



FOREIGN NATIONAL PRISONERS

Issues Raised in Annual Reports to the Secretary of State

By

Independent Monitoring Boards in Prisons in England & Wales

**An Occasional Report by the National Council of the
Independent Monitoring Boards
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1. REPORTS ANALYSED

1.1 Reports published during 2011 were analysed to identify those issues highlighted in the Executive Summaries which pertained to the treatment of Foreign Nationals. Of a total 136 Reports only 22 identified issues in their Executive Summaries which required answers. Others reported in the body of their reports and some were absorbed under their Diversity headline but not in the Executive Summary or Questions to the Minister. Some of these appeared to be points of significance, for example they frequently commend areas of good practice in the provision of chaplaincy support and the understanding of diverse catering requirements for foreign national prisoners. (see 3.9.2)

2. EXECUTIVE SUMMARY/CONCLUSIONS

2.1 When reviewing the issues raised in the Reports analysed it is apparent that there has been some improvement in the reduction in numbers of Sentence Expired Detainees, which has been of major concern to all Boards and raised frequently with the Minister and Prison Service. However this is an issue that will not go away as more than one Report states, "It may be legal but that does not make it right". It is not an issue that should be forgotten.

2.2 A number of questions are posed by the Reports analysed with the overwhelming issues being language and communication.

2.2.1 Is there a "Lack of a perceived 'clear strategy' to deal with Foreign National prisoners"?

2.2.2 Is there a "Lack of co-ordinated multi-agency approach to the management of sentence expired prisoners"?

2.2.3 Do "FNPs have difficulty accessing UKBA (United Kingdom Borders Agency) services because some prison staff fail to understand the processes involved"?

2.2.4 Is Staff training an issue? " Officers need training together with cultural awareness to prevent use of physical restraint."

2.2.5 "Efforts have been made to translate documents into other languages", but does more need to be done?

2.2.6 "Is it cost effective for 10 prison officers to attend Polish language classes?" asks one Board.

2.2.7 Is there a “decline in enhanced regime due to lack of translated information”?

2.2.8 “Are Foreign National Prisoners unfairly disadvantaged by the rules surrounding the use of phone cards?” and “Do they pay a disproportionately high price?”

2.3 There is some evidence within the Reports that there is still insufficient understanding of the welfare needs of this group of prisoners. Language is a major issue in giving voice to these needs. There is an implicit fear that misunderstandings can occur which lead to disciplinary action. There are instances of good practice where Race Equality Officers have taken the time to “specialise” and provide an excellent service for foreign national prisoners, and this is held up as “exemplary”.

2.4 In the judgement of Boards the answer to most of the questions posed above appears to be affirmative. Foreign national prisoners do have difficulty in some cases in accessing UKBA Services because some prison staff find the processes complicated. Staff training is an issue if staff have not the time or motivation to engage. More does need to be done to translate documents. We cannot say whether it is cost effective for 10 prison officers to attend Polish language classes but there are many different language needs in establishments. The cost of telephone calls for this group of prisoners is disproportionate.

2.5 Most serious of all the unfairnesses in the system, the plight of the foreign national prisoner whose sentence is expired and is held in custody (legally) on IS91 should be highlighted. It cannot be right, as stated again and again in IMB Reports, that these prisoners are held, sometimes for years, after the expiry of their sentence. It is difficult to perceive this as just. There is some improvement in the figures but NOMS and UKBA both have a responsibility for the delay in processing paperwork and appeals even if it is accepted that some situations are almost irresolvable, such as uncertainty of country of origin or lack of paperwork.

2.6 Addressing the Reports themselves, we commend the Boards who have brought these issues to the attention of the Minister.

3. ISSUES MOST COMMONLY RAISED

3.1 SENTENCE EXPIRED DETAINEES

3.1.1 This is a recurring theme in almost all the Executive Summaries which address concerns regarding Foreign National Prisoners. Frequently expressed views include:

- “Lack of clarity about immigration status”
- “Cases should be looked at 6-7 months in advance”
- “Apparent stagnation of foreign nationals, who have no clear deportation route”
- “An injustice which places additional strains on the Prison Regime”.

3.1.2 One IMB, in a Category B Local Prison identified an emerging issue with foreign national prisoners in their case, stating that with Detention Centres full, some Prisons are transferring foreign nationals to them on overcrowding drafts, when nearing end of sentences. Subsequently these become detainees awaiting removal to IRC or deportation to their designated country of origin.

3.1.3 In one Annual Report (Category B Local Prison) it was stated that 81 foreign nationals spent an average of 107 days after sentence had been served awaiting their deportation . One prisoner remained in segregation for just over three months, mainly on dirty protest. A similar situation was reported the previous year. The Board urge that prisoners facing deportation are dealt with in a more timely manner.

3.1.4 Another large Category B Local Prison reports an increase in the number of foreign national prisoners whose sentences have expired from 31 to 47, some having spent two years in the Prison.

3.1.5 Many reports acknowledge that the numbers of detainees held under IS91s, the official document prisoners are obliged to sign at the end of sentence, allowing UKBA to hold them in prison, have reduced, but still regard the delays, and indeed the existence of detainees, in prison as unacceptable. A Category B Local Prison, for example, held 18 sentence expired detainees the previous year as against 2 in the current year. The duration of the detention periods is unclear in almost all of the reports. Another Category B Local Prison recorded one detainee held for nearly 2 years after his release date. The fact that this person is held lawfully does not make it acceptable. There are signs that this sort of bad practice is not confined to these two prisons.

3.2 RE-SETTLEMENT PROVISION

3.2.1 This issue was raised by one Board, but was considered of such importance by them that the Board concerned raised it directly with the Minister. The establishment is a Category C Foreign National Prison.

3.2.2 Resettlement planning is reported as difficult because of the lack of notice often given of UKBA decisions and late official notification of intention to deport. The prison concerned opened a Resettlement Centre at the beginning of January 2011 drawing together Job Centre Plus, Migrant Help and OMU (Offender Management Unit). The Facilitated Release Scheme, co-ordinated by International Organisation for Migration, is described as effective.

3.2.3 Resettlement provision is also lacking for those prisoners who are released into the community at the end of sentence. In the year to March 2011, out of 786 disposals 189 Foreign National Prisoners were released back into the UK. Of equal concern were those going into the Immigration Detention Estate and then not deported, who would not have the support given to ex-offenders.

3.3 SAFER CUSTODY

3.3.1 One Board identified concerns regarding IDTS (Integrated Drug Treatment Services) and foreign national prisoners put on a treatment scheme, being then transferred to the Immigration Detention Estate, or deported, with very little notice and no ongoing treatment being then available to them.

3.3.2 The Board also reported 41 ACCT (Assessment, Care and Custody Teamwork) documents opened on Foreign Nationals in the year. Many of these involve immigration issues and the Board acknowledges there is great benefit in having Immigration Staff (UKBA) on site. They again urge greater speed in resolving these issues.

3.3.3 One Category B Local Prison Board requests that “correct procedures are reiterated regarding the serving of immigration correspondence on a prisoner who is on an ACCT. This should be done in person by officials from UKBA and the Wing Officer should also be informed as the prisoner may be distressed. The attendance of UKBA officials is welcomed as a number of prisoners self-harm due to immigration issues”.

3.3.4 One Board in the Young Offenders Estate recorded that there was additional support provided to Foreign Nationals by the Safer Prisons Team, in addition to that provided by Chaplaincy. This team ensures prisoners are assessed for risk of suicide/self harm in the event of a change in immigration status and the Board share the view that potential trauma is caused by being sentence expired.

3.3.5 A Board (Category B Local Prison) with a high proportion (over 30%) of foreign national prisoners, raises the concern that sentence expired detainees call attention to their plight by starting cell fires or going on “dirty

protest”. Some have severe mental health problems and may be held in the hospital mental health wing or the CSU (Care & Separation Unit). At the time of reporting there had been three men held in the Unit for up to 5 months. “There is disproportionate use of C & R (Control & Restraint) and self harm is prevalent particularly among Polish and East European prisoners”.

3.4 LANGUAGES

- 3.4.1 With one Board (Category C Prison) claiming 65-69 different nationalities in their establishment, it is obvious that the cost of translation services puts a strain on translation and resources.
- 3.4.2 Big Word is readily available in most of the establishments reported on and appears to be well used although in some cases largely in Reception and Induction rather than on the Wing. One Category B Local Prison recorded the use of Big Word on 184 occasions, with Lithuanian being the most frequently used language. That establishment also uses pictorial stickers throughout and constantly updates notice boards in a range of languages. Another Category B Local Prison is recorded as having used Big Word 85 times during the reporting period.
- 3.4.3 Induction material at a prison in the High Security Estate is recorded as including a wide range of information material in 14 different languages, and covering phones, mail, money visits, racial equality and relevant addresses and phone numbers.
- 3.4.4 A Category B Local Prison is recorded as having established ESOL (English as a Second or Other Language) lessons and also own a computer which can translate 48 languages, together with 4 dual handsets to assist with medical requests from prisoners who cannot speak English. It is not known if other establishments have similar resources. A Board in another High Security Estate prison also report ESOL courses run in Education.
- 3.4.5 One IMB at a Category C Prison asked the Prison Service to review urgently the provision of information in foreign languages and the quality of translations.

3.5 OTHER DIFFICULTIES WITH COMMUNICATION

- 3.5.1 Forms requesting attendance at Immigration Surgeries are in English, as are most notices and prison rules. The IMB reports that, of those prison notices that have been translated, some have been so badly translated that they are meaningless. These appear to be supplied by NOMS.

Furthermore it is suggested that with a lack of easily understandable information, unintentional breaches in Prison Rules may occur. The IMB report of a very large Category B Local Prison states that Eastern European prisoners, who comprise 10% of the population, have a particular difficulty, with very poor English, and inability to communicate or be understood and the Report states "C & R in this group of prisoners is disproportionately high". Adjudications are often adjourned because of difficulties with language although Big Word is in use along with help from other prisoners.

- 3.5.2 The Board in recording a rise in the Foreign National population from 450 to 600 states that on some Wings there are gangs of Romanian, Polish and other European nationals. Officers find they do not understand what the men in their charge are talking about and the prisoners exploit this.
- 3.5.3 This Board also complains that the Computer Induction programmes are not available in several crucial languages, Polish, Czech, Slovak and Arabic and the information is now mostly out of date. The Library suffers from books going missing/theft especially those in Russian, Chinese and Polish and there is generally a shortage of foreign language books which are very expensive to buy. Legal books in translation are particularly susceptible to theft.
- 3.5.4 Language problems make it difficult for foreign national prisoners to apply for jobs, education and training or even to relevant legalities in a way available to other prisoners.

3.6 ACCESS TO TELEPHONE CALLS

- 3.6.1 Two Boards reported concern that restrictions imposed by BT on the use of phone cards/codes which give access to cheap rates for overseas calls resulted in foreign national prisoners paying a disproportionately high price for calls to families.
- 3.6.2 Other concerns included insufficient time on phone cards and inappropriate times for making overseas calls in different time zones.

3.7 FOREIGN NATIONAL LIAISON OFFICERS/CO-ORDINATOR/ UKBA/OTHER

- 3.7.1 A number of Boards recorded good practice in the management of issues surrounding foreign national prisoners and understanding of their welfare and immigration problems. Most held regular Surgeries with UKBA to support and advise on all matters to do with immigration status. The IMB at a large mixed estate prison (Category B Local and Young Offenders Prison)

praised staff for adapting quickly to a completely different set of issues in a House block designated predominantly foreign nationals. Training had been delivered to them by UKBA.

- 3.7.2 An IMB at a prison in the High Security Estate recorded that the Foreign National Co-ordinator and her team received high praise from the Immigration service and their work promoted as an example of good practice to other prisons. This work included fortnightly UKBA clinics, the attendance of a Vietnamese interpreter and finding a specialist solicitor willing to attend immigration clinics. Polish Embassy staff have visited with positive feedback.
- 3.7.3 A prison for Young Offenders carried out Equality Impact Assessments during the year including looking at a “Foreign Nationals Support and Communications Structure” Action Plans had been created as a result. This is to be commended.

In contrast,

- 3.7.4 One Board raised the issue that the setting up of a Foreign National Forum should be given higher priority and complained of the slow progress with UKBA in repatriation of foreign nationals. “Only two have been returned to country of origin in 18 months.”
- 3.7.5 In another establishment IMB recorded there is no longer a designated Foreign National Co-ordinator, this role having been subsumed into Equality and Public Confidence Manager’s job. Another Category B Local Prison IMB regretted the loss of the Foreign National Liaison Officer, who gave good support to those awaiting deportation. 81 Foreign National prisoners spent an average of 107 days after sentence served, awaiting deportation, and a Category C Prison IMB stated that the Foreign National Clerk does not have direct contact with prisoners and provides administration only. Immigration Surgeries were held once a month but forms requesting attendance were only available in English (see Language).
- 3.7.6 UKBA has received a mixed press in IMB Reports with regard to delays in removal or release of foreign nationals on IS91s. However, there has also been praise for the help and support given with regular Surgeries/Clinics in Establishments
- 3.7.7 In the case of one High Security Estate prison it is reported that a UKBA representative has been seconded to work in the prison four days a week, funded by UKBA. Regular open surgeries are held for Foreign National prisoners with individual problems or sentence expired detainees wishing to check on their immigration status. Volunteer prison visitors and solicitors

give services free of charge. The number of sentence expired detainees has greatly reduced.

3.8 JUVENILES/ MISALLOCATION

3.8.1 A Board reported the placing of suspected YO foreign nationals in segregation until they could be transferred because they were unsuitable for on open site on security grounds. Similarly another voiced concern about Juveniles sent inappropriately and with insufficient support to the establishment thousands of miles from parents and with no known support and risk of deportation. A juvenile suspected of being over age will be placed in segregation in the Separation and Assessment Unit for child protection reasons

3.9 DIVERSITY REPORTS WITHIN THE ANNUAL REPORTS

3.9.1 These reports often cover issues directly concerning the welfare of Foreign National Prisoners, including prison catering for diverse needs and Chaplaincy services. Thus issues on Foreign Nationals can be over-looked.

3.9.2 There are also notable areas of good practice to be found in these reports. For example; the Chaplaincy of one Category B Prison, with a big foreign national population, has given much thought to finding appropriate faith care for the Eastern European prisoners, which has been a growing population in that establishment and regret that it has not yet been able to find a Russian Orthodox priest. Board Reports on the prison's catering often includes details of catering for the diverse needs of a multi faith, multi national population with many important feasts catered for.