



Home Office

# Detention Centre Rule 35

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# Detention Centre Rule 35

## Background / Purpose

- Simon Barrett, Detention Policy, Immigration & Border Policy Directorate
- Matt Kirk, Asylum Policy, Immigration & Border Policy Directorate
- Brian Finegan, Criminal Casework
- Chris Hunter, National Removals Command
- Jag Gurinderpal, UK Visas & Immigration

# Detention Centre Rule 35

- Rule 35 requires IRC doctors to report on detainees:
  - Whose health is being adversely affected by detention or its conditions 35(1)
  - Who are suspected of having suicidal intentions 35(2)
  - For whom there are concerns that they may have been a victim of torture 35(3)

# Detention Centre Rule 35

- The process for making Rule 35 reports is set out in Detention Services Order (DSO) 17/2012.
- The DSO includes a report template, which covers all three categories of report.
- Following concerns about the usefulness of the current report template we have developed new templates, which we plan to introduce shortly.

# Detention Centre Rule 35

- The purpose of Rule 35 is to ensure that particularly vulnerable detainees are brought to the attention of Home Office caseworkers with direct responsibility for authorising, maintaining and reviewing detention.
- The information contained in the reports needs to be considered by caseworkers to decide whether continued detention is appropriate in each case.

# Detention Centre Rule 35

- Home Office policy is that persons with independent evidence of torture are normally regarded as unsuitable for detention other than in very exceptional circumstances.



# Detention Centre Rule 35

- For the purposes of Rule 35(3) “torture” is defined as:

*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.*

# Detention Centre Rule 35

- What are Home Office caseworkers looking for in a Rule 35(3) report?
- Sufficient information on which to decide whether or not the report constitutes independent evidence of torture, which would engage the policy of not detaining victims of torture unless there are very exceptional circumstances.



# Detention Centre Rule 35

- What is independent evidence of torture?
  - It is not proof of torture but it must provide some independent support for the detainee's account of what happened to them.
  - It must go beyond simply repeating the detainee's own account: a report that just recorded the detainee's account would not be independent evidence of torture.
  - Not all Rule 35 reports will be independent evidence of torture, nor are they expected to be.



## Detention Centre Rule 35

- The trigger to report is low, ie the doctor need only have concerns that the person may have been a victim of torture.
- But there will be reports that contain information, assessment and reasoning of sufficient quality/quantity that they will be “independent evidence of torture”.
- IRC doctors are independent.

# Detention Centre Rule 35

## What makes a “good” Rule 35(3) report?

- There is no set formula for a “good” report. However.....
- Reports should set out clearly the information, findings and reasoning that have prompted the doctor to have concerns that the person may have been tortured (in line with the definition).
- Include an assessment of whether injuries, scars/marks or symptoms are consistent with the detainee’s account of torture.
- Where possible and relevant, describe and draw attention to any particularly uncommon injuries, scars/marks or symptoms.

# Detention Centre Rule 35

- They should not simply re-state the detainee's account without supporting comment/assessment.
- Where the concern derives from an allegation with no or limited supporting medical evidence this should be set out clearly.
- There should be a clear de-lineation between the detainee's account and the doctor's assessment.
- They should be legible – ie typed.

# Detention Centre Rule 35

- Review of worked examples of Rule 35(3) reports.....