

Annual Report 2016

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# Bail for Immigration Detainees

Bail for Immigration Detainees is an independent charity that exists to challenge immigration detention in the UK. We work with asylum seekers and migrants in removal centres and prisons, to secure their release from detention.



# BiD

*“...Based on what I have seen and heard for the past six months, my own conclusion is that the direction of travel [of the number of people detained] should be clearly downwards – both for reasons of welfare and to deliver better use of public money. If Ministers and their officials decide to follow the direction pointed by my report, I trust they will do so boldly and without delay.”*

**Stephen Shaw – Review into the Welfare in Detention of Vulnerable Persons (January 2016)**

# Bail for Immigration Detainees

## What is immigration detention?

In the last year over 32,000 people entered immigration detention in the UK. Anyone subject to immigration control can be detained but detention is supposed to be used as a last resort, when all alternatives have been considered and rejected, pending removal or deportation and if there is evidence that the individual concerned may abscond. Because the decision to detain is not sanctioned by a court and is not time-limited, an individual can remain in detention until he or she applies for bail and is released. There is no automatic publicly-funded legal representation for bail and, until the Immigration Act 2016 was enacted, there were no automatic bail hearings. Once the provisions of the Act come into force, however, there will be automatic bail hearings after four months in detention.

## What does BID do?

BID's vision is of a world free of immigration detention, where people are not deprived of their liberty for immigration purposes. We exist to challenge immigration detention in the UK through the provision of legal advice, information and representation alongside research, policy advocacy and strategic litigation.

## Specifically, we:

- Run a telephone helpline four mornings a week to deliver legal advice and information;
- Deliver legal advice sessions and workshops in detention centres and prisons;
- Prepare, update and disseminate self-help materials on detention and deportation so that detainees have the tools to represent themselves if they don't have a lawyer;
- Prepare court cases for release on bail and deportation appeals;
- Carry out research, gather evidence from casework, and prepare reports and briefings for civil servants and parliamentarians about different aspects of immigration detention;
- Refer cases for unlawful detention actions;
- Act as a third party intervener, or provide evidence to the higher courts on detention policy and practice;
- Raise awareness of immigration detention with the wider public.



### Immigration lawyer:

*“Many thanks once again. BID is such an invaluable resource for clients and their lawyers alike.”*



## Chair's Report

*“Care for those with severe mental health needs was generally good, but it was concerning that people with such severe illnesses were in immigration detention at all, especially as some spent long periods in the separation unit.”*

**Unannounced inspection of Colnbrook Immigration Removal Centre by HM Chief Inspector of Prisons, May 2016**

The last year has seen internal and external changes and challenges. We moved from Toynbee Hall (in which we rented offices) after the buildings were sold. We secured new offices near Finsbury Park and moved at the beginning of the financial year. Although more costly than our offices in Toynbee Hall, they were nonetheless much cheaper than anything else we had been able to find. We had made provision for the expenditure involved in the move, and set aside a portion of reserves for that purpose, but the eventual cost was higher than anticipated. Following the move, we unfortunately suffered a series of practical problems with our telephone system and internet connection which made the first two months a testing time. We are now very pleased with our new premises which provide a much better working environment for staff. We had a significant turnover of staff, with four staff members leaving and four joining at various points in the year. We are very grateful to those who have left us for their valued contributions to BID's achievements and we are delighted to welcome the newcomers.

Externally, there were positive developments as well as challenges to face. The parliamentary inquiry into immigration detention from the previous year had strongly recommended time limits and judicial oversight for immigration detention, and had increased awareness and concern about immigration detention beyond our immediate constituency. Similarly, Stephen Shaw (former Prisons and Probation Ombudsman)'s inquiry into vulnerable people in detention, commissioned by the Home Office, provided a set of uncompromising recommendations, including

ending the detention of the mentally ill and pregnant women, which BID and others in the sector have been advocating for many years. On the legislative front, less than two years from the promulgation of the Immigration Act 2014, the government passed the Immigration Act 2016. In the words of the Home Office, the Act aimed to create a 'hostile environment' for 'illegal immigrants' and both this Act and its predecessor, have succeeded in doing so. BID worked with other organisations in the sector during the passage of the Act to produce briefings for parliamentarians, attend meetings and contribute to drafting amendments. This collaborative work led to a key compromise amendment, now enacted, that has established the principle of automatic judicial oversight through mandatory bail hearings every four months. As automatic bail hearings have been one of the key safeguards for which BID has argued for a number of years, this represents a major achievement and breakthrough in our aim to end arbitrary immigration detention.

The last year has also seen an increase in hostility towards immigrants, as well as an outpouring of sympathy for those making the dangerous journey to Europe. This makes securing support for BID's work a challenge, as many people unfamiliar with immigration detention perceive it to be a criminal sanction. Our traditional funding support has come from trusts and foundations and this is proving difficult to sustain, as many of our long-standing supporters either change their funding priorities, or seek to support new organisations or projects. In response to this challenge,

the trustees commissioned a consultant to develop a fundraising strategy, subsequent to which the recruitment of a fundraiser was approved. The new postholder's role would be to raise money from individual giving and challenge events. Our new fundraiser took up her post in April of this year.

Despite this, raising the income needed to carry out our work remains our greatest challenge. We are hopeful that we will be able to secure new support for BID's work for the upcoming year and beyond.

In the report that follows you can read about BID's impressive achievements. I am very proud to be associated with such a high-achieving organisation supporting one of the most marginalised groups in the UK. None of the achievements would be possible without the efforts and wholehearted commitment of our staff, amazing volunteers and trustees. To all of you I extend my heartfelt thanks.

**Liz Barratt, Chair**

*“Our continuing concerns about prolonged detention led us to recommend that detention should be time limited.”*

**HM Chief Inspector of Prisons for England and Wales, Annual Report 2015-16**

## Director's report

The last year was dominated by the passage of the latest Immigration Bill which was enacted during the year. It also ushered in the new system of 'certifying' deportation appeals, leaving those facing deportation with the prospect of conducting their appeals once they had been deported. On a daily basis I am reminded of how, in the absence of properly funded, legally-aided, representation, it is entirely down to luck as to whether someone is able to find themselves a legal representative, or, for that matter any advice. The right to liberty, the right to a family and private life are rights that should be upheld and legal representation to assert those rights should never be left to chance.

A chance appointment at a BID legal outreach session in a detention centre or prison can determine whether or not someone will get the support they need to apply for release or to build a strong legal case to remain in the UK with their family. The random nature of this is deeply troubling. Clients that we have helped get released from detention have included: an individual who has spent several periods in detention totalling five out of his seven years in the UK, despite being unremovable; asylum seekers who passed through other European countries first and are being detained pending removal to that country, despite being severely traumatised by their previous experiences; and parents who have anticipated their reunion with their much-loved children at the end of a prison sentence only to be faced with their continued detention in prison pending deportation (and no legal advice). In our experience, detention continues to be consistently used as a first resort rather than a last resort.

In the last year alone, we assisted 123 people with their deportation matters, and witnessed at first-hand the effect of living under the threat of long-term separation from their loved ones - acute stress and anguish for the families and a deeply damaging effect on their well-being. Those lucky enough to be represented by BID are people who, without BID's help, would now almost certainly be living thousands of miles away with no job, housing, or family, only able to communicate with their loved ones through Skype.

Despite the desperately difficult context for our clients, BID staff and volunteers continued to do what they do best - providing as much advice to as many people as possible through the helpline, the advice sessions, and by preparing cases for representation. Once again, more than 3,500 people were provided with assistance and we had a 58% success rate in our represented cases.

As an organisation we are as much about achieving change as we are helping people individually and sometimes this can seem like a very long and unrewarding process. But just occasionally things happen that demonstrate the power of long-term, consistent pressure. One example in the last year was the judgment in the 'Section 4' case - described in the following pages under 'strategic litigation'. We have long been concerned about the lengthy delays in the Home Office provision of accommodation addresses for detainees to be released to. A detainee affected by these delays is unable to apply for release from detention. The judge ruled that the system must be changed to make it more efficient and speedier. And in a second example, the new Immigration

Act 2016 (again, described below) contains a provision for automatic bail hearings after four months' detention. This is certainly a step in the right direction and effectively the first time there will be a safeguard against prolonged detention, at least in principle.

Funding is proving very difficult to secure and we are hoping that we will be able to persuade new donors to support us. This has involved a concerted effort to identify and approach new sources of funding. A new fundraising post has been created on the staff team in a bid to enhance our future financial stability but lack of funding is the main concern dominating BID's future.

We call on all of you who support us to help safeguard our future in whatever way you can: become a member, join our fundraising events, tell us about sources of funding we may not know about, make a donation. Whatever you can do to help - we appreciate it! I'd like to finish by thanking everyone involved in helping BID carry out the vital work it does - staff, volunteers, trustees, donors - we are a team and we achieve what we achieve together - thank you!

**Celia Clarke, Director**



## Bail casework and outreach

*“I give this warning: if the detention centres are not closed, there will be more self-harming and more suicides... This is no way to treat our fellow human beings. We have to find another way. Yes, let us accept the recommendations today, but in the long run let us close these establishments, which have so significantly failed to respect the human rights of those detained.”*

John McDonnell MP – Parliament, debate on APPG Inquiry into the use of Immigration Detention in the UK (September 2015)

### Bail casework and outreach

During the year we supported a total of 3,574 people who needed legal advice and representation about immigration detention. We were able to prepare 264 bail applications, of which 182 were actually heard in court. Of those, 106 were successful and our clients released. This is a 58% success rate, another increase from the year before. Overall, a total of 449 people were released from detention having received some support from BID.

We also increased the number of legal advice sessions we delivered. These increased from 94 at the end of 2015 to 122 at the end of 2016 – the equivalent of more than two a week over the course of the year. We reached eight detention centres and seven prisons, and a total of 1,550 people attended our advice sessions.

We are accredited by the Office of the Immigration Services Commissioner (OISC), who commented: *“The breadth of the work involving immigration law, public law and client care for vulnerable clients is something you would find in very few fields of law.”* and *“The case files reviewed showed a quality of representation and casework which was excellent to see and a dedication to the client which could not be faulted.”*

### CASE STUDY

‘A’ came to the UK over 10 years ago from Gambia on a valid partner visa to join her husband. She was subsequently sexually and physically abused by her husband. She contracted HIV. Her husband told her she would have to work as a prostitute to pay off the debt he had incurred in bringing her over. She refused and fled. She became street homeless and committed a number of criminal offences as a result. She was then detained following her prison sentence.

When BID took over her case, she had been in immigration detention for 16 months. We referred her to the Salvation Army as we were concerned that she was a trafficking victim. They referred her into the National Referral Mechanism and they found there to be reasonable grounds to believe that she was. She now has a solicitor dealing with her substantive immigration case. She had also been waiting for a Section 4 address for over five months and we challenged this delay and the address was granted. She was released from detention following a grant of bail at the first hearing.

Without BID’s involvement, this client is likely to have remained in detention for a lengthy period before being returned to the Gambia as an unrecognised victim of trafficking facing all the difficulties that someone in her situation would face. Instead, she was released from detention and now has a solicitor working on her case to try to assist her to remain in the UK. She has obtained her liberty and access to the justice that she deserves.

#### Client

***“Since I discovered BID, things have been going smoothly for me and today I am out of detention. Thank you so much for what you do. We feel lucky to have you. Long life to BID.”***

## Prisons' project



The prisons' team supported a total of 507 people during the year, with a combination of legal advice sessions in prisons along with representation. 15 legal advice sessions were held in HMP Huntercombe, HMP Brixton, HMP Holloway, HMP Bronzefield, HMP Pentonville, HMP Belmarsh and HMP Isis. A total of 212 clients were given advice at these sessions. There is no immigration advice in prisons for former prisoners who are being held under immigration powers. For this reason, and because of BID's excellent reputation, the prisons' project has seen a huge increase in the number of clients. Within the client group there has been a significant increase in the number of women assisted by the project. Many are EU nationals with low-level offending and limited English who, without BID's support would be removed from the UK having had no access to legal advice and representation. A number of clients who received support from us have been subsequently found to be victims of trafficking.

### Feedback from clients

Feedback from our legal advice sessions is extremely positive: 100% of respondents said the session had been either helpful (29%) or very helpful (71%); 96% said they understood all, or most, of the advice given; and 78% said the workshop had helped them understand the bail process a lot. Feedback from clients in prisons was similarly high with 100% expressing that the session had been either helpful (37%) or very helpful (63%). 63% of them found that it helped them understand the bail process a lot. Other free comments included: 'I am very impressed [by] BID especially their representatives. They were great with their great service.' and 'I got all information related to bail. It was excellent, great. Great job, keep it up. Thank you'

For our clients in prison who were represented, the feedback was that the preparation of their case was 'excellent' (100%). Additional comments included: 'Everything you have done was perfect', 'From the beginning to the end, everything was fantastic, communication is awesome and the follow up is great.'

Our family clients expressed great satisfaction with the service provided, with 100% of clients saying that the service provided had been helpful (even if they were not released). 92% judged the standard of preparation of their case to be excellent. When asked, 'What could have been done better with your bail application?', 75% answered 'Nothing'. 92% said their understanding of bail had increased since being supported by BID, and 100% of clients said that working with BID and being active in challenging their detention had helped them personally.

### CASE STUDY

**X was detained following the completion of her criminal sentence despite suffering from serious mental illness and repeated suicide attempts. The Home Office deemed it appropriate to maintain her detention despite her ill-health and the fact that her children were in the care of their grandmother who also suffers from serious ill-health. The impact of X's continued detention on the children was profound, with each child displaying erratic behaviour including self-harming and bed-wetting. BID successfully applied for bail and managed to refer X to solicitors who submitted a fresh asylum application. Had it not been for BID's visit to the prison, X would not have received advice and representation. It is highly likely that she would have been deported without her children despite the ongoing fear she has for her safety as well as her ongoing health problems. As a result of BID's support, however, X has slowly started to rebuild her life and challenge the decision to deport her without her children.**

#### Family member of a client

***"A big thank you to you and your team from me and the family. Thank you so much, the girls were thrilled to see their Daddy."***

#### Client in prison

***"Nobody listened to me until I spoke to BID. Thank you for your help. I have now put in a bail application and have been told I will be transferred to an immigration removal centre."***

# Separated families' project

The separated families' project provides legal advice and representation to parents separated from their children by detention. We do not believe it is acceptable to separate families for the purpose of immigration control.

The family team assisted 137 parents with 283 children during the year. The project also began to take on deportation cases towards the end of the year. Seven clients were supported with their deportation matters, and three hearings listed. In one case, the Home Office withdrew its decision to deport which meant that the client could stay here with his family. One client is now subject to an out-of-country appeal which, even with BID's assistance, will be challenging.

*"...the UK should introduce into law and practice, at least, a maximum time limit applicable to migrant detention, as well as a system of an automatic, regular judicial review."*

Nils Muižnieks, Council of Europe Commissioner for Human Rights - Memorandum on the human rights of asylum seekers and immigrants in the United Kingdom (March 2016)

## CASE STUDY

John has now been living in the UK for nearly 10 years. He came here to claim asylum from a war-torn African country. However, on claiming asylum he was arrested, detained and subsequently convicted of a false document offence because he had to use a false passport to get into the UK. The 1951 Refugee Convention stipulates that people claiming asylum who need to use false documents to flee persecution should not be prosecuted for doing so. Nevertheless the criminal court sentenced John to just under 12 months and recommended deportation at the end of his sentence. John's asylum application was refused while he was in prison, mainly because it was almost impossible for John to get evidence to support his asylum application from prison and he had very little legal advice during this time. John has been fighting his case ever since but with a lack of legal aid and legal representation he has struggled to win.

John cannot currently be deported to his country of origin because he does not have a passport and the country he is from is not willing to provide one. In the 10 years he has been here he has had a family and now has two children aged five and six. He has been unable to work and provide for his children as the Home Office do not normally allow failed asylum seekers to work even if they can't go back to their country of origin.

John was detained in December 2015 because he was caught stealing a Christmas present for his children. The police decided not to press charges. However, the Home Office decided to detain him in an Immigration Removal Centre anyway.

He was detained for five months. His children were devastated by his detention and a teacher at their school wrote a letter to the Home Office to explain how their behaviour had changed and how sad they had become.

**BID represented John in his bail application and he was released. John needed help with challenging his deportation, but there is no longer any legal aid for this. BID has continued to help him by taking on his deportation case to try and stop him being deported and separated from his children.**

## Article 8 & Deportation Advice Project (ADAP)

Following the legal aid cuts in 2013, BID and the University of Law established the project to provide legal advice and representation to long-term UK residents in detention facing automatic deportation following a prison sentence, regardless of the length of time they'd lived in the UK or their family life. Many of our clients are held in prison under immigration powers following completion of their sentence.

In the last year, the project supported 123 clients. Everyone who is referred to the project receives a full assessment of their case to establish whether or not it can be taken on. If it can't, the client receives an advice letter which explains why not, and advising of next steps.

The project deploys the same approach as with BID's bail work: a combination of legal advice, production and dissemination of self-help materials, and representation of the most vulnerable and compelling cases. Twelve appeals were heard. Of those, five were successful. Of the remainder, one was refused and the rest are awaiting hearings. The Home Office still seems to be appealing every appeal that they lose.

The project has produced eight factsheets on deportation which are available on the BID website: *Deportation Appeals: An overview*; *Deportation of EU nationals*; *EEA nationals' length of residence*; *Representing yourself in the FFT in an Article 8 deportation appeal*; *Certification of a human rights claim*; *Preparing your Article 8 deportation appeal*; *Fees for Deportation Appeals*; and *Applying for Exceptional Case Funding*.

Feedback from prisoners on self-help materials:

*“A comprehensive and well-explained document; structure and setout is user-friendly and the Q&A approach is ingenious” “The BID Packs for Bail were invaluable and recherché and so are these Factsheets”*

### CASE STUDY

T is in a long term relationship with a British citizen. They have three minor British citizen children together. One of the children has autism with very high care and supervision needs. T lives with his partner and children and is their joint primary carer. The family has no support network to turn to for assistance and T and his partner are wholly reliant on each other both to parent their children and for emotional support.

T was served with a Decision to Deport. The decision was 'certified' under S.94B which meant that he was denied an appeal from within the UK. BID made representations to the Home Office for withdrawal of the certificate on the grounds that his removal from the UK for the duration of the appeal period would be seriously detrimental to the best interests of the children. However, the Home Office rejected all representations. Following a threat of judicial review, however, they agreed to reconsider. Six months later, the Home Office agreed to withdraw the Certificate which means that T can appeal his deportation from the UK. He was exempted from the fee for the appeal only after two written requests by BID. We have now instructed an Independent Social Worker with experience of working with autistic children to produce a report to assist the First-tier Tribunal in assessing the best interests of the children in determining the deportation appeal.

Without representation from ADAP it is very likely that T would have been removed and required to exercise his appeal right from abroad, leaving his partner as the sole carer of three children. He would have faced the daunting task of preparing his appeal in a strange country, which would have meant providing his own technical equipment to enable him to participate in his own hearing. In addition to this, he would have been unable to afford to obtain expert evidence of the impact of deportation on the welfare of the children, all of which would considerably reduce his prospects of success at appeal resulting in long term separation from his partner and children.

# Strategic litigation

We continued our strategy of referring cases for judicial review alongside acting as interveners or providing witness statements for other cases when invited by solicitors. We have been involved in the following cases in the past year:

**B (Algeria):** We have applied to intervene before the Supreme Court in this important case. BID is concerned with the central question as to whether or not it is lawful to place restrictions on a person's freedom in circumstances where their detention would be unlawful. This issue is particularly important as the new Immigration Act 2016 explicitly places all individuals who would normally be granted 'temporary admission' on to 'immigration bail', even in circumstances where their detention would be unlawful.

**O:** The Supreme Court decided this case in January. BID intervened jointly with Medical Justice (MJ). The court found that consideration of whether or not a person's medical condition can be 'satisfactorily managed' in detention must take into account whether or not such condition could be improved outside detention rather than simply contained or maintained in detention without deterioration. One of BID's central submissions in this case related to a Court of Appeal decision in the case of *(Francis) v SSHD (Bail for Immigration Detainees intervening)* [2014] EWCA Civ 718, [2015] 1 WLR 567. The Supreme Court disagreed with the finding in Francis that individuals with recommendations for deportation were required to be detained by the SSHD. The court found that where such detention violated 'Hardial Singh' principles that

protect against unlawful detention, nominal damages may not be sufficient. The decision is welcome as the reasoning in Francis had been increasingly used by the Home Office to argue in support of the automatic immigration detention of people served with automatic deportation orders under the 2007 UK Borders Act. The fact that the SSHD must justify and ensure detention is in line with her own policy whenever this is authorised by statute is a welcome outcome.

## Freedom of Information

**Appeal:** This appeal arose from BID's work with immigration detainees who are detained pending issuance of documentation from their national authorities to enable their removal from the UK, and is relevant to establishing whether or not detention is unlawful. The Home Office's 'Emergency Travel Document Country Reference Guide', which contains information about the process of, and timeframe for, obtaining travel documents from countries worldwide, had previously been released to BID following Freedom of Information requests submitted from 2010 onwards. In 2014, however, the Home Office redacted three columns from the guide, stating that disclosure could undermine the UK's relations with foreign governments and the UK's immigration controls. BID appealed to the Information Commissioner who found in favour of the Home Office.

BID's position was that, although the Home Office had previously refused disclosure of the ETD Guide for similar reasons in 2010, it had relented and disclosed in response to an appeal by BID, stating that "no evidence was identified that the release of

the earlier Travel Document Information Guide was prejudicial to either international relations or the operation of immigration controls'. On the day of the hearing, the Home Office agreed to provide full disclosure of the document except for minor redactions in relation to the entries on Cuba, Kuwait and Kuwaiti Bidoon only, so BID agreed to withdraw its appeal on this basis.

## JN v UK and Draga v UK:

BID was granted permission to intervene by the European Court of Human Rights (ECtHRs) in these two cases, with the intervention responding to a question put by the ECtHRs to the appellants and the UK Government regarding whether or not the legal regime for immigrants in detention in the UK satisfies the requirements of Article 5(1) of the European Convention on Human Rights (ECHR).

While ECtHRs found in favour of JN on the facts of his case, the court also concluded that there is no requirement for time limits or automatic judicial oversight to protect against a violation of Article 5(1).

## Section 4 delays in complex cases - Suthakar Sathanantham & Ors [2016] EWHC 1781 (Admin):

These four applications heard by the Administrative Court sought to challenge the excessive delays in the Home Office's provision of Section 4 accommodation to detainees thus denying them access to justice. BID had applied to intervene and been refused, as our publication 'No place to go: Delays in the Home Office Provision of Section 4(1) (c) Accommodation' had already been submitted as evidence by the appellants. However, we had collated further evidence on delays

*"Rule 35 reports were among the worst that we have seen, for example, giving wholly inadequate attention to the impact of rape and sexual violence."*

**Section on 'Concerns about Yarl's Wood', HM Chief Inspector of Prisons for England and Wales, Annual Report 2015-16**

during 2015 which showed that the delays had in fact increased since the initial report was published in September 2014. This updated evidence was also then included in a detailed witness statement from BID which was submitted to the court by the claimants.

In his judgment Mr Justice Edis found that, given the importance of safeguarding the right to liberty “lack of resources and administrative necessity do not justify such delays”. He said that the evidence provided by BID showed that a bail address “is an essential pre-requisite for a successful application”. Without such accommodation “applicants are detained for very long periods of time when they may be eligible for bail if accommodation had been found”.

He rejected the Home Office’s argument that delays were due to maladministration and that it was therefore accountable only to the Parliamentary Ombudsman and thus, the court did not have the power to consider the cases. He said: “The court guards its jurisdiction in cases involving liberty jealously. [...]”. The failure to consider S4(1)(c) applications “within a reasonable time, or actually, at all” was not maladministration and was plainly reviewable on public law grounds.

He also noted that had the claimants not been in immigration detention but simply subject to license “they would have had to live somewhere while on license”. He said: “I am not sure why it suddenly gets so difficult [to find an address] when they are in immigration detention [...]”. He also recommended that “the failures to the existing system must be addressed” when new arrangements

for issuing accommodation are introduced under the Immigration Act 2016.

**Barrister involved in the litigation:** “*Thank you for all your help with the Section 4 case. Your evidence was relied on heavily and it significantly contributed to us winning the case....You guys set this whole thing up and BID’s concerns have been vindicated.*”

**Referrals to and from solicitors:** Developing legal strategies to strengthen potential claims of unlawful detention is an important part of BID’s casework. Coordinating steps with solicitors can tip the balance in favour of a client’s release from detention. This includes making referrals to solicitors, and accepting referrals for bail applications from solicitors undertaking claims of unlawful detention. In this way we can increase a client’s overall chances of gaining release from detention. Over the past year BID referred 16 cases to solicitors for the purpose of investigating and making applications for judicial review, and we accepted 3 referrals from solicitors to make applications for bail as part of a strategic approach to support judicial review proceedings. Of the 19 cases that solicitors have been working on this year 11 were released from detention.

## Research and policy

**Research:** The research “Rough Justice” was published at the end of last summer, looking at a collection of BID’s clients to assess the impact of the 2013 legal aid cuts on families and children. The report formed the basis of evidence given to parliament’s Justice Committee.

The 11th Legal Advice survey was published in the spring. 117 detainees participated. One in four of those spoken to had never had a legal representative while in detention. The findings were published in a new, easy access format using infographics, which proved popular on social media.

Meanwhile, we have embarked on a major research project in partnership with Linklaters LLP (a city law firm). About 30 volunteer lawyers are observing deportation hearings and immigration appeals for us, as a means of assessing the impact that a lack of legal representation has on the fairness of proceedings. The final report is expected to be published by early 2017.

**External work:** In January, BID was invited, with just four other organisations, to attend a meeting with the Council for Europe’s Commissioner for Human Rights. A number of issues around immigration were discussed, including detention, the need for a time limit and the practice of holding detainees in prisons. Following the meeting and his visit, the Commissioner published a memo that included comments on the need for a time limit on detention.

Other external work has included submitting evidence to the European Committee for the Prevention of Torture, and to the British Institute for Human Rights’ Human Rights Check, as well as speaking at a short film event during Refugee Week.

BID’s Twitter reach continues to grow, with followers now reaching almost 5,000 – an increase of more than 800 over the past year. We are averaging approximately 150 likes, mentions and retweets every month. Finally, a Facebook presence has also been established and has already drawn some traffic.

# Research and policy

## Parliamentary work

The main focus of parliamentary work was the Immigration Bill (now Act) 2016. Eight briefings were prepared for various stages of the Bill's progress through Parliament for both the House of Commons and the House of Lords. In addition to this, written briefings were also prepared on a number of other debates, including on the APPG inquiry into detention and on Legal Aid. As well as written briefings, we attended a number of meetings with Labour and SNP members of the Bill Committee to brief in person on key amendments. This work, along with our work with other NGOs, led to a key compromise amendment, now enacted, that has established the principle of automatic judicial oversight through mandatory bail hearings every four months.

Through the course of the year, we have had direct contact with 16 MPs and Lords, including Stuart McDonald (the SNP Immigration spokesperson), Imran Hussain (Labour's Shadow Minister for International Development), Lords Brown, Salisbury, Wigley, Judd and the Earl of Sandwich. In a number of these cases, the parliamentarian in question has sought further information from us. We have been mentioned or quoted in the chamber and committee a number of times, some examples of which follow:

**Lord Brown of Eaton-under-Heywood:** "...The fact is that those are the vast majority of cases involving prolonged detention. Frankly, that provision emasculates the whole idea of a time limit. None of the previous campaigns or arguments in favour of a

time limit has suggested such a striking restriction on its scope; no such suggestion was advanced in Committee; and no other country has gone down this road. Small wonder that in its briefing on the amendment, the Equality and Human Rights Commission does not support subsection (4); nor does the organisation Bail for Immigration Detainees, to which I spoke for some length on the telephone this morning. It says that, with this restriction, it would regard the amendment as essentially pointless..." (Immigration Bill, Lords report stage)

**Alistair Carmichael:** "...On the lack of a time limit, does he think that inadequate access to legal representation is one of the reasons why people end up in open-ended detention in that way? The briefing supplied to us today by Bail for Immigration Detainees points out that 11% of those detained have never had any legal representation at all."

**Catherine West:** "...For example, a recent [BID] report, 'Fractured Childhoods: The separation of families by immigration detention', found that of 200 children separated from 111 parents, 85 were in foster or local authority care during their parents' detention. I know that that is not only detrimental to the children's welfare, but amounts to a significant cost to the public purse. Furthermore, parents were detained for an average of 270 days, which seems excessive. Children described the extreme distress they experienced: losing weight, having nightmares, suffering from insomnia, crying frequently and becoming deeply unhappy. In 92 out of 111 cases, parents were eventually released—with detention

having served no purpose. In the light of the issues brought up in the debate, it is clear that there is so much that we could be doing..." (both Commons debate on APPG Immigration Detention report)

**Earl of Sandwich:** "...We forget that many detainees are not isolated individuals but have families in this country. An organisation for which I have the highest regard, Bail for Immigration Detainees, in a report entitled 'Rough Justice', recently looked at the cases of 102 parents who had been separated from their children by immigration detention during an 18-month period in 2013-14. They left detention between 1 April 2013 and 30 September 2014. In most cases they were detained pending deportation or removal to countries like Somalia, Iraq and Zimbabwe. Criminal convictions were often triggered by non-violent offences such as theft and false documents. Only half of these parents had current access to a legal representative, most of them to a legal aid solicitor, and 11% had never had access to a legal representative. Some 77% of the detainees who had access had to wait longer than a week to make an appointment, and one in 20 had to wait longer than a month."

**Policy:** BID continues to engage with the Home Office's National Asylum Stakeholders Forum (NASF) and the reformed Strategic Engagement Group (SEG). Direct access to senior government officials through the main NASF group has been replaced by a smaller group engaging on a strategic level, informed by the wider NASF membership. The NASF sub-groups, however, remain intact. BID sits on the Detention and Support subgroups.

*"Staff from support organisations Bail for Immigration Detainees (BID) and Detention Action regularly attended the centre. BID helped detainees make bail applications."*

**Unannounced inspection of Colnbrook Immigration Removal Centre by HM Chief Inspector of Prisons, May 2016**

# Statement of Financial Activities

For the year ended 31 July 2016

## SUMMARY INCOME AND EXPENDITURE ACCOUNT

	Unrestricted Funds £	Restricted Funds £	2016 £	2015 £
<b>Income</b>				
Grants and donations	238,887	12,500	251,387	227,048
Charitable activities	-	373,100	373,100	398,700
Investments	2,041	-	2,041	4,702
<b>Total</b>	<u>240,928</u>	<u>385,600</u>	<u>626,528</u>	<u>630,450</u>
<b>Expenditure</b>				
Raising funds	31,252	3,750	35,002	24,134
Charitable activities	216,041	381,439	597,480	600,073
<b>Total</b>	<u>247,293</u>	<u>385,189</u>	<u>632,482</u>	<u>624,207</u>
<b>Net income/(expenditure) and net movement in funds for the year</b>	(6,365)	411	(5,954)	6,243
<i>Reconciliation of funds</i>				
Total funds, brought forward	180,602	95,351	275,953	269,710
<b>Total funds, carried forward</b>	<u>174,237</u>	<u>95,762</u>	<u>269,999</u>	<u>275,953</u>

The statement of financial activities includes all gains and losses recognised in the year. All income and expenditure derive from continuing activities.

## BALANCE SHEET AS AT 31 JULY 2016

	2016		2015	
	£	£	£	£
<b>Fixed assets</b>				
Tangible assets		23,063		726
<b>Current assets</b>				
Debtors	22,188		9,529	
Cash at bank and in hand	302,295		316,088	
	<u>324,483</u>		<u>325,617</u>	
<b>Liabilities</b>				
Creditors: amounts falling due within one year	77,547		50,390	
	<u>77,547</u>		<u>50,390</u>	
<b>Net current assets</b>		246,936		275,227
<b>Net assets</b>		<u>269,999</u>		<u>275,953</u>
<b>Funds of the charity</b>				
Restricted funds		95,762		95,351
Designated funds		-		22,846
General funds		174,237		157,756
<b>Total charity funds</b>		<u>269,999</u>		<u>275,953</u>

The trustees have prepared accounts in accordance with section 398 of the Companies Act 2006 and section 138 of the Charities Act 2011. These accounts are prepared in accordance with the special provisions of Part 15 of the Companies Act relating to small companies and constitute the annual accounts required by the Companies Act 2006 and are for circulation to members of the company.

**We'd like to extend a huge 'thank-you' to all our staff, trustees, volunteers, as well as the barristers, solicitors and funders who have supported our work over the year. Quite simply, we would never have achieved all that we have without them.**

### **Trustees**

Liz Barratt (Chair), Maggie Pankhurst (Vice-Chair), Claire Sharpe (Treasurer), Chris Tully (resigned 14/10/2015), Katharine Sacks-Jones (resigned 17/08/2016), Ruth Stokes, Saoirse Townshend, Sandeep Katwala, Alastair Livesey, Kezia Tobin (appointed 22/06/2016).

### **Staff**

Celia Clarke (Director), Christopher Desira (Legal Manager, Right to Liberty, joined 24/05/2016), Ionel Dumitrascu (Legal Manager Casework & Outreach), Matthew Duncan (Legal Manager, Right to Liberty, left 26/05/2016), Elli Free (Legal Manager, Separated Families' Project), John Hopgood, (Policy & Research Manager, joined 17/08/2015), Carmen Kearney (Legal Manager, ADAP), Pierre Makhoul (Assistant Director), Tom Nunn (Legal Manager, Right to Liberty, joined 01/07/2016), Sille Schroder (Legal Manager, Right to Liberty, left 12/05/2016), Iqvinder Sokhal (Legal Manager, Prisons' Project), Adeline Trude (Research & Policy Manager, left 31/08/2015), Kamal Yasin (Office & Finance Manager).

### **Volunteers**

Shoaib Khan, Tony Goodfellow, Nasrat Sayyad, Adnan Qadri, Elena Butterfield, Gill Baden, Charles Brown, Fae Vincent, Olivia Burgess, Nazneen Jivraj, Johara Borbey, Ervis Sulce, Betty Schofer, Cyrus Sabourian, Gurpal Cheema, Sherren Smith, Sophie Coker, Sema Ashami, Nina Eichner, Giorgio Migliore, Lawrence Lock, Charalampos Stylogiannis, Hekma Yagoub, Eve Forrester, Rudy Schulkind, Yiannis Voyias, Elizabeth Donnelly, Annahita Moradi, Nicholas Sadeghi, Gamze Sen, Robin Pickard, Susana Costa, Grace Matthews, Patrick Rooney, Elena Livieri, Sara Lodi, Van Ferguson, Ahmed Osman, Clemence Aymon, Feriha Tayfur, Emily White, Robert Webb, Pierre Georget, Navida Quadi, Carla Mirallas Martinez, Sayuri Inman, Nadia Zink, Jonathan Fransmann, Kyla Morris, Araniya Kogulathas, Asya Akram, Serena Gonfiantini, Aditi Jaganathan, Maryam Masalha, Muntaha Nabi, Rachel Bonner, Daniela O'Reilly, Helen Ukbay.

### **BPP Pro Bono Centre volunteers:**

Feriha Tayfur, William Azuh, Sonabella Harji and Adam Harnischfeger, and special thanks to Shaila Pal.

### **BID wishes to thank the following barristers' chambers for offering to assist our work pro bono.**

1 Gray's Inn Square; 1 Mitre Court Buildings; 1 Pump Court; 10 King's Bench Walk; 11 King's Bench Walk; 1215 Chambers; 15 New Bridge Street; 3 Hare Court Place; 36 Group; 39 Essex Chambers; 39 Park Square North; 4 King's Bench Walk; 6 King's Bench Walk; Blackstone Chambers; Broadway Chambers; Doughty Street Chambers; Field Court; Francis Taylor Building; Garden Court Chambers; Garden Court North; Goldsmith Chambers; Guildhall Chambers; Invictus Chambers; Kenworthy Chambers; Lamb Building; Landmark Chambers; Mansfield Chambers; Matrix Chambers; No. 5 Chambers; No. 8 Chambers; Temple Garden Chambers; Trinity Chambers.

### **We also wish to thank the following solicitors and their firms for their kind pro bono help and advice:**

- Allen and Overy LLP - Andrew Denny, James Neill, Maeve Hanna, Elizabeth Staves, Daniel Grimwood, Peter Tolson
- Bhatt Murphy Solicitors - Mark Scott, Jed Pennington, Hamish Arnott, Janet Farrell and Jane Ryan
- Deighton Pierce Glynn Solicitors - Connie Sozi, Sue Willman and Louise Whitfield
- Leigh Day Solicitors - Jamie Beagent and Waleed Sheikh
- Luqmani Thompson Solicitors - Eileen Bye
- Project for the Registration of Children as British Citizens: Solange Valdez
- Public Law Project - Jo Hickman and Joe Vester
- Sutovic and Hartigan: Smita Bajaria
- Wilson Solicitors LLP - Kay Everett and James Elliott
- University of Law - Emma Douglas

**BiD** Bail for  
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Detainees

## **Funders**

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**Allen & Overy Foundation**  
**The Paristamen CIO**  
**Eleanor Rathbone Charitable Trust**  
**Evan Cornish Foundation**

**A LEGAL VOICE FOR  
IMMIGRATION DETAINEES**

*The Committee is deeply concerned that the referendum campaign was marked by divisive, anti-immigrant and xenophobic rhetoric, and that many politicians and prominent political figures not only failed to condemn it, but also created and entrenched prejudices, thereby emboldening individuals to carry out acts of intimidation and hate towards ethnic or ethno-religious minority communities and people who are visibly different.*

UN Committee on the Elimination of Racial Discrimination  
periodic report on the UK, Concluding Observations,  
August 2016

**BiD** Bail for  
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Detainees

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