



Lydia Brown
Acting Senior Coroner – West London Jurisdiction
Coroner's Court
25 Bagleys Lane
Fulham
London, SW6 2QA

22 March 2022

Dear Ms Brown,

**MR KETHEESWAREN KUNARATHNAM
REGULATION 28 REPORT TO PREVENT FUTURE DEATHS**

Thank you for your Regulation 28 report, dated 26 January 2022, following the inquest into the death of Mr Ketheeswaren Kunarathnam. I am grateful to you for sharing your findings, and for the opportunity to reflect on the processes that were in place around the time of Mr Kunarathnam's detention in 2018. I am sorry to learn of Mr Kunarathnam's passing and would like to express my condolences to his friends and family.

I can assure you that the Home Office takes the health and welfare of people detained under immigration powers very seriously. The concerns you have identified have been carefully considered by officials. This response summarises the action taken to address these concerns where they pertain to the Home Office. I also hope it will be useful to set out some wider reforms which impact on the detention of foreign national offenders (FNOs) as well as those actions taken following the death of Mr Kunarathnam in HMP Wormwood Scrubs.

Concern 1 – Disparity between information and advice available depending on where the person was detained or within the community

We make every effort to ensure that an FNO's removal by deportation coincides, as far as possible, with their release from prison on completion of sentence. Where it is not possible, careful consideration is given on a case-by-case basis as to whether immigration detention is appropriate and justified. There is a presumption in favour of liberty for all individuals and decisions to detain are made in line with published guidance. A timely risk assessment is also carried out which reviews whether that person is suitable to be transferred into Immigration Removal Centres (IRCs) while detained. This transfer decision may also be further considered at subsequent points during detention.

The Home Office and HM Prison and Probation Service (HMPPS) recognised that there were some disparities between those detained under immigration powers in IRCs and prisons. That is why a targeted project was initiated in 2019 to take forward work to bring parity where possible in the treatment of, and safeguards provided to, those detained under immigration powers. HMPPS are currently considering aspects of this work and a consultation on some elements is understood to be set to commence in Spring 2022.

In your report, you specifically highlighted an inability to access the internet, Law Centres, Citizens Advice or any other sources of assistance for those detained in a prison. We recognise that not all FNOs will be legally represented and therefore throughout the deportation process we will seek to explain and signpost appropriately whether through written documents or direct engagement. The deportation notice informs the FNO why deportation is being considered and invites the person to provide any reasons why they consider it should not be pursued. A statement of reasons accompanies this decision, clearly setting out examples of possible claims, including those protection and human rights based, which could be raised alongside possible sources of supportive evidence. These notices signpost Civil Legal Advice (and Scottish and Northern Ireland equivalents); an organisation which can provide information on legal aid if a person is unable to pay for a legal representative. A published list of legal aid providers is available from the Legal Services Commission. Removal paperwork reminds the person of the same. Additionally, in November 2021, HM Prisons and Probation Service (HMPPS) issued an instruction which allows all individuals held under immigration powers in a prison, access to 30 minutes of legally aided immigration legal advice. This provides a functional equivalent to the service currently available in IRCs.

All persons detained under immigration powers, irrespective of their location, are notified that they can apply to the courts, at any time, for bail. The application forms for immigration bail for all detained individuals in prison have now been translated into the 18 most common languages to ensure individuals can be effectively signposted. Use of an interpretation service is sometimes available for deportation matters depending on the language proficiency of the FNO.

We have considered the concerns you have raised as to the effectiveness of in person engagement with immigration officials in Mr Kunarathnam's case. The Home Office understands that in person contact with individuals subject to deportation action is hugely important. A dedicated team of immigration officers embedded in the prison estate carry out that engagement and endeavour to induct an FNO soon after they arrive at a prison. This induction seeks to explain the deportation process, obtain basic person details and any vulnerabilities or medical conditions. The induction process is periodically reviewed, and the interactions are now recorded and accessible to other Home Office officials on internal databases. FNOs can also request to speak with an immigration officer on an individual basis via a wing application that is lodged with the prison's wing office which is then passed to the embedded Immigration Prison Teams.

Concern 2 - Communication between officials from the Home Office and HM Prison and Probation Service (HMPPS)

The Home Office is committed to a collaborative relationship with HMPPS in the management of persons subject to deportation action both during their custodial sentence and if detained in a prison following completion. Regular bilateral meetings between the Home Office and stakeholders at various levels support this closer working relationship and allow for opportunities for joint working to be effectively highlighted.

At a local level, the Home Office's Immigration Prison Team (IPT) embedded at HMP Wormwood Scrubs now works very closely with prison colleagues, with established lines of communication and regular meetings between the two parties around vulnerable persons. Since 2018, IPT have also been working with individual prisons across the country to ensure the attendance of Home Office officials at all Assessment Care in Custody and Teamwork (ACCT) reviews so that updates on case progression can be provided and information effectively exchanged.

You concluded that an individualised assessment of Mr Kunarathnam's needs did not take place when relaying immigration matters. I would like to assure you that officials recognise it is paramount to consider the individual circumstances of a FNO and their vulnerabilities when serving immigration notices. This routinely takes place in prisons across the country where FNOs are serving their sentences. Immigration Officers will make the relevant Offender Manager Unit and Wing Offices aware when serving immigration notices to ensure the FNO can access support if required. This will also be recorded on Home Office databases for other officials to view. A further line of assurance is provided by monthly meetings with senior immigration officers to discuss vulnerable cases and take forward actions in our hub prisons.

Communications are also more appropriately documented. Immigration officers embedded in prisons now ensure all conversations are recorded and where appropriate signed by the FNO. Digitalisation improvements have allowed for engagements with FNOs to be raised on internal databases along with any vulnerability concerns promptly after interactions, while Immigration Officers have access to a Ministry of Justice system, to ensure immigration contact and records are widely shared. At HMP Wormwood Scrubs, immigration officers now have access to the HMPPS database where relevant information is also accessible. To further strengthen collaborative working an FNO Information Hub has been launched which will pave the way for a digital platform and sharing forum for both Home Office and HMPPS users which aims to provide signposting resources to prepare FNOs for their release or removal. We will continue to review where further technological improvements can be made to ensure the timely and secure exchange of information between itself and prison officials.

We recognise the benefit of improving a mutual understanding of relevant processes to both departments in our aim to work more cohesively. Therefore, awareness sessions have been provided at our hub prisons providing an overview of the deportation process, the service of immigration notices and the work of our immigration officers.

More broadly reforms to immigration detention have increased the scrutiny of such decisions. Once a person is detained, regular reviews are undertaken. The decision and the rationale for ongoing detention or alternatively notification for release, is also routinely shared with the person. Vulnerabilities are monitored in accordance with the Adults at Risk Policy (AAR) and reviewed at routine intervals. Case Progression Panels act as an internal assurance mechanism to ensure the appropriate progression of all persons detained under immigration powers. Since these were introduced in 2017, several improvements have been made to strengthen the review of case progression, vulnerability and public protection considerations. More recently this has also included the mandatory attendance of an independent panel member. Where barriers to removal are identified these will be considered by the panel in their discussions and recommendations.

Since 2018 there has been a significant focus on upskilling officials engaged in detention through the introduction of mandatory training which focuses on maintaining best practice and keeps vulnerability at the forefront of detention decisions. Front-line immigration officers in prisons also attend Self Harm Awareness Sessions run by HMPPS to improve their knowledge of dealing with individuals in prison who may be more susceptible to self-harm. Additionally, the immigration team who operate within HMP Wormwood Scrubs have also received Assessment Care in Custody and Teamwork training to supplement the wider vulnerability knowledge, as have other Immigration Prison Teams. Although you have found this unfortunately did not occur in Mr Kunarathnam's case, immigration officers will frequently respond to requests from vulnerable persons, and where relevant identify a claim for asylum including taking the necessary steps to lodge the claim and progress it in good time by arranging interviews. The Assessment Care in Custody and Teamwork documents would also be updated if relevant to the individual.

This Department is committed to learning lessons to prevent future deaths of persons detained under immigration powers and will to explore any further improvements and is monitoring compliance. I hope that the information provided addresses your concerns satisfactorily.

Yours sincerely,

Tom Pursglove MP

A handwritten signature in blue ink, reading "Tom Pursglove". The signature is written in a cursive style with a horizontal line under the first letter of "Tom".

Minister for Justice and Tackling Illegal Migration