UK personnel and bring complaints to the attention of detaining authorities in other countries, except where to do so might itself lead to unacceptable treatment.

90. The UK does not approve nor permit the use of its territory or UK facilities by another state under any circumstances for the purposes of transfers or detention that are not in compliance with international law. Any request for the transit of foreign flights through the UK or overseas territories is considered on a case-by-case basis and are granted only when the purpose of the transit complies with international law. In the unlikely event that a foreign flight were to land or to pass through the UK airspace unexpectedly for the purposes of transferring a detainee, the government would consider the case on its merits and respond appropriately, in accordance with our policy and obligations under domestic and international law. This position has been made absolutely clear, both publicly and bilaterally to our overseas partners.

91. There were two previously declared incidents in 2002, where British Territory had been used for this purpose. The transition of two detainees through Diego Garcia was reported to Parliament by the then Foreign Secretary in February 2008.

92. The UK has since made major improvements to our processes, including, where appropriate, seeking assurances from relevant states about the use of UK territory or airspace for the transfer of detainees. All incoming flight requests through the Diplomatic Flights Clearance process and subsequent decisions are registered electronically on the Foreign Commonwealth and Development Office's (FCDO) records management system and are fully searchable by the FCDO. More generally, all FCDO Departments and Posts are accountable for their record keeping through the Annual Consolidated Certificate of Assurance. This is scrutinised by the Audit and Risk Assurance Committee that reports to the FCDO Management Board. Since those events in 2002, the UK is not aware of any other instances of other countries holding or moving any detainees through the territorial land, air or seas of the UK or our overseas territories.

D. Consolidated Guidance to Intelligence Officers and Service Personnel on the Detention and Interviewing of Detainees Overseas, and on the Passing and Receipt of Intelligence Relating to Detainees

93. Following publication of the Intelligence and Security Committee of Parliament's (ISC) Detainee Mistreatment and Rendition Reports in June 2018, the Prime Minister invited the (then) Investigatory Powers Commissioner, Sir Adrian Fulford, who had statutory oversight of the Consolidated Guidance, to "... make proposals to the Government about how the [Consolidated] Guidance could be improved, taking account of the ISC's views and those of civil society".

94. After a public consultation, the Commissioner presented his proposals, which took into account the recommendations made by the ISC, to the government in June 2019. The government accepted them in full and, in July 2019, published new guidance titled *The Principles relating to the detention and interviewing of detainees overseas and the passing and receipt of intelligence relating to detainees*, to replace the Consolidated Guidance. The new guidance was extended to cover the National Crime Agency and SO15 Metropolitan Police Service, in addition to the security and intelligence agencies and the Ministry of Defence and will provide clear direction for UK personnel on supporting overseas detention operations, their interaction with detainees held by others and the handling of intelligence derived from them. Ministers are consulted where a real risk remains. They are provided with full details, including the likelihood of the relevant conduct occurring, possibility of mitigating the risk, the risks of inaction and the circumstances and causality of UK involvement. Consulting Ministers does not imply that action will or will not be authorised. It came into effect on 1 January 2020 and continues to be overseen by the Investigatory Powers Commissioner.

95. The government's policy is clear: it does not participate in, solicit, encourage or condone the use of torture or cruel, inhuman or degrading treatment for any purpose.

VII. The Right to Life and conditions of detention

A. Detention conditions and suicide in prisons

96. Safety in the prison estate is a top priority for the government. Every death in custody is a tragedy and we continue to strive to reduce incidents of self-harm and suicide in the prison estate. A number of measures have been introduced to address this. Introduction to Suicide and Self-Harm Prevention training reached over 25,000 new and existing HMPPS staff between 2017 and 2019, and over 14,000 of those individuals completed all six modules in that period. The measures introduced in response to the pandemic included the suspension of refresher training for existing staff, but the course has been completed by over 2,000 new prison officers since the start of 2020. As of 2021, we are currently developing a new safety training package for staff which includes updated content on self-harm and suicide prevention as well as communication skills and enhanced mental health training.

97. The government has recruited over 3,500 additional prison officers since 2016, and this uptake of more staff has allowed us to improve staff-prisoner relationships through the rollout of the key worker scheme. Within the key worker scheme, we have introduced a key worker role, which allows staff dedicated time to provide one to one, bespoke support to individual prisoners on a regular basis.

98. We continue to work closely with Samaritans and for 2021–22 we have renewed the grant of £500k for the Listener scheme, through which selected prisoners are trained to provide emotional support to their fellow prisoners. There have been some challenges during the pandemic period, but most local Listener schemes have continued to function throughout, and where attrition in Listener numbers and/or infection control measures have restricted the service, additional efforts have been made to promote the availability of the Samaritans phone service (which has seen an increase in calls from prisons). During 2021–22 we will be providing an additional £190k of grant funding to Samaritans to support the rollout of the postvention service (piloted in 15 prisons in 2019–20) which aims to prevent further suicides – and improve wellbeing more generally – in the period following a self-inflicted death at an establishment by providing additional guidance and support to the Governor.

99. A review has also been conducted into the case management system used to support people in prison thought to be at risk of suicide or self-harm (ACCT). Changes to ACCT have been piloted extensively and will enable staff to provide more tailored support to individuals, particularly taking into account the diverse risks, triggers and protective factors of people in prison. The changes are being rolled out across the prison estate in 2021, supported by guidance and updated training for staff.

100. Debt, and particularly drug related debt, is a significant driver of self-harm across the prison estate, and makes individuals vulnerable to extortion, threats, assaults, bullying, and isolation. The issue of debt is closely linked to the availability of drugs in prison but has also required specific, separate action. As a result, the government has developed a Debt Framework for Governors which is designed to assist in the development of a local debt strategy, in addition to working with a number of individual prisons to develop innovative approaches to tackling debt, with the aim of generating wider learning for the estate and to inform policy development.

101. Prisoners often have complex health and care needs and generally experience poorer mental and physical health than the general population. In order to improve health outcomes and tackle the root causes of offending it is essential we take a whole system approach to healthcare provision for people in the criminal justice system. Health and justice partners have committed to providing a standard of health care in prisons equivalent to that available in the community. The National Partnership Agreement for Prison Healthcare in England has been in place since April 2018. Its associated workplan sets out a detailed programme of work to deliver safe, decent, effective healthcare for prisoners.

102. In England, standard mental health care is the responsibility of NHS England Health and Justice to fund and commission, based on health needs assessments. The Offender Personality Disorder (OPD) pathway is jointly commissioned between HMPPS and NHS

England and through this the appropriate people can access specialist help via several OPD Pathway services. As in all prisons, through OMiC (the Offender Management in Custody model), offender managers have access to psychologically informed advice to help manage those screened into the OPD Pathway who by definition must have complex interpersonal problems. In Wales, mental health care services are commissioned by Local Health Boards.

103. In August 2018, the Scottish government launched its Suicide Prevention Action Plan: Every Life Matters. This built on and succeeded previous Scottish government strategies, the Choose Life strategy and action plan (2002–2013) and the Suicide Prevention Strategy (2013–2016). Every Life Matters was developed following engagement with people affected by suicide, people in local government, mental health and suicide prevention organisations, academics and members of the public. Every Life Matters sets out ten actions in areas such as training and awareness; groups at heightened risk of suicide; support for suicidal crisis; and local prevention planning. The Suicide Prevention Action Plan describes the target to further reduce the rate of suicide by 20% by 2022 (from a 2017 baseline).

104. The National Suicide Prevention Leadership Group (NSPLG) was established in September 2018 by the Scottish government to support the delivery of Every Life Matters. Membership reflects a broad range of delivery partners involved in suicide prevention and includes those with lived experience of the impacts of suicide. The ten actions in Every Life Matters have been supplemented by the eleven recommendations made by the NSPLG in September 2019 in its first annual report and by four further recommendations made by the NSPLG in respect of a suicide-prevention response to the COVID-19 pandemic. These additional recommendations cover issues such as data on suicides; review of deaths by suicide; suicidal crisis support; and public awareness campaigns for suicide prevention. Delivery of the work in respect of the Suicide Prevention Action Plan and subsequent recommendations of the NSPLG is taken forward in partnership with public sector and third sector organisations.

105. The Scottish government has committed through Action 15 of the Mental Health Strategy to increase access to the overall mental health workforce by 800 additional staff in key settings. This will be supported by investment rising to £35 million by 2021–22. This investment has supported the recruitment of 327.5 additional mental health workers in key settings to date, including 19 additional mental health workers recruited in prisons. Funding under the Mental Health Strategy has supported the recruitment of 2 Band 6 Mental Health Nurses at Polmont YOI & Prison in the current year. A plan for further investment in Mental Health Nursing from Action 15 funding has been agreed for 2020/21 and 2021/22.

106. The Scottish Prison Service (SPS) takes all instances of self-harm and threats to suicide very seriously and robust processes are in place to ensure those at risk are identified and supported effectively. Everyone entering prison is assessed for their risk of suicide by a prison officer and, if there are concerns, a healthcare professional. If a person is deemed to be at risk, an immediate care plan is put in place that sets out issues such as appropriate accommodation and a checking schedule.

107. SPS review the number of self-harm incidents on a monthly basis and liaise with local Suicide Prevention Co-ordinators in each prison to monitor these incidents. SPS works closely with NHS and other partners to provide the highest level of care and support; and encourages those with thoughts of self-harm to speak to staff so appropriate support can be provided. This has remained the case throughout the pandemic. Prison and NHS staff have been provided with additional guidance on how to identify those who may be struggling whilst in isolation.

108. Scottish Ministers have enacted two independent reviews to make improvements to the provision of mental health support for young people in custody and to improve transparency in the handling of deaths across the prison estate. HM Chief Inspector of Prisons recently provided an update of the progress of the independent review into the handling of deaths in prison custody. The review will report to the Scottish Cabinet Secretary for Justice next year.

109. In response to the Expert Review of Mental Health for Young People at Polmont, SPS have commenced work on a new health and wellbeing strategy including a mental health section with a bespoke component for children and young people in custody. SPS are further

developing a self-harm policy and a Young People's Estate Learning and Development Strategy which includes sections on mental health. There has been significant investment in staffing and staff training, at HMP YOI Polmont in particular, and suicide prevention processes have been reviewed.

B. Grenfell Tower disaster

Inquiry

110. On 15 June 2017, the day after the Grenfell Tower fire, the government announced that there would be an independent public Inquiry to examine the circumstances leading up to and surrounding the fire. We remain committed to understanding the causes of the fire at Grenfell Tower and learning necessary lessons to ensure a tragedy of its type and scale can never take place again.

111. The [Grenfell Tower Inquiry](#) (the Inquiry) led by Sir Martin Moore-Bick has been separated in to two phases: Phase 1 focussed on the factual narrative of the events on the night of the fire. The Inquiry published its Phase 1 Report on [30 October 2019](#). The government accepts, in principle, all the recommendations that Sir Martin makes for central government and is committed to ensuring that these recommendations are implemented as soon as is possible. The government response, published on 21 January 2020, outlined how we will be taking forward these important changes. On 2 June 2020, the Secretary of State for Housing, Communities and Local Government published a [statement](#), updating Parliament on the government's progress at turning the commitments made in response to the Phase 1 recommendations into real and lasting change to building and fire safety. The Secretary of State published a further [statement](#) on 2 November 2020. On 18 December 2020 the Home Office, in partnership with MHCLG, published the first [quarterly thematic update](#) on the progress against the Inquiry's Phase 1 recommendations. It includes assurances government has received from relevant public authorities, including the London Fire Brigade, National Fire Chiefs Council and emergency services, on their current progress to address and implement the Phase 1 recommendations directed to them. A [second quarterly update](#) was published in March 2021.

112. Phase 2 is currently ongoing and is examining the causes of the fire, including how Grenfell Tower came to be in a condition which allowed the fire to spread in the ways identified under Phase 1. Phase 2 hearings are due to continue through to 2022, following which Sir Martin will prepare his report.

113. In relation to the Committee's comments on the investigation process, the Grenfell Tower Inquiry is being conducted alongside the Metropolitan Police Service's (MPS's) continuing criminal investigation. The MPS has previously stated that both the police and the Crown Prosecution Service (CPS) agree that the criminal investigation must take into account any findings or reports produced by the Grenfell Tower Inquiry, including the Inquiry's final reports for both Phase 1 and Phase 2.

114. In July 2017 the government also announced that Dame Judith Hackitt would lead a review into building regulations and fire safety, with the purpose of making recommendations to ensure that a sufficiently robust regulatory system is established and to ensure that residents are safe and feel safe in their homes. The review examined existing building and fire safety regulations and related compliance and enforcement and was focused on multi-occupancy high-rise residential buildings. Dame Judith's Independent Review of Building Regulations and Fire Safety was published on [17 May 2018](#).

115. Based on the recommendations of the Dame Judith Hackitt review and the Grenfell Inquiry Phase 1 Report the government is delivering a comprehensive programme of legislative and non-legislative building and fire safety reform to ensure real and long-lasting change.

Addressing historic cladding defects

116. To address historic cladding defects, following the Grenfell fire, the government banned the use of combustible materials in exterior walls of all new high-rise residential

buildings. It also appointed an independent [Expert Advisory Panel](#) to advise on the measures building owners should take. This advice was most recently updated on [21 November 2020](#).

117. Although in English law the primary responsibility for the ongoing safety of privately owned buildings fall to the individual building owners, the government has made available a globally unprecedented £5 billion investment in building safety to support building owners, in both the public and private sector, in removing unsafe Aluminium Composite Material (ACM) and non-ACM cladding materials. This includes a commitment by the government to fully fund the cost of replacing unsafe cladding for all leaseholders in residential buildings 18 metres and over in England. In addition, lower-rise buildings, between 11 and 18 metres with a lower risk to safety will gain new protection from the costs of necessary cladding removal, through a long-term, low interest government backed financing arrangement.

118. The government regularly publishes data on remediation progress for both [unsafe ACM](#) and [non-ACM cladding](#) (via the £1 billion Building Safety Fund). On progress towards remediating unsafe ACM cladding, at the end of April 2021, 92 per cent of all identified high-rise residential and publicly owned buildings in England had either completed or started remediation work to remove and replace unsafe ACM cladding. Within this, the percentage of social sector buildings which have either completed or started remediation, rises to 98 per cent. Ministers have made clear to building owners their expectation that remedial works on unsafe ACM cladding should have completed by the end of 2021. Regarding the remediation of unsafe non-ACM cladding, as of 30 April 2021, the Building Safety Fund registration statistics show that 685 buildings have been approved as eligible for the funding and are proceeding with an application. The total amount of funding allocated is £359 million (including for social sector buildings) as of the 30 April 2021.

119. The government is continuing to work with local authorities, fire and rescue authorities and the Health and Safety Executive (HSE) – the home of the future Building Safety Regulator – and has supported existing regulators to take enforcement action whenever appropriate. Enforcement action has been, or is being, taken against at least 61 buildings with unsafe ACM cladding.

Introducing a new regime for fire and building safety

120. The government is in the process of introducing new legislation to reform the building and fire system through the Fire Safety Act (which gained Royal Assent on 29th April 2021) and the draft Building Safety Bill which has undergone pre-legislative scrutiny by the Housing, Communities and Local Government select committee and was announced in the Queen’s speech for introduction in 2021. This legislation will help remedy the systemic failings that resulted in the Grenfell Tower tragedy.

121. The Fire Safety Act clarifies the scope of the Fire Safety Order (FSO) in multi-occupied residential buildings. In particular it places beyond doubt that in multi-occupied residential blocks the FSO applies to the structure, external wall systems and flat entrance doors, ensuring that Fire and Rescue Authorities can confidently take enforcement action where building owners or managers are not compliant.

122. The Fire Safety Act paves the way for secondary legislation which we propose to make after the commencement of the Fire Safety Act in 2021. The Fire Safety Consultation held in 2020 set out government proposals to strengthen fire safety in regulated buildings in England to ensure that people are safe from fire regardless of where they live, stay or work. These proposals are a practical and effective approach to address the risks the Inquiry identified in Phase 1. They will provide residents with greater assurance and deliver fire safety improvements in their buildings and hold Responsible Persons, including building owners and managers, to account.

123. The government will also be introducing the Building Safety Bill in 2021, as announced in the Queen’s speech. The Bill will provide a new framework to ensure there is greater accountability on those responsible for managing building safety risks in all buildings and particularly for those responsible for high rise residential buildings throughout their life cycle.

124. The new building safety and performance regime will be overseen by a new Building Safety Regulator, based in the Health and Safety Executive. The Regulator will implement the more stringent regulatory regime for high rise residential buildings, oversee the safety and performance of other buildings, and support work to improve the competence of building control and industry professionals. The Regulator began operating in shadow form in 2020 and is playing an increasingly prominent role in the government's building safety programme. It is already advising the government on the new regime and will over the coming months develop guidance to ensure that residents, industry and other regulators understand how the new regime will operate, and what they need to do to prepare for it.

125. We are also committed to further strengthening the regulation of construction products. Our draft Building Safety Bill includes provisions for a new stronger and clearer regulatory framework for construction products to ensure products meet specified performance standards and are safe. The Bill will strengthen the powers available to local regulators, while paving the way for a new national regulator with robust enforcement powers to spearhead the new approach. In January 2021 the government announced that the new national regulator for construction products will be established within the Office for Product Safety and Standards (OPSS), who will enforce the rules, provide vital market surveillance so that safety concerns can be spotted and dealt with earlier and remove from the market products that pose a safety risk. It will work with the Building Safety Regulator and Trading Standards to encourage and enforce compliance.

126. As a result of evidence from the Grenfell Public Inquiry relating to manufacturers of construction products gaming the system for testing construction products, in January 2021, the government commissioned an independent review of the construction products testing regime. This is being jointly led by former government Chief Construction expert Paul Morrell OBE and construction legal expert Anneliese Day QC. The review will undertake a critical assessment of the system for testing and certifying construction products. It will examine how the current system can be strengthened, to provide confidence that construction products are safe and perform as labelled and marketed as well as how abuses of the system can be prevented. The review will submit a report to the Secretary of State for Housing, Communities and Local Government later this year with its recommendations.

127. In addition, building on the changes delivered through the Fire Safety Act, a number of additional enhancements will be made to the Fire Safety Order via the Building Safety Bill to further strengthen fire safety in premises regulated by the FSO. These include new requirements for anyone completing a fire risk assessment under the Order to be competent, provisions for sharing fire safety information with residents and an increased level of fine for three offences under the order such as impersonating or obstructing an inspector.

128. Together, the measures in the draft Building Safety Bill, Fire Safety Act, and Fire Safety Order consultation will improve safety standards. Stricter regulations for high-rise buildings will make sure those living in them can feel safe and be safe in their homes – as is their right. All the work conducted by the Building Safety Programme in the UK is driven by a shared determination to prevent the recurrence of a tragedy like Grenfell.

VIII. Elimination of slavery, servitude and the trafficking in persons

129. The National Referral Mechanism (NRM) is the UK's system for identifying and supporting victims of modern slavery.

130. To establish whether a person is a victim of any form of modern slavery (including trafficking) identified in England and Wales or a victim of trafficking in Scotland and Northern Ireland, a two-stage approach is taken.

131. The NRM is a civil process designed to make it easier for the agencies involved in a modern slavery case, including police, local authorities and Non-Governmental Organisations (NGOs), to cooperate and share information about potential victims, to enable their identification and facilitate their access to advice, accommodation and support. For

adults, entry into the NRM is voluntary and therefore consent to enter must be provided by the individual. As children cannot give informed consent all child cases must enter the NRM.

132. Support for potential and confirmed adult victims in England and Wales is provided through a mixture of mainstream and/or specialist support. Support for adult victims referred into the NRM may include:

- Access to government-funded support through the Victim Care Contract (including accommodation, material assistance, financial support, translation and interpretation services, information and advice);
- Outreach support if already in safe, secure and appropriate accommodation (which may include local authority accommodation or asylum accommodation);
- Access to legal aid for immigration advice;
- Medical care and counselling;
- Assistance to return to their home country if not a UK national.

133. First Responder Organisations (including the police, local authorities and some NGOs) identify potential victims and submit referrals to the Single Competent Authority (SCA) within the Home Office. Following referral, the NRM is a two-stage decision making process, as anticipated under European Convention Against Trafficking.

134. Where possible, within five working days the SCA will make a Reasonable Grounds (RG) decision determining whether it ‘suspects but cannot prove’ the person is a potential victim.

135. Following a positive RG decision, adult victims will be provided with a ‘recovery period’ of at least 45 calendar days. This period begins on the day the Reasonable Grounds decision is made and ends when a Conclusive Grounds decision is made. During this period, support and assistance will also be provided on a consensual basis and potential victims will not be removed from the UK.

136. The test to use for the Conclusive Grounds decision is whether, ‘on the balance of probabilities’, there are sufficient grounds to decide that the individual being considered is a victim of human trafficking or slavery, servitude, and forced or compulsory labour.

137. If a victim receives a positive CG decision, a Recovery Needs Assessment (RNA) takes place, to ensure that ongoing support is tailored to the individual recovery needs of the confirmed victim. The RNA informs a tailored move-on plan which is at least 45 days long, with the aim of establishing longer-term stability by helping victims to transition out of Victim Care Contract support and back into a community, as appropriate.

138. Where children are found to be potential victims of human trafficking or modern slavery their safety and welfare are addressed as the priority. Support for child victims of modern slavery is provided through local authorities in England (p. 55 [here](#)). Local authorities are the primary service provider for safeguarding and responding to the needs of child victims of modern slavery, regardless of their nationality or immigration status. Relevant child protection procedures, as set out in statutory guidance ‘Working Together to Safeguard Children 2018’ must be followed if modern slavery or trafficking is suspected.

139. In October 2017, the government announced an ambitious package of reforms to the National Referral Mechanism (NRM).

140. To achieve quicker and more certain decision-making:

- A new Single Competent Authority (SCA) was launched on 29 April 2019 to handle all NRM cases and provide high quality, timely decisions for victims;
- Independent Multi-Agency Assurance Panels of experts (MAAPs) have been set up to review all negative conclusive grounds decisions on cases referred directly to the SCA, adding a third level of scrutiny to such cases;
- A new digital system has been built to support the NRM process and was successfully launched on 13 January 2020. In August 2019, the digital referral form was launched following a successful closed-beta testing with a group of First Responders;

- This new integrated digital system is now used by all caseworkers in the Single Competent Authority when they make decisions on potential victims of modern slavery referred to the NRM. The system makes it easier for those on the front line to refer victims into support by providing a single point for referrals across the UK and seeks to support an effective and efficient case management process in enabling the identification of victims. It aims to provide richer data to better understand referrals to inform future needs for the NRM system and our wider understanding of the threat from modern slavery.
141. To improve identification of victims of modern slavery:
- The UK government has worked with stakeholders to review the role of First Responders, looking at who should be First Responders, how non-statutory organisations can apply to be a First Responder Organisation and how First Responders should be trained. We continue to examine how to best take the recommendations of the review forward;
 - We have produced e-learning to help First Responders to identify potential victims of modern slavery and make referrals into the NRM when appropriate to do so. The e-learning is available through the MSOIC website here: <https://www.policingslavery.co.uk/transforming-our-response/training-delivery/first-responder-training/>.
142. To improve support for adult victims before, during and after the NRM:
- We published statutory guidance under Section 49 of the Modern Slavery Act 2015 in March 2020, providing a clear framework of support for some of the most vulnerable people in our society. The guidance clarifies the roles and responsibilities of frontline staff and local stakeholders and sets out the support victims are entitled to and how this is accessed;
 - We recognise that modern slavery remains a rapidly evolving area and it is important that the guidance is continually updated to ensure it is reflective of current policy and practice. We have therefore set up the Statutory Guidance Reference Group which consists of permanent representation from stakeholders with direct interest in the guidance to provide expert advice and opinion in their field. The group met for the first time in July 2020 and will continue to do so quarterly;
 - We have been working with six Local Authorities to develop and disseminate best practice for supporting victims to transition into communities and access local services. The evaluation was published in October 2020;
 - We have worked with the Care Quality Commission (CQC) to develop an inspection regime based on the Human Trafficking Foundation's updated Slavery and Trafficking Survivor Care Standards. We are currently in the process of working with CQC and support providers to launch this inspection regime. The regime aims to drive up quality standards and highlight best practice in the support provided to victims of modern slavery.
143. To improve support for child victims:
- In addition to the statutory support available for children, Independent Child Trafficking Guardians (ICTGs) are now available in one third of local authorities in England and Wales. ICTGs are an additional source of advice and support for all potentially trafficked children, irrespective of nationality, and somebody who can advocate on their behalf. The ICTG service model provides one-to-one support for children who have no one with parental responsibility for them in the UK via an ICTG Direct Worker and an expert ICTG Regional Practice Co-ordinator for children where there is someone with parental responsibility for them in the UK. The continued national roll-out of ICTGs will be progressed as part of the recently established NRM Transformation Programme. The next phase of ICTG rollout targets the areas with the highest need. Throughout the rollout, we will continue to review how the needs of individual children are best met at local level through the programme.

144. The Scottish Parliament unanimously passed the [Human Trafficking and Exploitation \(Scotland\) Act \(2015\)](#) to consolidate and strengthen existing criminal law against human trafficking. The Act established a single offence of ‘human trafficking’ to cover all types of exploitation and trafficking in human beings and an offence of slavery, servitude and forced or compulsory labour. Both offences came into force on 31 May 2016.

145. The 2015 Act also raised the maximum penalty for trafficking to life imprisonment, and placed support for victims on a statutory basis. Further, it required Scottish Ministers to prepare and publish a Trafficking and Exploitation Strategy. This was published in May 2017 having been developed in partnership with a range of interests, including listening to victims themselves. The Strategy sets a clear vision to eliminate human trafficking and exploitation.

146. The Strategy sets out three Action Areas that will focus work towards the vision:

- Identify victims and support them to safety and recovery;
- Identify perpetrators and disrupt their activity; and
- Address the conditions, both local and global, that foster trafficking and exploitation

147. The Strategy also identified a fourth key area of work around child victims of trafficking and exploitation.

148. Further information setting out progress implementing the Trafficking and Exploitation Strategy is detailed within annual progress reports published by the Scottish government in 2018 and 2019. As required by the 2015 Act, a review of the Strategy was published in 2020 alongside the latest annual progress report.

149. Section 9 of the Human Trafficking and Exploitation (Scotland) Act 2015 empowers Scottish Ministers to specify the period during which the Scottish Ministers must secure for the adult the provision of such support and assistance as they consider necessary given the adult’s needs, where there are reasonable grounds to believe that an adult is a victim of an offence of human trafficking and exploitation, an offence under section 1 of the Act. Regulations came into force on 1 April 2018 setting this period of support to be the earlier of 90 days or until such times as a Conclusive Grounds (CG) decision is reached.

150. Section 10 of the 2015 Act contains powers for Scottish Ministers to make regulations about the support and assistance which may be provided to an adult who is, or appears to be, a victim of an offence under section 4 of the 2015 Act; namely slavery, servitude and forced or compulsory labour. Regulations came into force on 1 April 2018 setting out the process for determining whether an adult is a victim of an offence under section 4; the support and assistance to be provided to the victim; and the period for which it is provided, which is identical to that for a victim of an offence of human trafficking and exploitation.

151. NRM referrals in Scotland have risen each year since 2013 and have increased from 150 in 2016 to 512 in 2019. The increase in human trafficking referrals in Scotland reflects in part ongoing work with partners to raise awareness and improve training and practice.

152. Section 12 of the 2015 Act states that where a relevant authority has reasonable grounds to believe that a person may be a victim of an offence of human trafficking, and the authority is not certain of the person’s age but has reasonable grounds to believe that the person may be a child, then until an assessment of the person’s age is carried out by a local authority, or the person’s age is otherwise determined, the relevant authority must assume that the person is a child for the purposes of exercising its functions under the relevant enactments. The Scottish government published [Age-Assessment Practice Guidance](#) in March 2018 to reflect these changes. Section 40 of the 2015 Act, a child is defined as a person under 18 years of age in relation to the crime of trafficking. Support and protection for child victims of trafficking and sexual exploitation should be provided within the context of Scotland’s child protection system and the national [Getting It Right For Every Child \(GIRFEC\)](#) approach to improving outcomes for children and young people.

153. Work is underway to enact Section 11 of the 2015 Act which places a duty on Scottish Ministers to provide an Independent Child Trafficking Guardian for all unaccompanied asylum seeking children in Scotland, where there is reason to believe they might have been or are at risk of being trafficked, and for whom no-one in the UK has parental rights and

responsibilities. The Scottish Guardianship service, which is funded by Scottish government, will continue to provide guardians to this cohort of children until the new service is in operation.

IX. Treatment of aliens, including migrants, refugees and asylum seekers

A. Deportation with assurances

154. No removals under deportation with assurances have taken place since 2013. Any future cases would require new agreements to be negotiated with the Receiving States.

155. Returns are only undertaken when the UK government and courts deem it is safe to do so. Those returned are, by definition, foreign nationals who have been found as a matter of law not to need the UK's protection, and who have no legal basis of stay in the UK. It would be inappropriate for the UK to assume any ongoing responsibility for foreign nationals when they return to the country they are a national of. The UK is under no obligation to monitor those who are returned and therefore no routine monitoring takes place.

156. Should the UK government receive any specific allegations that a returnee has experienced ill-treatment on return to their country of origin, these would be investigated.

157. The UK has a long and proud tradition of providing protection to those who need it. None of this has changed now the Transition Period has ended.

158. The Joint Political Declaration on Asylum and Returns agreed with the EU in December 2020 took note of the UK government's intention to engage in bilateral discussions with the most concerned Member States to discuss suitable practical arrangements on asylum, family reunion for unaccompanied minors or illegal migration, in accordance with the parties' respective laws and regulations.

159. This declaration aligns with the commitment the UK government already made in Parliament during the passage of the Immigration and Social Security Coordination (EU Withdrawal) Act 2020, to pursue bilateral negotiations on post-transition migration issues with key countries with whom we have a mutual interest, including on the family reunion of unaccompanied asylum-seeking children and on returns of asylum seekers. The UK and EU Member States will continue to work closely together on shared migration objectives.

160. Our existing Immigration Rules already provide routes for people to reunite with eligible family members in the UK. These routes have not been affected by our exit from the EU or the end of the Transition Period.

161. During the passage of the Immigration and Social Security Coordination (EU Withdrawal) Act 2020, the government also committed to review of safe and legal routes to the UK for asylum-seekers, refugees and their families. We also introduced important statutory commitments in Section 3 of the Act, specifically to:

- Review legal routes by which protection claimants who are in the EU can enter the UK – including for family reunion of unaccompanied asylum-seeking children;
- Publicly consult on legal routes for family reunion for unaccompanied asylum-seeking children in the EU;
- Lay a statement providing further details of the aforementioned review and consultation before Parliament by 10 February 2021, which is now complete; and
- Prepare a report on the outcome of the review, publish that report and lay it before Parliament.

162. Given the Act's scope as a piece of EU withdrawal legislation, the UK government's amendment was required to focus on those in EU Member States. However, we will review legal routes for asylum seekers, refugees and their families from all countries, not just EU

Member States. This is in line with our new, global approach to the future immigration system.

163. Gibraltar. Under the Governor's Emergency Powers Act 2017, the Governor of Gibraltar may make regulations to provide for or enable the detention of persons and the deportation or exclusion of persons from Gibraltar, where he has made a Proclamation of Emergency under section 4 (1) of this Act and certain conditions are satisfied.

B. Statelessness

164. The stateless leave route has been in operation in the UK since Part 14 of the Immigration Rules was laid in April 2013. Applications for the route are made online at <https://www.gov.uk/stay-in-uk-stateless>.

165. Legal aid is not routinely available for statelessness applications, except for applications by separated migrant children, who are in scope of legal aid funding. Otherwise, legal aid funding for stateless leave applications may be available via the Exceptional Case Funding (ECF) scheme. ECF is provided where the legal services are out of scope of the legal aid scheme (as defined by LASPO 2012) but where failure to provide legal aid would breach or risk breaching the individual's rights under ECHR or retained EU enforceable rights. All applications for legal aid, including ECF, are subject to the statutory means and merits tests. More detail on the UK's legal aid system is set out below, [in response to paragraph 22 Legal Aid].

166. Applicants who qualify for stateless leave are granted five years leave to remain, after which they can apply to stay in the UK permanently (indefinite leave to remain). Those who do not qualify for stateless leave will have their applications refused and they will have a right to administrative review. More information about administrative reviews can be found at <https://www.gov.uk/government/publications/administrative-review>.

167. UK Visas & Immigration (UKVI) have a dedicated team – the Statelessness Determination Team – who make decisions on stateless leave applications. The guidance which the decision-makers followed is published at <https://www.gov.uk/government/publications/stateless-guidance>. All decision-makers are trained in line with the published guidance when they join the team and whenever there are any changes to policy. Training is also undertaken continuously, for example where other training needs have been identified through quality assurance practices. All UKVI decision-makers also must complete regular mandatory training on thematic issues such as data protection and safeguarding.

168. The standard of proof applicable to stateless leave applications is a balance of probabilities. This was confirmed by the Court of Appeal in *AS (Guinea) v SSHD* [2018] EWCA Civ 2234.

169. In all cases, the burden of proof rests with the applicant, who is expected to cooperate and provide sufficient evidence to demonstrate that they are stateless and that there is no country to which they can be removed for purposes of permanent residence. Where applicants have taken reasonable steps to obtain the required information in support of their application, but have been unable to do so, for example because they do not have the resources or knowledge to obtain information about the nationality laws of a given state, then decision-makers will assist the applicant by interviewing them to elicit further evidence, undertaking relevant research and, if necessary, making enquiries directly with the relevant authorities and organisations.

170. There are two scenarios in which a person who claims to be stateless could be detained, they are:

- A person who is unlawfully present in the UK may be lawfully detained in order to ascertain their identity and nationality. Identity checks are appropriate in cases of those who claim to be stateless, as the results of those checks may reveal evidence of the person's nationality. Once appropriate identity checks have been completed (including biometric and security checks), detention will be further reviewed in

accordance with published guidance, for example detention and adults at risk, which can be found at: <https://www.gov.uk/government/publications/offender-management>;

- Where a person is unlawfully present in the UK, detention may be used to enforce return when alternatives have been exhausted. The preferred means of return is a voluntary one. Where voluntary return has been refused and/or is not appropriate, the lawful power to detain to enforce return may be utilised. An individual will only be detained if there is a realistic prospect of return within a reasonable period of time – this is where return has been agreed in advance by the receiving country (or in the alternate, that agreement is foreseeable within a reasonable period of time). Where the person is a national of the receiving country, a valid travel document or passport will be used to facilitate return. A receiving country may also be a third country that has granted the person permission to remain or is otherwise responsible for determining the person's case.

171. In Scotland, people applying for legal aid funding via the Scottish legal aid system are not subject to a residency test and the Scottish Ministers have no plan to introduce one. The legal aid system in Scotland is flexible in the way that it operates and if an individual does not have a bank account or financial records, this would not necessarily mean that legal aid would be denied. SLAB would only look for evidence that could reasonably be provided, depending on the circumstances.

C. Deprivation of Citizenship

172. The Secretary of State for the Home Department may deprive an individual of their British citizenship if satisfied that such action is 'conducive to the public good' or if the individual obtained their British citizenship by means of fraud, false representation or concealment of material fact.

173. The government considers that deprivation on conducive grounds is an appropriate response to activities such as: national security, including espionage and acts of terrorism directed at this country or an allied power; war crimes; and serious and organised crime.

174. When seeking to deprive a person of their British citizenship on the basis that to do so is 'conducive to the public good', the law requires that this action only proceeds if the individual concerned would not be left stateless (no such requirement exists in cases where the citizenship was obtained fraudulently).

175. The UK is committed to tackling the threat posed to us by high harm individuals, and the deprivation power is one of a number of vital tools to protect the UK. It will only be used when it is necessary and proportionate to do so.

176. Any individual who is served notice of a deprivation decision and subsequent order depriving him or her of British citizenship has a right to appeal that decision. In some instances that appeal will be certified into the Special Immigration Appeal Commission (SIAC) by the Secretary of State if the decision was taken wholly or partly in reliance on information which in his/her opinion should not be made public:

- Since 2011, the FCDO has advised against all travel to Syria. All services of the British Embassy in Damascus are suspended;
- Those individuals who remain in the conflict zone include some of the most dangerous, choosing to stay to fight for or otherwise support Daesh. These individuals pose a greater threat to the UK than individuals who returned earlier in the conflict. As such, the government's assessment remains that risks posed by those who travelled to Syria to align with Daesh are generally best managed outside the UK, although each case is considered on its own merits. Where individuals do return, they will be investigated and, where there is evidence that crimes have been committed, they should expect to face prosecution;
- It is essential that we do not make judgements about the national security risk someone poses based on their sex or age. Women who travelled to join Daesh can, and in many cases do, pose as significant a risk to our national security as returning male fighters;

- The government is sympathetic to the plight of British unaccompanied minors and orphans in Syria and will seek to facilitate the return of those children to the UK where feasible, subject to national security concerns and on a case-by-case basis. As the UK Foreign Secretary has previously stated: Safely facilitating the return of orphans or unaccompanied British children, where possible, is the right thing to do;
- In line with this policy, the government has already facilitated the return of a small number of orphaned and unaccompanied British children to the UK.
- The process is far from straightforward, however, not least because the UK has no consular presence within Syria from which to provide consular assistance as well as the difficulties posed by COVID-19.

177. People applying for legal aid funding via the Scottish legal aid system are not subject to a residency test and the Scottish Ministers have no plan to introduce one. The legal aid system in Scotland is flexible in the way that it operates and if an individual does not have a bank account or financial records, this would not necessarily mean that legal aid would be denied. SLAB would only look for evidence that could reasonably be provided, depending on the circumstances.

D. Immigration detention

178. The UK does not have any formal time limit on the detention of individuals. However, we do not detain indefinitely. In order for detention to be lawful, there must be a realistic prospect of removal within a reasonable timescale. Once a person is in detention, regular reviews are undertaken to ensure their detention remains lawful, appropriate and proportionate. Where barriers to removal are raised after an individual has been detained and it is no longer possible to enact that removal within a reasonable timeframe, continued detention may be unlawful. The government is held to account on this by the courts, and by a series of safeguards that ensure proper and continuing scrutiny of decisions to detain.

179. In the year ending March 2021, the overwhelming majority of people who left detention (95 percent) were detained for less than 4 months, and 79 percent were detained for 28 days or less. It is only in the most complex cases, almost always where serious and/or persistent criminality is involved, or if they have subsequently claimed asylum while in detention, that detention exceeds these timescales. In the year ending March 2021, less than one per cent of people were detained for more than six months, clearly demonstrating the government's commitment to detaining for the shortest necessary period.

180. Initial bail hearings for all detained people are usually listed within three to six days. Subsequently, a detained person can apply for immigration bail at any point of their choosing. Automatic bail referrals ensure that where an individual does not make a bail application themselves, they will still have independent judicial oversight of their ongoing detention. They provide an additional safeguard and do not affect the rights of all detained persons to apply for bail at any time, regardless of the timeframe for automatic referrals.

181. To facilitate this process there is provision within Immigration Removal Centres (IRCs) to provide those who are detained with access to legal advice should they require it.

182. Detained individuals must be advised of their right to legal representation, and of how they can obtain such representation, within 24 hours of their arrival at the centre. The Legal Aid Agency (LAA) operates free legal advice surgeries in IRCs in England. Individuals who are detained are entitled to receive up to 30 minutes of advice regardless of financial eligibility or the merits of their case. There is no restriction on the number of surgeries an individual may attend. If an individual who is detained requires substantive advice on a matter which is in scope of legal aid, full legal advice can be provided if the statutory legal aid means and merits criteria are met.

183. At all IRCs, individuals who are detained and who already have legal representation may receive visits from their advisors by appointment. These visits take place in private, in designated interview rooms within sight (but not earshot) of detainee custody officers.

184. In light of the COVID-19 pandemic, restrictions have been introduced on visitations to IRCs. However, legal representatives may be able to visit an IRC if no other means of contact is possible, or to visit individuals facing removal from the UK within 7 days. Safe systems of work are in place to ensure the safety of detained individuals, onsite staff and visitors during these visits.

185. To ensure detained individuals are able to make and maintain contact with legal representatives during this time, all IRC residents receive £10 weekly mobile phone credit (paid directly to their phone or through top-up cards) and have access to landline telephones on request, fax machines, email and video calling facilities.

186. Following a recommendation made in Stephen Shaw's 2016 Review into the Welfare in Detention of Vulnerable Persons, the Detention Gatekeeper was introduced in June 2016 to assess a person's suitability for detention and consider any vulnerabilities on a case-by-case basis before detention is authorised. It operates independently from all referring teams and detained casework commands to ensure decisions to detain are made only where there are no other options available to enforce the return of individuals who refuse to leave voluntarily and who continue to remain unlawfully in the UK.

187. Once initial detention has been authorised, this decision is reviewed on a regular and ongoing basis at increasing levels of seniority. Case Progression Panels evaluate detention at three-month intervals, and automatic bail referrals take place for non FNOs at four months.

188. Case Progression Panels operate as an additional safeguard, introduced in 2017, to scrutinise the use of ongoing detention and provide advisory recommendations to casework teams. Following the success of a recent pilot to introduce independent members onto Case Progression Panels, our intention is to immediately begin to formalise the presence of permanent independent panel members within the CPP process.

189. With regard to detention of parents of young children, we do not routinely detain children. However, family groups can be held for up to 72 hours pending their removal from the UK in specially certified accommodation, on the advice of an independent family returns panel. In exceptional circumstances and Ministerial clearance, this may be extended to 1 week. They will receive additional welfare support whilst detained.

190. Section 55 of the Borders, Citizenship and Immigration Act 2009 make clear the duty to conduct all immigration functions with regard to the need to safeguard and promote the welfare of children who are in the United Kingdom.

191. When immigration powers are used to detain or remove a family, the underpinning principle within article 8 of the ECHR, is that members of the family remain together wherever possible. UK guidance is clear that separating families for detention and removal purposes must always be justified as being necessary and proportionate and must have regard to the need to safeguard and promote the welfare of any children concerned.

192. The guidance provides that nursing mothers must not be separated from the child they are nursing, and that a child must not be separated from both adults for immigration purposes, or from one, in the case of a single-parent family, if the consequence of that decision is that the child is taken into care.

193. The separation of children from their parents for immigration purposes can only be justified in exceptional circumstances for safeguarding reasons where the welfare of the child is compromised by their remaining with a parent, for example to prevent children from being at risk of, or witnessing, disruptive or violent behaviour, or when the Independent Family Returns Panel (IFRP) advises that a separation is in a child or the children's best interests.

194. Separation of individuals from their family unit may sometimes be required, when it is necessary and proportionate to do so, to enable immigration functions to be effectively carried out. However, where children are involved, the primary consideration must be their best interests. All factors must be fully considered when deciding whether to separate a child from their parents, and the welfare of the child must be safeguarded at all times.

195. With regard to the Adults at Risk in Immigration Detention Policy, following Stephen Shaw's follow up review of the welfare of vulnerable people in immigration detention in 2018, the UK has carried out a considerable amount of work aimed at establishing the

viability of options for implementing his recommendations relating to the adults at risk in immigration detention policy. Initial proposals were discussed with representatives of non-governmental organisations on 10 August 2020. Since then, however, this work has been paused to allow further consideration of the likely operational impact in the light of the reforms to the immigration system on which we intend to introduce a Bill next year.

196. Alongside this, work on amending the Detention Centre Rules 2001 has also been paused. In the meantime, we intend to proceed with work on rationalising the policy on the detention of victims of modern slavery and on putting in place standards in respect of the submission of external medical reports.

197. With regard to the use of alternatives to detention with regard to migrants at risk of detention, in accordance with Article 5(1) of the ECHR the immigration detention system operates with a presumption of liberty and therefore with a presumption in favour of a grant of Immigration Bail. The vast majority of people (95 per cent) liable to be removed from the UK already reside within the community following a grant of Immigration Bail, clearly demonstrating the use of alternatives to detention as our primary avenue for managing those without status in the UK. People residing in the community are managed by Immigration Enforcement teams, and we are introducing new satellite tracking devices to provide more efficient electronic monitoring of foreign national offenders on immigration bail.

198. As part of the UK's immigration detention reform programme, we are conducting a series of pilots exploring alternatives to detention, with the first pilot being 'Action Access'. Now in its second year, Action Access has provided women who would otherwise be detained with a programme of support in the community, including case management support. In June 2020 we signed a contract with the King's Arms Project in Bedford for the second pilot in the series, the Refugee and Migrant Advisory Service, which is supporting both men and women. The first participants joined this second pilot at the end of August, and it is now at around three quarters of full capacity, with recruitment ongoing.

199. We are working with the United Nations High Commissioner for Refugees (UNHCR) on these pilots and they have appointed the National Centre for Social Research (NatCen) to independently evaluate this work. These evaluations will be published, with the evaluation report of the 'Action Access' pilot scheduled for Summer 2021.

X. Access to Justice, independence of the judiciary and Fair trials

Legal aid

200. Legal aid is available for asylum cases, for victims of domestic abuse and modern slavery, for separated migrant children and for immigration cases where someone is challenging a detention decision. All applications for legal aid are subject to statutory means and merits tests.

201. Exceptional Case Funding scheme (ECF) is available for any matter where failure to provide legal aid funding would breach, or risk breaching, the European Convention on Human Rights or enforceable retained EU law, subject to the statutory means and merits tests. The Ministry of Justice are working with the Legal Aid Agency to update the Exceptional Case Funding process to ensure this is as simple and easily accessible as possible. The review intends to:

- Improve online and offline signposting to the scheme so that people who may be eligible are made aware and can find the scheme quickly;
- Give clear and straightforward information on requirements for each stage of the ECF process, so that it is easy to navigate the application process effectively and efficiently;
- Review the application forms and questions;
- Review the evidence requirements and explain what is needed, why it is required and offer alternatives when producing the required evidence is not possible;

- Enable charities and lawyers to share knowledge and build networks around ECF, exchanging best practices and establishing partnerships;
- Review the customer service offering to create a service that works for both internal and external users.

202. The current ECF grant rate is 65%, the highest on record, showing the ECF scheme is providing support for those who need it.

203. As part of the Legal Support Action Plan, we announced a review of the means test for legal aid. It was previously stated that the review would conclude in Summer 2020. However, due to COVID-19, we now plan to conclude the review in Spring 2021. At this point we will publish a full consultation paper setting out our future policy proposals and seek to implement any final recommendations as soon as practicable following public consultation. The review is considering the full range of means-testing criteria and assessing the effectiveness with which the means test protects access to justice, particularly for those who are vulnerable.

204. The Scottish government consulted with the public on proposals for reform of Legal Aid in Scotland in 2019. The consultation sought views on developing a user-centred public service, that would be flexible to adapt to user need and emerging priorities. In the consultation, the Scottish government reaffirmed that it currently has no intention to reduce the wide scope of actions for which legal aid is presently available. Analysis of the consultation responses was published on 16 June 2020. Overwhelmingly, consultation respondents supported not only retaining the current scope of legal aid but also widening it; specifically for legal aid provision for group actions, tribunals and issues related to Human Rights. Consultation respondents also supported more targeted provision of legal aid as well as improved access to legally aided services in certain geographical areas or for groups with specific legal needs, such as domestic violence. It is intended that this developing programme of reform will be taken forward in the next Parliamentary session.

XI. Right to privacy

205. The Investigatory Powers Act 2016 (IPA) governs the powers available to the state to obtain communications and communications data. (IPA) introduced unprecedented transparency and world leading privacy, redress, and oversight arrangements which strengthen previous safeguards, such as those set out in the Regulation of Investigatory Powers Act 2000 (RIPA), applying to the use of investigatory powers. The IPA makes clear the circumstances in which various investigatory powers may be used and the strict safeguards that apply, ensuring that any interference with privacy is strictly necessary, proportionate, authorised, and accountable. Those exercising the powers are subject to the requirements of the ECHR. The Act requires that the use of investigatory powers must always be justified on the grounds of both necessity and proportionality: it must be necessary for the purpose specified; and the action authorised must be proportionate to the outcome sought to be achieved. This means that:

- If an interference with privacy is not necessary, it cannot be lawful; or
- If some level of interference is necessary, but the actual interference being proposed would be disproportionate to that end, then it would also be unlawful.

206. The IPA sets out general duties regarding privacy⁶ to make clear that the protection of privacy is at the heart of this legislation. Public authorities must have regard to:

- Whether the same effect could reasonably be achieved by less intrusive means;
- Whether a higher level of protection is required because targeted information is particularly sensitive (e.g. legally privileged material, journalistic material including that identifying a source, communications of members of Parliament);
- The public interest in the integrity and security of telecommunications systems.

⁶ Section 2 of the IPA.

207. Lord Anderson QC, the former Independent Reviewer of Terrorism Legislation – supported by an expert team of his own choosing – concluded in a report in 2015 which set out the operational case for these powers and the need to update such legislation that:

*“Whether a broader or narrower definition is preferred, it should be plain that the collection and retention of data in bulk does not equate to so-called “mass surveillance”. Any legal system worth the name will incorporate limitations and safeguards designed precisely to ensure that access to stores of sensitive data is not given on an indiscriminate or unjustified basis. Such limitations and safeguards certainly exist in the [Investigatory Powers] Bill”.*⁷

208. The IPA’s legislative framework is supported by statutory codes of practice on each of the eight key investigatory powers, providing a transparent and comprehensive explanation of how powers are to be used by public authorities. The public authorities using investigatory powers are required to have regard to the codes of practice when carrying out conduct under the IPA.

209. The IPA introduced a double lock mechanism, whereby a decision by the Secretary of State, (or Scottish Minister and in certain circumstances, a law enforcement chief) is required to authorise specific use of the most intrusive powers and is also subject to mandatory review and approval by an independent Judicial Commissioner before it can have legal effect. The Investigatory Powers Commissioner (IPC) is also responsible for post hoc oversight of the activities of public authorities and is assisted in this function by the Judicial Commissioners, by a team of experienced inspectors, and by a panel of technology advisers. The IPC, who is a former High Court judge, and his inspectors have unfettered access to all locations, documentation and information systems as necessary to carry out their full functions and duties, with public authorities obliged to comply under the IPA. The IPC is obliged to make an annual report to the Prime Minister on the use of investigatory powers under the IPA. This report must be published and laid before Parliament.

210. Moreover, individuals who believe themselves to have been subject to unlawful surveillance have the right to redress by bringing a case before the Investigatory Powers Tribunal (IPT).

211. The IPT is a court independent of government that has powers to investigate complaints and, if upheld, direct suitable redress.

212. Amendments to the communications data regime under the IPA were made in response to the Court of Justice of the European Union rulings on data retention and acquisition. Consequently, a serious crime threshold for events data (such as call histories and location information) has been implemented and independent authorisation of most communications data requests is provided by the Office for Communications Data Authorisations (OCDA) which operates under the authority of the IPC.

Bulk Communications Data

213. Part 6, Chapter 2 of the IPA provides for the bulk acquisition of Communications Data by the UK’s Intelligence Community (UKIC). UKIC have the power to acquire this information when a bulk acquisition warrant is granted, and the stringent safeguards set out in the Act are met. The collection of large volumes of data is essential to enable that data to be filtered and search criteria applied so that fragments of intelligence can be gathered together during the course of an investigation.

214. Key limitations and safeguards on the use of bulk powers include the following points:

- Bulk powers can only be used when a warrant has been issued and the use of bulk warrants is limited to UKIC;
- Warrants for the use of these powers are only issued where it is both necessary and proportionate to do so:

⁷ <https://www.gov.uk/government/publications/investigatory-powers-bill-bulk-powers-review>.

- At least one of the grounds for issuing a bulk communications data warrant must always be that the warrant is necessary in the interests of national security;
- Each warrant must be clearly justified and balance intrusions into privacy against the expected intelligence benefits;
- The ‘double lock’: all warrants must also be approved by a Judicial Commissioner, who must review the Secretary of State’s conclusions about the necessity and proportionality of the notice;
- Bulk warrants must also specify the more detailed operational purposes for which material acquired under those warrants may be examined. An operational purpose may not be specified on an individual bulk warrant unless it is a purpose that is specified on the central list maintained by the heads of the UKIC agencies. This central list of operational purposes must be approved by the Secretary of State, reviewed on an annual basis by the Prime Minister, and shared every three months with the Parliamentary Intelligence and Security Committee;
- Selection for examination of any data acquired and retained under a warrant must always be necessary and proportionate for at least one of the operational purposes specified on the warrant;
- A record of the reasons why it is necessary and proportionate to examine bulk data for the applicable operational purpose(s) must be created before the data is examined. These records must be retained by UKIC and are subject to external audit by IPCO;
- Deliberate selection for examination of bulk data in breach of the safeguards of the IPA has been made a criminal offence and may be subject to criminal prosecution;
- Further guidance on how the necessity and proportionality tests must be applied in practice is provided in the relevant Codes of Practice published alongside the IPA.

Overseas Data Sharing under the Investigatory Powers Act 2016

215. The UK government neither confirms nor denies whether or not data is shared by UK agencies with either foreign liaison partners or law enforcement agencies. If such activity were to be undertaken UK authorities would:

- Follow the principles and approaches to data sharing set out in respective handling arrangements and policy guidance, including the approach taken by any other domestic agency which may have shared data with the receiving party, having regard to any protocols/understanding that the other agencies may have used or followed;
- Consider the nature of the data due to be disclosed;
- Consider the nature/remit of the body to which the data was due to be disclosed;
- Depending on the individual circumstances, seek assurances that the data would be handled in accordance with IPA safeguards;
- If relevant to the particular circumstances, seek assurances that its use was in accordance with the UK’s international obligations.

216. Any data shared with an organisation would be shared on the basis that it must not be shared beyond the recipient organisation unless explicitly agreed in advance or by approved mechanisms.

XII. Rights of the Child

A. Corporal punishment

217. The UK government does not condone any violence towards children and has clear laws to deal with it. Corporal punishment is already prohibited in all schools, children’s homes and registered early years settings.

B. Age of criminal responsibility

218. The UK government has no plans to raise the minimum age of criminal responsibility in England and Wales. We have provided further details in the UK's Mid Term Report 2019. The UK government believe that children aged 10 can differentiate between bad behaviour and serious wrongdoing, and it is right that they should be held accountable for their actions.

219. The UK government believes that setting the age of criminal responsibility at 10 years provides flexibility in dealing with children and allows for early intervention in a child's life, with the aim of preventing subsequent offending.

220. Not all crimes committed by children result in prosecution – the age and maturity of a child is always taken into account when considering the most appropriate response to offending. Serious crimes committed by children are rare, there are a range of alternatives to prosecution available to the police to resolve less serious offences and prevent further offending. Most children aged 10–14 are diverted from the youth justice system or receive an out of court disposal.

221. The age of criminal responsibility is currently eight in Scotland.

222. Scotland has two rules which relate to the age at which a child can be held criminally responsible. The first is the age below which a child is deemed to lack the capacity to commit a crime. This age is currently eight by virtue of the rule contained in section 41 of the Criminal Procedure (Scotland) Act 1995 which states that it “shall be conclusively presumed that no child under the age of eight years can be guilty of an offence”. The second is the age of prosecution. This is currently age 12. Children below the age of 16 can be prosecuted only on the instructions of the Lord Advocate by virtue of sections 41A and 42(1) of the 1995 Act.

223. The Age of Criminal Responsibility (Scotland) Bill was passed unanimously the Scottish Parliament on 7 May 2019 and received Royal Assent (becoming the Age of Criminal Responsibility (Scotland) Act 2019) on 11 June 2019. Votes on raising the age of criminal responsibility (ACR) to 14 years old and 16 years old were defeated by 108 votes to 11 and 110 votes to 10 respectively. Once fully commenced, the Act will increase the age of criminal responsibility from 8 to 12 years of age. Implementation of the Act is taking place as quickly and safely as possible.

224. The increase in the ACR from 8 to 12 is a significant reform that will need to be carefully evaluated to identify further policy, legislative, system and practical changes that may be required to ensure that the Act has been safely implemented. The Act provides that the Scottish Ministers must carry out a review within 3 years of the commencement of section 1 of the Act (which increases the ACR to 12). The review is to evaluate the operation of the Act generally as well as to consider a future ACR. Evaluation of the Act will ensure that operational learning and experience about how the legislation and associated change programme operates for the under-12 age group can be taken into account as part of the overall consideration of a future ACR in Scotland.

XIII. Participation in public affairs

225. The UK government believes that when a citizen commits a crime that is sufficiently serious to detain them in prison, they have broken their contract with society, and to such an extent that they should not have the right to vote in prison. Prison means the loss of a number of rights and freedoms – not least the right to liberty and freedom of association. The loss of voting rights whilst in prison is thus a proportionate curtailment of such civic rights.

226. The UK government has now implemented a package of administrative measures in response to the *Hirst* (and subsequent) judgments. Those measures include the amending of prison guidance to address an anomaly where offenders who were released back into the community before the end of the custodial part of their sentence under the home detention curfew scheme (HDC) could vote, but those in the community released on temporary licence (ROTL) could not vote.

227. David Lidington, as the then Secretary of State for Justice, announced the change in Parliament in late 2017. The change in voting rights for those released under ROTL took effect in 2018. Amended prison guidance was issued to governors in 2018, including guidance on who may be eligible to vote and where further details can be found. The Electoral Commission also published updated information. The UK government has also worked with the judiciary to make sure that convicted offenders know, when they are sentenced, that while they are in prison, they will lose the right to vote. This addresses the specific concern of the *Hirst* judgment that there was not sufficient clarity in confirming to convicted offenders that they cannot vote in prison.

228. On 4 December 2018, the Committee of Ministers of the Council of Europe noted ‘with satisfaction’ the administrative measures proposed, including that set out above. The Secretariat concluded that they constituted “an adequate response” to the *Hirst* (and subsequent) judgments.

229. [The Scottish Elections \(Franchise and Representation\) Act 2020](#) extended the right to vote in Scottish Parliament and local government elections to convicted prisoners serving sentences of 12 months or less from 2 April 2020.
