

Rule 35 response
18/4/17



Home Office

To:	D1527	Brook House IRC
cc:		
From:	Shane Byrne	
Team/Location	Operation Nexus, Liverpool	
Tel number:	DPA	
Date:	18 April 2017	
Pages:		

Dear **D1527**

I am writing to you to acknowledge receipt of a report dated 13 April 2017 provided by the medical practitioner at Brook House IRC Removal Centre notifying us of a special illness or condition. Information contained within the report has been considered carefully and the decision to detain you has been reviewed.

Careful note has been taken of your account which has been outlined in the Rule 35 report. You claim that whilst living in Egypt you were found to be [redacted] You were kept for two days without food and tortured. Your partner was killed. You claim that it was your partner's family that detained you but you were not reported to police. [redacted] Sensitive/Irrelevant

[redacted] Sensitive/Irrelevant

On 13 April 2017 the medical practitioner conducted a mental and physical examination of you. They documented that you had scars [redacted] Sensitive/Irrelevant

[redacted] Sensitive/Irrelevant

The medical practitioner noted that you informed he you have difficulty sleeping. On occasion you have memories of what happened in the past but also include your feelings in regards to your immigration case. You have been seeing a mental health team prior to your detention and taking antidepressants. You claim that you tried to kill yourself at HMP Belmarsh and you do not regret doing this. You have met with the mental health team at the detention centre and told them you were planning to kill yourself. You have negative thoughts every day. You are on an open ACDT.

The medical practitioner concluded that it appears your account is credible and that you may be a victim of torture. The scars are consistent with your account. You clearly have mental health problems however he was unsure whether detention was having a deleterious impact upon you as you had tried to harm yourself whilst you were in the community.

Your claim of ill-treatment has been considered in line with the guidance set out in the 'Detention Services Order 9/2016' as well as the 'Adult at Risk' policy. Although under the current policy the definition of torture is that which is outlined by Article 1 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), for the purposes of this Rule 35 report, the following definition, given in the case of **EO & Ors. [2013] EWHC 1236 (Admin)**, has been applied:

IS.335

"Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed, or intimidating or coercing him or a third person, or for any reason based upon discrimination of any kind."

In relation to your claim of ill-treatment, your account of ill-treatment does meet the above definition of torture. Accordingly, you are regarded an adult at risk under the policy. Your detention has been reviewed and the report carefully considered when determining your suitability for detention under the 'Adult at Risk' policy.

Immigration factors

You claim to have entered the United Kingdom on or around 16 January 2014 by clandestine means being concealed in a lorry. You attended Croydon Asylum Screening Unit on 23 January 2014 and claimed asylum. Your asylum claim was based upon your perceived fear that due to your father's association with the [IRRELEVANT AND SENSITIVE] you would face persecution from the army if returned to Egypt. You claimed to be 15 years old however this was disputed. You were referred to Social Services.

On 11 February 2014 you attended an asylum screening interview. You were served with illegal entrant paperwork (IS151A).

On 21 March 2014 you were assessed as a minor by Social Services and were given the date of birth of [redacted] **DPA**, making you 17 years old.

Your asylum substantive interview was completed on 10 April 2014. Your asylum was refused on 28 November 2014. You lodged an appeal on 28 December 2014. This appeal was dismissed on 8 October 2015 and your appeal rights were exhausted on 27 October 2015.

On 5 October 2015 you were arrested by police under suspicion of **Sensitive/Irrelevant**

On 7 October 2015 you failed to report to immigration as per your reporting conditions. You were listed as an absconder on 28 January 2016.

On **Sensitive/Irrelevant** you were convicted of **Sensitive/Irrelevant** You were placed upon conditional bail until 8 June 2016.

On **Sensitive/Irrelevant** you were convicted of **Sensitive/Irrelevant** You

Sensitive/Irrelevant

You were arrested by police on 14 November 2016 under suspicion of **Sensitive/Irrelevant**
Sensitive/Irrelevant

Sensitive/Irrelevant It was at this point you came to the attention of the Immigration authorities again. You were remanded into custody.

On **Sensitive/Irrelevant** you were found not guilty of **Sensitive/Irrelevant** A decision was made to detain you due to your criminality and failure to comply with release conditions. You were served with a notice of a person liable for removal (RED0001) as an illegal entrant.

An attempt was made to interview you in connection with obtaining an emergency travel document on 22 March 2017 however you refused to comply without receiving instruction from your representatives.

Public protection factors

On **Sensitive/Irrelevant** you were convicted at **Sensitive/Irrelevant** of **Sensitive/Irrelevant**
Sensitive/Irrelevant You were sentenced to **Sensitive/Irrelevant**

months and [Sensitive/Irrelevant] This offence was committed whilst you were on bail.

On 14 November 2016 you were arrested by police under suspicion of [Sensitive/Irrelevant] This charge was later dropped. You were also arrested for failing to comply with the [Sensitive/Irrelevant] and [Sensitive/Irrelevant] You are due to appear at Woolwich Crown Court on [Sensitive/Irrelevant]

Balancing risk factors against immigration control factors

Careful consideration has been given to balance your wellbeing whilst in detention against the risk of harm to the public and the need to maintain effective immigration control.

It is noted that you claim to have entered the United Kingdom sometime around 16 April 2014 by clandestine means. You claimed asylum on 23 April 2014 and stated that you were 15 years old. On 11 February 2014 you were served with the notice of a person liable for removal (IS151A) as an illegal entrant. You were aged assessed as being a minor on 21 March 2014 with a date of birth of [DPA] making you 17 years old at the time of your claim. You were granted temporary admission.

You asylum claim was refused and your subsequent appeal dismissed on 8 October 2015. Prior to your appeal being dismissed you stopped reporting to Immigration. You were listed as an absconder on 28 January 2016 and you did not come to light again until 14 November 2016.

You have made no attempt to regularise your stay in the United Kingdom following your dismissed appeal on 8 October 2015. Indeed, it appears that your failure to report to immigration after your appeal was dismissed was motivated by your desire to evade removal. You only came to light again following your arrest for [Sensitive/Irrelevant]

You have been convicted of [Sensitive/Irrelevant] on [Sensitive/Irrelevant] You were sentenced to [Sensitive/Irrelevant] [Sensitive/Irrelevant] You have subsequently been arrested again for [Sensitive/Irrelevant] You are due to face trial on [Sensitive/Irrelevant] Your conduct shows a blatant disregard for the laws of the United Kingdom. Furthermore, your offending demonstrates that you pose a significant risk of harm to the public – namely females.

With regard to your Rule 35 report, the medical practitioner accepted that your injuries were consistent with your account you have given and that you may be a victim of torture. The medical practitioner has not made an assessment on whether your continued detention will have a negative impact upon your health although they do state that you attempted self harm whilst in the community.

You have provided the Secretary of State a letter dated 6 April 2017 from Tiago Brandao, a counsellor/psychotherapist who works for Compass Project. The letter states that you have accessed them on three separate occasions having been initially referred on 28 July 2014 by your key worker because of their concerns about your inability to manage your emotions. You were offered counselling sessions but struggled to make use of them due to your dissociating with past feelings and issues. You missed two appointments and your case was closed.

You were referred to Compass again on 27 July 2015 but again you struggled with the sessions. You were referred again to Compass following a suicide attempt where you ended up in hospital on 6 November 2015. You were offered weekly counselling sessions since 3 December 2015 however you found it difficult to attend regularly. You had a total of 12 sessions before you were moved to another borough. During your sessions it became apparent that you have difficulties trusting others, difficulties in concentrating, dissociation signs, possible flashbacks and intrusive memories. In his opinion, Mr

Brandao believes that to aid your recovery you need intense and specialist support which can ensure that you are appropriately medicated and compliant with your treatment as well as receiving emotional and therapeutic input and considers it dangerous to keep you detained in a place which does not provide this support.

Having given regard to this letter along with the medical practitioner report it is determined that your needs are and can be managed sufficiently and effectively by the Healthcare Team within the Immigration Removal Centre.

You are currently being monitored by Healthcare due to your open ACDT having made a statement of intent to self harm. You are currently taking antidepressants which are available in the Immigration Removal Centre. Your detention is being maintained in order to affect your removal from the United Kingdom. With that in mind you have an Emergency Travel Document interview scheduled for 30 May 2017 which is within the next 4-5 weeks and your detention is justified in order to ensure your compliance with that interview having demonstrated previously that you are unwilling to comply with reporting conditions.

Conclusion

Therefore when balancing the indicators of vulnerability against the negative immigration factors highlighted above and the imminence of your removal, it is considered that the negative factors outweigh the risks in your particular circumstances. Therefore a decision has been made to maintain your detention.

A copy of this letter has been forwarded to your legal representative, where you have one.

Yours sincerely,

Signature

TM10
Op Nexus High Harm Team
Immigration Enforcement