

UNITED KINGDOM

The United Kingdom is a state party to the United Nations Convention Relating to the Status of Refugees and its Protocol, as well as to the International Covenant on Civil and Political Rights, and its Second, but not First, Optional Protocol. During 2000, 80,315 people filed applications for asylum (excluding dependents); at the end of the year, 89,100 applicants were awaiting an initial decision on their claims.¹ In 2001, approximately 71,700 people applied for asylum; at year's end, 39,400 applications were pending an initial decision.² At the end of 2001, some 1,400 asylum seekers were being detained under the Immigration Act, a sharp³ increase from the 741 asylum seekers detained at any one time in 1998.⁴ When all of the new secure removal centers are operational, about 4,000 will be detained. In the first 3 months of 2002, over 19,500 asylum applications were filed.⁵

There is no mandatory or automatic detention. Asylum seekers whose claim is deemed to be "manifestly unfounded" by the Secretary of State can be detained by immigration officers. Asylum seekers who apply at the border may also be detained by immigration officers.⁶ Grounds for detention as of May 2002 include investigation into identity or the basis of any asylum claim, prevention of absconding and assurance of removal, per official instructions related to the Immigration Act.⁷ According to Immigration Service

¹ United Kingdom Home Office, *Statistical Bulletin: Asylum Statistics UK 2000*, Table 2.2.

² U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2002 at 191, *available at* <http://www.refugees.org/WRS2002>. (Immigration and Refugee Services of America 2002) [hereinafter USCR WORLD REFUGEE SURVEY 2002].

³*Id.* at 193.

⁴ Irene Bruegel and Eva Natamba, *Social Science Research Paper No. 16: Maintaining Contact: What Happens After Detained Asylum Seekers Get Bail?* (South Bank University, London), June 2002, at 1 [hereinafter *Maintaining Contact*].

⁵ *UK: Number of New Asylum Seekers Rises Sharply*, WESTERN MAIL, May 31, 2002.

⁶ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, RECEPTION STANDARDS FOR ASYLUM SEEKERS IN THE EUROPEAN UNION at 164-165, 172 (July 2000) [hereinafter UNHCR EU REPORT 2000].

⁷ Letter from Barbara Nicholson, Immigration and Nationality Directorate, Home Office, Response to LCHR Questionnaire on Detention of Asylum Seekers (Jan. 31, 2002) (on file with Debevoise & Plimpton) [hereinafter United Kingdom Response to LCHR Questionnaire]; HOUSE OF COMMONS, *Research Paper 02/26: The Nationality Immigration and Asylum Bill: Immigration and Asylum* (Apr. 23, 2002), at 45 [hereinafter HOUSE OF COMMONS]; Leanne Weber, *Detention of Asylum Seekers on Arrival in the UK, Part I: Overview of the Decision-making Process*, at 4, in 3:15

Instructions of 1991 and 1994, factors in determining whether detention is appropriate include community ties and prior history of compliance with immigration laws and procedures.⁸ The 1994 instructions also provide that detention is authorized only when no alternatives are available.⁹ Despite these guidelines, interviews in 1999 with immigration officers at ports revealed that detention was being used for reasons outside its intended purposes, including deterrence, intelligence-gathering, administrative convenience and crime prevention.¹⁰ A June 2002 study concluded that whether an asylum seeker is detained may be quite arbitrary, depending on the availability of accommodation on that day.¹¹

In December 2001, the United Nations Human Rights Committee issued observations and conclusions reflecting concern that asylum seekers had been detained “on grounds other than those legitimate under the [International Covenant on Civil and Political Rights], including administrative convenience,” and that refused asylum seekers whose deportation might be impossible were detained for extended periods.¹²

A decision of the High Court in September 2001 found that the detention of three Iraqi Kurds in the Oakington detention center violated Article 5.1 of the European Convention on Human Rights, as they were detained solely for administrative convenience.¹³ This decision was overturned in October 2001 by the Court of Appeals, which ruled that asylum seekers may be detained during the processing of their applications for periods

IMMIGRATION, ASYLUM AND NATIONALITY LAW (Tolley. ed. 2001), at 138-194 [hereinafter *Detention on Arrival*].

⁸ ECONOMIC AND SOCIAL COUNCIL, COMMISSION ON HUMAN RIGHTS, ITEM 11(A): REPORT ON THE VISIT OF THE WORKING GROUP TO THE UNITED KINGDOM ON THE ISSUE OF IMMIGRANTS AND ASYLUM SEEKERS, (18 December 1998), at ¶ 11 (discussing the Immigration Service Instructions of 1991 and 1994), available at <http://www.hri.ca/fortherecord1999/documentation/commission/e-cn4-1999-63-add3.htm> (last accessed Aug. 29, 2002) [hereinafter ITEM 11(A)].

⁹ ITEM 11(A), *supra* note 8.

¹⁰ *Detention on Arrival*, *supra* note 7, at 10.

¹¹ *Maintaining Contact*, *supra* note 4, at iv.

¹² *Concluding Observations of the Human Rights Committee: United Kingdom of Great Britain and Northern Ireland* ¶16, U.N. Doc. CCPR/CO/73/UK;CCPR/CO/73/UKOT (Dec. 6, 2001) available at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.CO.73.UK;CCPR.CO.73.UKOT.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.73.UK;CCPR.CO.73.UKOT.En?Opendocument) (last accessed August 29, 2002) [hereinafter UNHRC Conclusions].

¹³ Saadi, Maged, Osman and Mohammed v. Sec. of State for the Home Dept., EWCA Civ. 1512 (Q.B. Case No. C2001/2021), 19 Oct. 2001, at ¶ 45.

not exceeding 10 days.¹⁴ Lawyers for the detainees on whose behalf the case was brought were given permission to take the case to the House of Lords, the UK's highest court, which heard the case in early 2002.¹⁵ As of August 26, 2002 a decision had not yet been issued.¹⁶

The UK reportedly detains more immigrants for longer periods than any other EU country.¹⁷ According to a 2000 report, the government has declared a shift in detention policies to focus more on detention of individuals awaiting removal than detention during the admissibility phase.¹⁸ NGOs have disputed this claim, however, and statistics from 1998 establish that at least three-quarters of detained asylum seekers were awaiting a decision on their application (half on the initial application and one quarter on an appeal).¹⁹ A general difficulty has been identified in obtaining clear statistical information as to who is being detained and for what reason. Statistics published by the Home Office for the quarter ending December 2001 do not distinguish between asylum seekers detained upon arrival and those detained following a negative decision on appeal.²⁰ An NGO reports that the government has repeatedly refused to collect these statistics.²¹ Anecdotal casework of visiting NGO groups indicates that, as of May 2002,

¹⁴ *Court Rules Refugees Can Be Detained*, THE GUARDIAN, Oct. 19, 2001, available at www.guardian.co.uk/Archive/Article/0,4273,4280911,00.html (last accessed Aug. 29, 2002).

¹⁵ E-mail from Mary Salinsky, Medical Foundation for the Care of Victims of Torture, to Emily O'Connor, Debevoise & Plimpton (Nov. 14, 2001, 09:41 EST) (on file with Debevoise & Plimpton) [hereinafter Medical Foundation Correspondence (Nov. 14, 2001)]; Refugee Council Correspondence (June 6, 2002), *supra* note 22.

¹⁶ Homepage of the United Kingdom House of Lords, available at http://www.parliament.uk/about_lords/about_lords.cfm (last accessed Aug. 29, 2002).

¹⁷ UNHCR EU 2000 REPORT, *supra* note 6, at 172.

¹⁸ *Id.*

¹⁹ Suke Wolton, *Barbed Wire Europe: Conference against Immigration Detention*, 13 JOURNAL OF REFUGEE STUDIES 415, 422 (2000).

²⁰ Refugee Council Correspondence (Feb. 15, 2002), *supra* note 27; United Kingdom Home Office, *Statistical Bulletin: Asylum Statistics UK 4th Quarter 2001*, at 9.

²¹ Bail for Immigration Detainees Correspondence, *supra* note 25.

approximately 50% of detainees were either new applicants or awaiting results of appeal.²²

Most asylum seekers are granted temporary admission at some stage.²³ The Government as of early 2002 reports that there is a presumption in favor of temporary admission or release, and estimates that at any one time, approximately 1.5% of those liable for detention are actually detained.²⁴ On October 29, 2001, the Home Secretary announced in Parliament that, from January 2002, asylum seekers would be held in detention centers rather than in mainstream prisons except where they had also been convicted of a crime, but according to a British NGO as of June 2002, this commitment is not being honored.²⁵ The United Nations Human Rights Committee in December 2001 expressed the view that any detention of asylum seekers in prison was “unacceptable,” and called on the U.K. to end the practice.²⁶ Concerns have been reported relating to use of prison as a punishment for peaceful protest in detention centers, from which punishment there is no right of appeal, and the transfer of detainees to prison with no reason given or written record of the basis for the decision.²⁷ There was also concern regarding separate legislation allowing detention without trial of asylum seekers suspected of terrorist links.²⁸ A July 2002 U.K. court decision holding internment of foreigners without trial under this legislation unlawful did not erase the concerns, since the unlawfulness was based on the

²² E-mail from Richard Lumley, Refugee Council, to Emily O’Connor (June 6, 2002, 10:58 EST) (on file with Debevoise & Plimpton) [hereinafter Refugee Council Correspondence (June 6, 2002)].

²³ E-mail from Alison Harvey, Medical Foundation for the Care of Victims of Torture, to Jaya Ramji, Debevoise & Plimpton (Oct. 19, 2001, 12:23 EST) (on file with Debevoise & Plimpton) [hereinafter Medical Foundation Correspondence (Oct. 19, 2001)].

²⁴ United Kingdom Response to LCHR Questionnaire, *supra* note 7; Refugee Council, *Asylum Seekers in prison*, Westminster Hall Debate, July 11, 2001, at Column 265WH.

²⁵ E-mail from Sarah Cutler, Bail for Immigration Detainees, to Emily O’Connor, Debevoise & Plimpton (June 14, 2002) (on file with Debevoise & Plimpton) [hereinafter Bail for Immigration Detainees Correspondence].

²⁶ UNHCR Conclusions, *supra* note 12, at ¶16.

²⁷ E-mail from Richard Lumley, Refugee Council, to Emily O’Connor, Debevoise & Plimpton (Feb. 15, 2002, 12:54 EST) (on file with Debevoise & Plimpton) [hereinafter Refugee Council Correspondence (Feb. 15, 2002)]; Bail for Immigration Detainees Correspondence, *supra* note 25.

²⁸ E-mail from Dismas Nkunda, Lawyers Committee for Human Rights, to Jaya Ramji, Debevoise & Plimpton (Feb. 7, 2002) (on file with Debevoise & Plimpton).

fact that the law applied only to non-British citizens.²⁹ More generally, concerns have been raised by observers that detained asylum seekers are held for unlimited periods without information as to their status or realistic access to judicial procedures that might secure their liberty.³⁰

The number of detention spaces is anticipated to be increased from 1,785 as of May 2002 to 4,000 with the opening of additional centers by 2003, though the destruction of some 900 detention spaces in connection with a fire at the Yarls Wood detention center raises a question as to whether this goal can be met.³¹ (A serious fire in February 2002 at the Yarls Wood detention center has focused attention on concerns that have been raised about conditions there. Since the opening in November 2001 of the Yarls Wood detention center, detainees there have engaged in a series of protests regarding, among other things, delays in provision of medical care and poor access to educational facilities for children.³²) A June 2002 study questions the wisdom of the anticipated increase in detention spaces, suggesting that the necessity for detention should decrease in light of the stricter reporting requirements and accommodation and tracking systems being introduced in the new Nationality, Immigration and Asylum Bill, discussed further below.³³

Under the Nationality, Immigration and Asylum Bill (the “Bill”), which was introduced in the House of Commons on April 12, 2002, detention centers will be renamed “removal” centers.³⁴ Given the lack of government-generated statistics on what proportion of asylum seekers are detained while awaiting decisions on their applications, as opposed to while awaiting removal after a final decision, the name change may be misleading.

²⁹ Richard Norton-Taylor, *Right Ruling, Wrong Reason*, THE GUARDIAN, Aug.1, 2002.

³⁰ Bail for Immigration Detainees Correspondence, *supra* note 25.

³¹ Refugee Council Correspondence (Feb. 15, 2002), *supra* note 27; Refugee Council, *Response to Secure Borders, Safe Haven, Government White Paper* (Feb. 2002), at 13 [hereinafter *Response to White Paper*]; e-mail from Mary Salinsky, Medical Foundation for the Care of Victims of Torture, to Emily O’Connor (May 29, 2002, 09:41 EST) (on file with Debevoise & Plimpton) [hereinafter *Medical Foundation Correspondence* (May 29, 2002)].

³² National Coalition of Anti-Deportation Campaigns, *Yarl’s Wood Detention Centre – Burnt to the Ground*, available at www.ncadc.org.uk/letters/news25/yarls.html (last accessed Aug. 29, 2002); Refugee Council Correspondence (Feb. 15, 2002), *supra* note 27.

³³ *Maintaining Contact*, *supra* note 4, at v.

³⁴ HOUSE OF COMMONS, *supra* note 7, at 42.

The Bill proposes to repeal the provisions of the Immigration and Asylum Act of 1999 that provide for an automatic bail hearing before the Immigration Appellate Authority no later than 7 days and 35 days after detention. The Bill proposes to maintain current provisions allowing detained asylum seekers to apply for bail, and gives the power to grant bail to the Secretary of State in the same situations as are currently available to the Chief Immigration Officer.³⁵

Grave concern has been expressed at the government's proposal to repeal the automatic bail provisions.³⁶ The proposal was set forth in the February 2002 White Paper entitled *Secure Borders, Safe Haven* (paragraph 4.83), which set the stage for many of the proposed elements of the Bill. The Government in 1999 accepted the need for automatic bail hearings, but the legislation was never implemented.³⁷

New induction centers will provide information on the asylum process, how to get advice, basic screening and an assessment of support needs. All asylum seekers will be required to attend the induction, which is expected to last approximately a week.

Accommodation centers for destitute asylum seekers will be introduced on a trial basis during 2002 and will initially hold 3,000 people in four centers with full board accommodation. The Home Office distinguishes the accommodation centers from the removal centers, indicating that people whom the government thinks will abscond will not be placed in accommodations centers.³⁸ Health care, education, interpretation, activities and access to legal aid (contingent upon availability of qualified practitioners) will be provided on-site and limited financial assistance will be available to residents. Various groups have expressed opposition to the planned segregated education of children of asylum seekers.³⁹ Asylum seekers will be able to come and go from the accommodation centers but, under the Bill, must continue to reside in their assigned center and will be subject to reporting requirements to demonstrate such continuation.

³⁵ *Id.* at 61 (discussing Clause 48 of the Bill); Bail for Immigration Detainees Correspondence, *supra* note 25.

³⁶ E-mail from Mary Salinsky, Medical Foundation for the Care of Victims of Torture, to Emily O'Connor (Feb. 14, 2002, 09:59 EST) [hereinafter Medical Foundation Correspondence (Feb. 14, 2002)]; Bail for Immigration Detainees Correspondence, *supra* note 25.

³⁷ Letter from Bail for Immigration Detainees to The Joint Committee on Human Rights (May 8, 2002), at 1 [hereinafter Correspondence to Joint Committee].

³⁸ Medical Foundation Correspondence (May 29, 2002), *supra* note 31.

³⁹ Europe Intelligence Wire, *UK: Charities and union attack asylum plans* (June 11, 2002) available at <http://www.unhcr.ch/cgi-bin/texis/vtx/home/+MwwBmgGr8www3wwwwwwwhFqnN0bItFqnDni5AFqnN0bIcFqZqrwGoBon5awDma1DodD5awBBwqAaw5Oc1MapcwD5Dzmxwwwwww/opendoc.htm> (last accessed Aug. 29, 2002).

The centers will be in non-urban areas which will have the effect of further restricting the movement of the residents. Failure to report or follow rules for an accommodation center may disqualify asylum seekers from entitlement to support. The European Council on Refugees and Exiles reports that in April 2002, seven reporting centers were set up, with asylum seekers within a 25 mile or 90-minute traveling radius having to report to one of them.⁴⁰ The “support only” option previously available to asylum seekers opting not to live in state-provided accommodation will no longer be available. The Bill also provides that additional conditions, such as requiring permission for absences during specified hours, may be imposed on residence in the accommodation centers.⁴¹

The British Refugee Council has urged that the government should also pilot a community-based model. The model is based on a network of centers each having from 50 to 100 beds, to house between 300 and 600 asylum seekers in all. Every resident in the network would benefit from an individual casework management plan.⁴²

Is there independent review of the detention decision? Yes.

While detained asylum seekers are entitled to seek judicial review or file an application for a writ of *habeas corpus*, each before the High Court,⁴³ an NGO has reported that, in its experience, detainees rarely seek either judicial review or *habeas corpus* remedies. Moreover, where it is sought, *habeas corpus* is reportedly rarely employed before a detained asylum seeker has spent several months in detention.⁴⁴ An asylum seeker applying for *habeas corpus* must show that the authorities had no lawful power to detain, which is reportedly difficult, given the breadth of the government’s powers of detention. Applicants for judicial review must show that their detention is unlawful for a reason other than the absence of legal power to detain.⁴⁵

⁴⁰ ECRE REPORT 2001, *supra* note 1, at 257.

⁴¹ Medical Foundation Correspondence (Feb. 14, 2002), *supra* note 36; HOUSE OF COMMONS, *supra* note 7, at 11, 12, 26, 29, 30, and 36; Bail for Immigration Detainees Correspondence, *supra* note 25.

⁴² British Refugee Council, *Asylum Seeker Accommodation Process, Refugee Council proposal for a community-based pilot (May 2002)*, at §1.1, available at http://www.refugeecouncil.org.uk/downloads/policy_briefings/accom_proc_may02.pdf (last accessed August 26, 2002)

⁴³ United Kingdom Response to LCHR Questionnaire, *supra* note 7.

⁴⁴ Correspondence to Joint Committee, *supra* note 37, at 3.

⁴⁵ E-mail from Sarah Cutler, Bail for Immigration Detainees, to Emily O’Connor, Debevoise & Plimpton (Aug. 22, 2002) (on file with Debevoise & Plimpton), referring to the Joint Council on the Welfare of Immigrants’ *Immigration, Nationality and Refugee Law Handbook, 2002* [hereinafter *Bail for Immigration Detainees Correspondence (Aug. 22, 2002)*].

Detainees also have the option of requesting a bail hearing after 6 days of pre-decision detention or pending the hearing of an appeal of an initial negative decision,⁴⁶ but do not have a statutory right to such a hearing.⁴⁷ The asylum seeker making a bail application must show that the detention is not justified, but, unlike in *habeas corpus* or judicial review procedures, does not need to show that the detention is unlawful.⁴⁸ Application for bail is made to the Immigration Appellate Authority or Tribunal (independent entities) or to an immigration officer.⁴⁹ Refusal to grant bail cannot be appealed, but an asylum seeker may make subsequent applications if there has been a change in circumstance, including additional time spent in detention.⁵⁰ Concern has been expressed that the effect of the current bail system is to leave asylum seekers in detention without access to court review for long periods because of flaws and inconsistencies in the system⁵¹ that prevent asylum seekers without significant resources from lodging bail applications. In particular, complaints have been leveled against the requirement in most cases that asylum seekers post two sureties, which can amount to thousands of pounds and are thus often prohibitive, the requirement that a bail application must be deemed by counsel to have at least a 50% chance of success for government funds to be made available to pay for counsel's services,⁵² and the burden of proof that requires the detained applicant to show that she will not abscond if released.⁵³

⁴⁶ EUROPEAN COUNCIL ON REFUGEES AND EXILES, STUDY ON THE AVAILABILITY OF FREE AND LOW-COST LEGAL ASSISTANCE FOR ASYLUM SEEKERS IN EUROPEAN STATES at 311, *available at* <http://www.ecre.org/research/legalassistance/index.shtml> (November 2001) [hereinafter ECRE EUR. STUDY 2001].

⁴⁷ Refugee Council Correspondence (June 6, 2002), *supra* note 22.

⁴⁸ Bail for Immigration Detainees Correspondence (Aug. 22, 2002), *supra* note 45, referring to the Joint Council on the Welfare of Immigrants' *Immigration, Nationality and Refugee Law Handbook, 2002*.

⁴⁹ DANISH REFUGEE COUNCIL, LEGAL AND SOCIAL CONDITIONS FOR ASYLUM SEEKERS AND REFUGEES IN WESTERN EUROPEAN COUNTRIES at 311, *available at* <http://www.english.drc.dk/publications/> (May 2000) [hereinafter DRC W. EUR. REPORT 2000]; Bail for Immigration Detainees Correspondence (Aug. 22, 2002), *supra* note 45.

⁵⁰ Bail for Immigration Detainees Correspondence (Aug. 22, 2002), *supra* note 45.

⁵¹ Correspondence to Joint Committee, *supra* note 37, at 4; Human Rights Watch, *Briefing Paper, Commentary on the United Kingdom Home Office White Paper: Secure Borders, Safe Haven: Integration with Diversity in Modern Britain* (March 2002) at 1.b, *available at* <http://hrw.org/backgrounder/eca/uk-briefing.htm> (last accessed Aug. 29, 2002) [hereinafter HRW Briefing Paper].

⁵² Refugee Council Correspondence (June 6, 2002), *supra* note 22; Bail for Immigration Detainees, *Response to Secure Borders, Safe Haven: Integration with Diversity in*

Initial decisions to detain by immigration officers are reviewed automatically within 24 hours, then again after a week and thereafter monthly, but such review is undertaken by the Immigration Service, not an independent authority.⁵⁴ In late 2001, a British NGO expressed concern about the nature and quality of this review.⁵⁵

Are there limits on the period of detention? No.

There has never been a statutory maximum limit on the length an asylum seeker may be detained, regardless of the reason for detention.⁵⁶ In 2001, the U.K. Human Rights Committee expressed concern that asylum seekers awaiting deportation were being detained for extended periods where deportation might be impossible.⁵⁷ An NGO in mid-2002 raised concerns that such prolonged detention without possibility of return to country of origin could amount to arbitrary detention.⁵⁸

Asylum seekers whose applications are being processed under the fast-track procedures may be detained for an initial period of ten days at Oakington Reception Centre while their applications are being processed.⁵⁹ At the end of ten days, they may either be granted temporary admission or, if needed, moved to another detention facility, while a decision is reached on their applications.⁶⁰

Modern Britain, at 3-4, available at <http://www.biduk.org/info.htm> (last accessed Aug. 13, 2002).

⁵³ HRW Briefing Paper, *supra* note 51, at 1.b.

⁵⁴ Refugee Council Correspondence (June 6, 2002), *supra* note 22; United Kingdom Response to LCHR Questionnaire, *supra* note 7.

⁵⁵ E-mail from Alison Harvey, Medical Foundation for the Care of Victims of Torture, to Jaya Ramji, Debevoise & Plimpton (Oct. 19, 2001, 12:23 EST) (on file with Debevoise & Plimpton); Refugee Council, *Response to Secure Borders, Safe Haven, Government White Paper* (Feb. 2002), at 13.

⁵⁶ United Kingdom Response to LCHR Questionnaire, *supra* note 7; Bail for Immigration Detainees Correspondence, *supra* note 45.

⁵⁷ Correspondence to Joint Committee, *supra* note 37, at 3.

⁵⁸ Human Rights Watch Letter, *E.U.: Protect the Rights of Migrants and Asylum Seekers in Seville Policy Proposals* (June 13, 2002), available at <http://www.hrw.org/press/2002/06/eu-ltr0613.htm> (last accessed Aug. 29, 2002) [hereinafter Letter to E.U. Heads of State].

⁵⁹ United Kingdom Response to LCHR Questionnaire, *supra* note 7.

⁶⁰ Saadi, *supra* note 13, at 17.

Is there periodic review of detention? Limited.

As noted above, decisions to detain by immigration officers are reviewed monthly but such review is undertaken by the Immigration Service, not an independent authority. In addition, concerns about the nature and quality of this review have been expressed.

Is there access to government-funded legal aid? Limited.

Indigent asylum seekers are entitled to free legal services. The Immigration Advisory Service or Refugee Legal Centre have presences in detention centers.⁶¹ In practice, however, it has been reported that asylum seekers are not always able to gain timely access to this aid.⁶² The United Nations Human Rights Committee in December 2001 expressed concern that “dispersing asylum seekers may have adverse effects on their ability to obtain legal advice and upon the quality of that advice.”⁶³ The minority of asylum seekers housed in accommodation centers will have access to legal aid in theory, provided adequate supply of qualified practitioners can be secured. As of June 2002, the Legal Services Commission had funded training and start-up packages to increase the overall supply of legal services available to asylum seekers, as well as “second tier advice” projects for experienced practitioners to advise newer practitioners and a pilot referral system through the Refugee Council to direct asylum seekers to legal help.⁶⁴

According to a source in July 2001, many lawyers do not undertake bail hearings unless the client can provide the substantial sureties described above.⁶⁵ Moreover, asylum seekers on appeal are granted legal aid only if they can show that their case has a good chance of success,⁶⁶ and lawyers handling such appeals often have little time to prepare for the proceedings.⁶⁷

Alternatives to detention: Reporting requirements, restriction of movement. Regarding the use of bail, June 2002 study tracing 98 detained asylum seekers subsequently released on bail revealed that 90% satisfied the conditions of their bail, including reporting and attendance at hearings, despite evidence that they had been detained because of their high

⁶¹ ECRE EUR. STUDY 2001, *supra* note 46, at 312.

⁶² Refugee Council Correspondence (June 6, 2002), *supra* note 22; Salinsky, Lumley, and Stancer, Report on Visit to Yarls Wood (Jan. 15, 2002), at 1; USCR WORLD REFUGEE SURVEY 2002, *supra* note 2, at 192.

⁶³ UNHCR Conclusions, *supra* note 12, at ¶16.

⁶⁴ Refugee Council Correspondence (June 6, 2002), *supra* note 22.

⁶⁵ *Id.*

⁶⁶ UNHCR EU 2000 REPORT, *supra* note 6, at 168.

⁶⁷ ECRE EUR. STUDY 2001, *supra* note 46, at 312.

risk of absconding. The study, conducted by South Bank University, London, found detention to be inefficient and poorly targeted, and cast doubt on the notion that detention is necessary to prevent absconding and assure compliance with asylum procedures.⁶⁸

As detailed above, the U.K. Home Office has stated its intention to pilot four large accommodation centers and the British Refugee Council has proposed that the government also pilot a community-based network of smaller accommodation centers, with provision of casework services.

Vulnerable groups: According to the Home Office in early 2002, unaccompanied minors, who are generally appointed Government-funded advisers, are not detained other than overnight so as to make arrangements for their care.⁶⁹ On occasions when age is in dispute, immigration officers may overrule the views of health or social service officers; there is no universally accepted age test.⁷⁰

The Harmondworth and Dungavel detention facilities, opened in 2001, reportedly detain for the first time significant numbers of children in families prior to deportation.⁷¹ The government's expansion of criteria for detention of children was not based on statistical evidence that families are prone to abscond and has raised serious concerns.⁷² Under a change of policy announced by Kevan Brewer, Director of the Immigration Service Detention Service at the Home Office in a letter of October 25, 2001, the Home Office would in future detain families (including children) at any stage in the process including on arrival if considered justified. The policy statement relates to families "whose circumstances justify this (*i.e.*, a risk of absconding, identities and claims need to be clarified or pre-removal)...families would be detained only after consideration of each individual case and where this was considered necessary in order to prevent unauthorized entry (*i.e.*, whilst their identities and claims were being established and/or where there were reasonable grounds for believing that they would abscond if given temporary admission or release) or to effect removal." British NGOs consider that this policy is contrary to the U.N. Guidelines on the Detention of Asylum Seekers, to the European Convention on Human Rights and to the Convention on the Rights of the Child.⁷³

⁶⁸ *Maintaining Contact*, *supra* note 4, at v, 8, 11.

⁶⁹ United Kingdom Response to LCHR Questionnaire, *supra* note 7.

⁷⁰ *Id.*

⁷¹ Refugee Council Correspondence June 6, 2002, *supra* note 22; UNHCR EU 2000 REPORT, *supra* note 6, at 171.

⁷² Press Release, Bail for Immigration Detainees, New Government Policy on Use of Immigration Detention for Children is Without Basis and a Violation of Children's Rights (July 17, 2002) (on file with the author).

⁷³ Medical Foundation Correspondence (Nov. 15, 2001), *supra* note 15.

The Medical Foundation for the Care of Victims of Torture reports that as of March 2001 there are no special provisions for victims of torture, who are routinely detained without regard to the health consequences of such detention.⁷⁴ New rules (the Detention Centre Rules) came into force in April 2001, providing that relevant medical practitioners shall report to detention center managers on the case of any detained person who the practitioner believes may have been a victim of torture. It remains to be seen whether this provision will effectively alter the situation for detained torture victims.⁷⁵

⁷⁴ *generally* Alison Harvey, Medical Foundation for the Care of Victims of Torture, The Detention of Asylum seekers – Beyond the Deciding to Detain Report (Presentation for the University of Cambridge Institute of Criminology, Mar. 20, 2001) (unpublished manuscript on file with Debevoise & Plimpton).

⁷⁵ Medical Foundation Correspondence (Nov. 15, 2001), *supra* note 15.