




# FOREIGN OFFENDERS AND CRIMINAL JUSTICE

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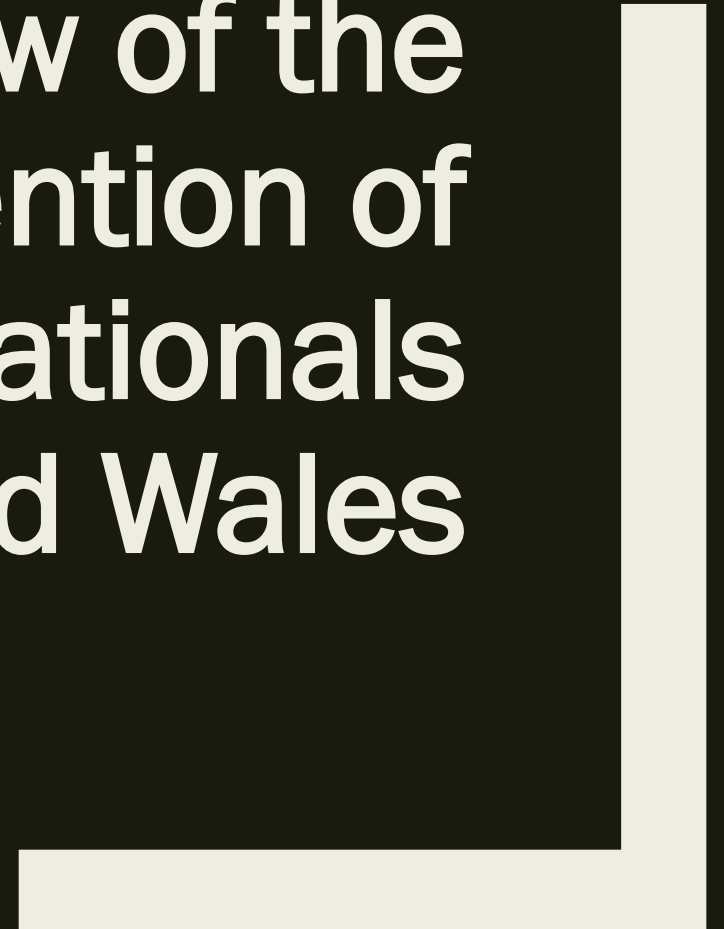
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# Content

- An overview of the imprisonment and detention of foreign national offenders (FNOs) in England and Wales
- Putting international and European standards into practice
- Returns and rehabilitation

**An overview of the  
imprisonment and detention of  
foreign nationals  
in England and Wales**



**MPs concern over failure to deport 'small town' of foreign criminals**

Sick teenage migrant who raped OAP, 72 in savage attack to be released in MONTHS

**Revealed: Whitehall's plan to rid the country of foreign criminals**

**Asylum seeker 'travelled around London scouting targets in terror plot'**

**Foreign criminals avoid deportation because police fail to carry out immigration checks**

**Foreign crooks costing British taxpayers £60m a year in jet costs to deport**

**Algerian asylum seeker committed 17 crimes including attempted robbery and drug crime is RELEASED onto the streets because Government can't kick him out**

Romanian migrant jailed after raping and robbing a 69-year-old woman

**Foreign criminals unmasked only after committing an offence**

**Nearly 1,800 foreign criminals eligible for deportation have been in Britain more than five years**

**More than 1,300 foreign criminals, including killers, rapists and paedophiles have used human rights laws to stay in the UK**

- Foreign killers, rapists and paedophiles can stay in UK because family here
- But number of criminals using human rights laws has significantly fallen
- Former home secretary [Theresa May](#) introduced 'deport first, appeal later'

**Immigration centres: Act now to overhaul Britain's 'shocking' detention of migrants indefinitely and in appalling conditions, say M**

**Invisible fathers of immigration detention in the UK**

MELANIE GRIFFITHS 31 October 2016

Prisons inspector calls for time limit on immigration detention

Anger as 'panicking' Home Office puts minors in detention centre

Activists surround Yarl's Wood detention centre with wall of noise

**Unlawful immigration curfews under government review**

**Government forced to pay out £14m to hundreds wrongly imprisoned under immigration powers**

**Payments to wrongly held detainees £4m each year**

**Immigration centre staff told: Put 'disobedient' detainees in solitary confinement - even if it could kill the**

Exclusive: Revised Government policy described as 'new charter for cruelty'

Theresa May to put 72-hour limit on detention of pregnant asylum seekers

UK must drastically reduce use of detention, says Shaw immigration report

# Controversies

- Failure to remove foreign national offenders
- Lack of time limits on administrative detentions and detention of vulnerable groups
- Focus today on foreign national offenders

# Prisons and immigration detention

- Foreign national offenders held on immigration grounds only pending removal may be held in immigration removal centres or prisons
- Foreign national offenders on remand awaiting trial or sentence and those serving a sentence will be held in prison
- Immigration control not devolved – UK wide. Prisons devolved – England and Wales

# Key facts – immigration removal centres

- 32,741 people entered UK immigration detention in the year to September 2016
- Including 4,634 women and 128 children
- 11% increase on previous year; 25% increase on previous five years
- About 4,000 people in immigration detention on any one day
- Nine immigration removal centres (IRCs) and about 30 non-residential short-term holding facilities
- Seven IRCs run by private companies, two by the prison service



# Key facts – foreign nationals in prisons

- 85,639: total prison population (England and Wales) 30 September 2016
- 9,980 foreign national offenders in prison
- Including 1,565 immigration detainees
- Held in:
  - *Two prisons used as immigration removal centres (c.900)*
  - *Two designated foreign national offender prisons for FNOs under sentence (c.1000)*
  - *Other dispersed in ‘hub’ and ‘spoke’ prisons throughout the prison estate*

## Foreign nationals within the prison estate

Foreign nationals are held in over 120 prisons and immigration removal centres across England and Wales

### Type of prisons

- FNO-only prison (2)
- Hub prison (7)
- Spoke prison (5)
- Immigration Removal Centre (3)
- Other prison holding FNOs (104)

### Number of Foreign National Offenders in prison

- 500 to 1,000 (2)
- 300 to 500 (5)
- 200 to 300 (6)
- 100 to 200 (24)
- 50 to 100 (24)
- 0 to 50 (60)



### Notes

- 1 The population of FNO-only prisons consists only of foreign national offenders categorised as having a realistic prospect of being removed.
- 2 Hub prisons have Home Office immigration officers embedded within the prison.
- 3 Spoke prisons are visited regularly by Home Office immigration officers, but they are not embedded.

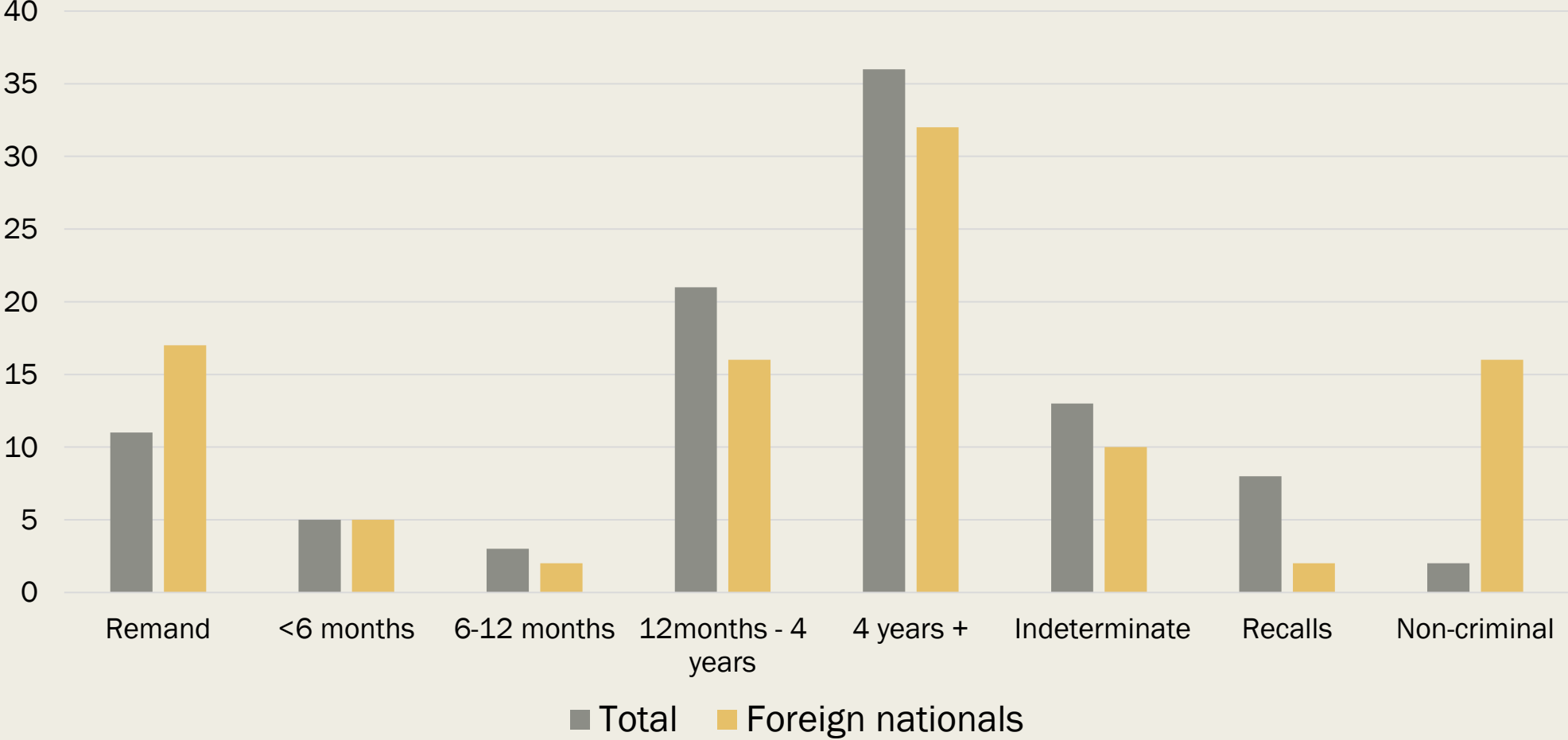
Source: National Audit Office analysis of Agency data

# Foreign nationals in the UK prisons 2013/4

## Top ten nationalities:

Poland	898
Irish Republic	778
Jamaica	711
Romania	588
Pakistan	522
Lithuania	518
Nigeria	468
India	423
Somalia	417
Albania	301

# Prison population: % type of custody by nationality



# FNOs held beyond sentence on immigration grounds – prison or an IRC?

- 4,200 foreign national offenders living in the community pending removal
- Detention must be to effect removal. May be held in prison or an IRC depending on:
- Risk:
  - *national security*
  - *seriousness and nature of the index offence*
  - *risks to children*
  - *risks to victims*
  - *security*
  - *control*
  - *behaviour in custody*
  - *health*
- Space

Putting  
international and European  
standards  
into practice



# The risks of torture and other cruel, inhuman or degrading treatment and punishment

- Closed institutions
- Power imbalance between detention/prison staff and detainee
- Lack of credibility of the detainee
- Normalisation

## **Additional risks to foreign nationals**

- Isolation by language and distance
- Anxiety about immigration status
- Refoulement

# The 'Nelson Mandela Rules'

The United Nations Standard Minimum Rules for the Treatment of Prisoners

## Basic Principles

*Rule 1: All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times*

*Rule 2: The present rules shall be applied impartially. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status. The religious beliefs and moral precepts of prisoners shall be respected....impartially taking account of the needs of the most vulnerable*

*Rule 3: not unnecessarily aggravate the suffering inherent in imprisonment*

*Rule 4: primarily to protect society against crime and prevent recidivism*

*Rule 5: difference between prison life and life at liberty should be minimised*



# Putting human rights principles into practice (1)

- Safety, respect for human dignity, purposeful activity, resettlement
- Only held in prison post-sentence in exceptional circumstances
- Specific needs of women (the Bangkok rules) and children (UNCRC)
- Language : Interpreting and translation support
- Procedural safeguards against refoulement – effective access to asylum procedures and a competent lawyer
- Awareness of trafficking

# Putting human rights principles into practice (2)

- Reception
- Health care – previous ill-treatment, contagious disease, future health risks
- Security arrangements, discipline, solitary confinement and restraint
- Faith provision
- Work and education
- Contact with the outside world: phones, social media, the web, NGOs
- Return arrangements
- Offending behaviour work
- Independent inspection/monitoring – requirements of OPCAT

# Immigration removal centre concerns

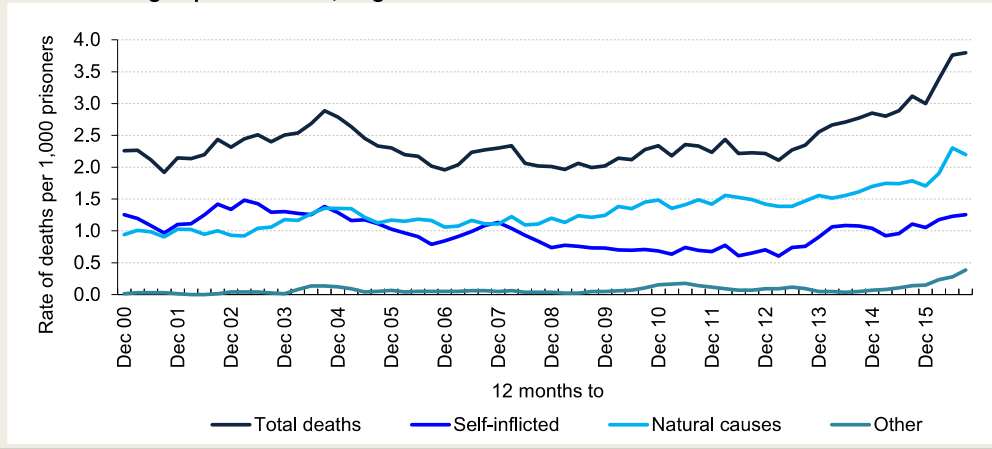
- IRCs generally better than prisons. Smaller IRCs better than large ones
- But still too prison-like
- Processes (Rule 35) to identify and protect detainees with serious health problems or who have been tortured or trafficked inconsistent
- Safeguarding of vulnerable groups inadequate
- Indefinite detention
- Inconsistent support for release or return
- Generally respectful staff

# Major concerns about prisons in England and Wales

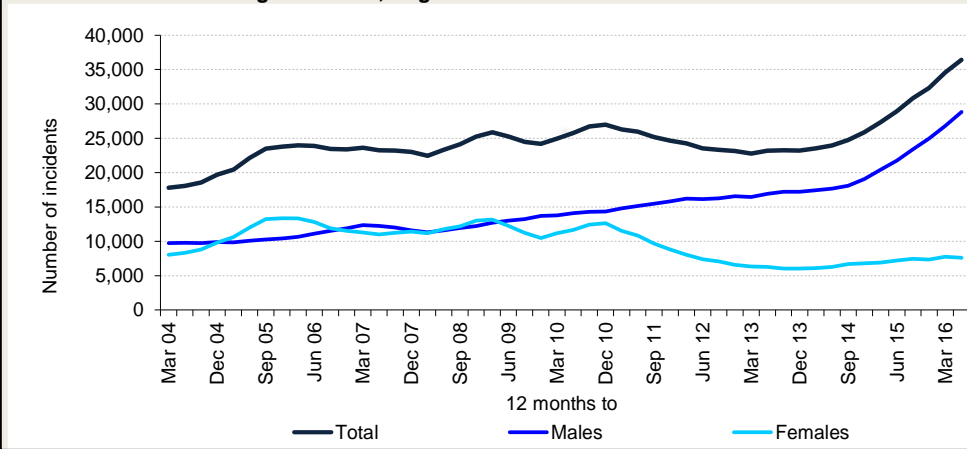
- Staffing shortages
- Overcrowding
- High levels of violence and self-harm
- Poor time out of cell
- Limited education and training

# Violence and self-harm

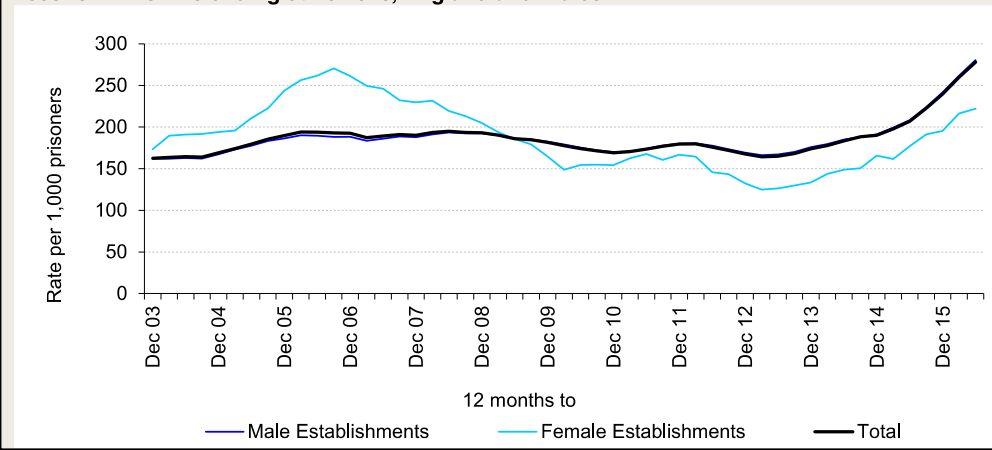
**Figure 1: Deaths per 1,000 prisoners by apparent cause, 12 months ending December 2000 to 12 months ending September 2016, England and Wales**



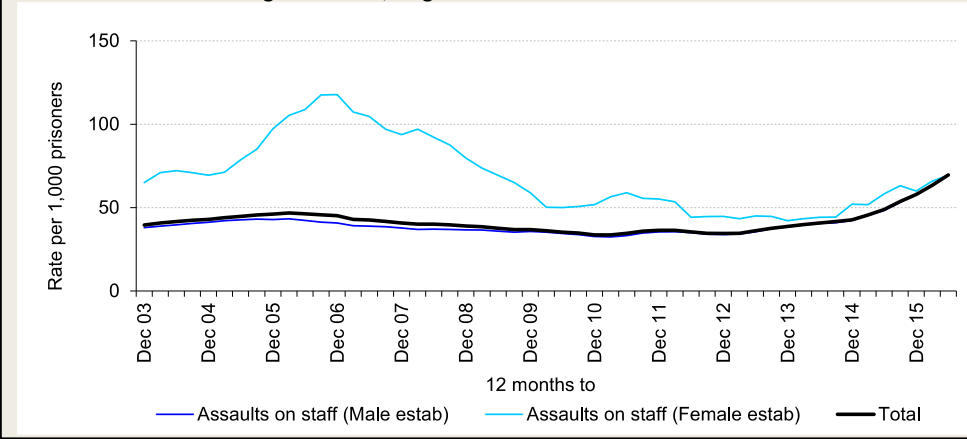
**Figure 2: Number of self-harm incidents in prison custody by gender, 12 months ending March 2004 to 12 months ending June 2016, England and Wales**



**Figure 4: Rate of assaults overall per 1,000 prisoners by gender, 12 months ending December 2003 to 12 months ending June 2016, England and Wales**



**Figure 6: Rate of assaults on staff per 1,000 prisoners by gender, 12 months ending December 2003 to 12 months ending June 2016, England and Wales**



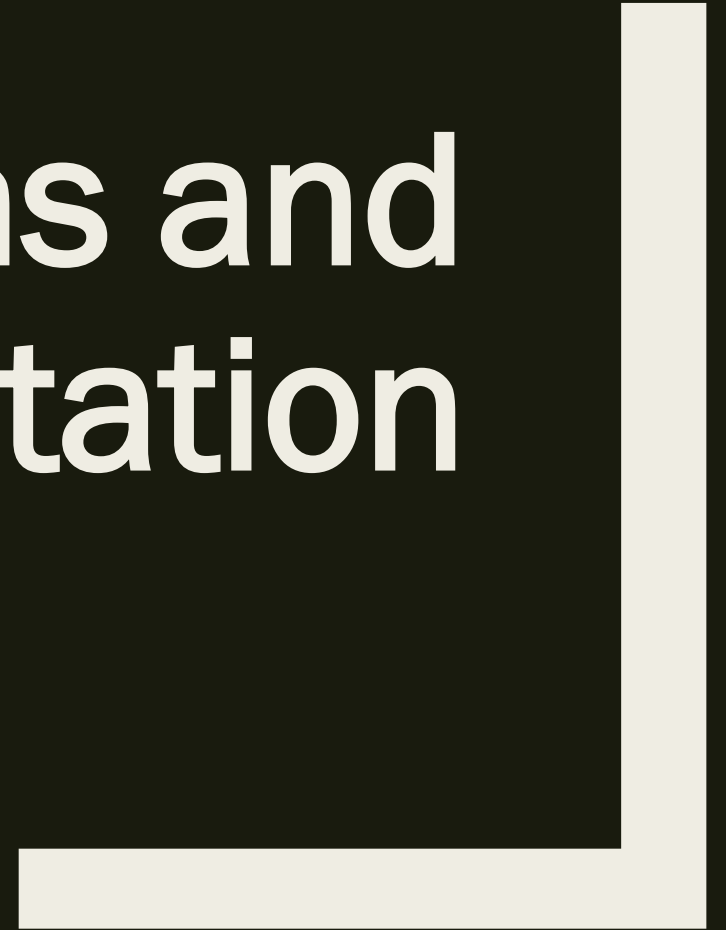
# Differences between prisons and IRCs (1)

	IRC	Prison
<i>Access to legal advice and representation</i>	30 minutes free advice. Ongoing review of eligibility for bail and release	No guarantee of legal advice
<i>Communication with the outside world</i>	Mobile phones and free access to email and web	Wing phones for outgoing calls only. No internet access
<i>Safety and respect</i>	Low levels of violence. Few report of victimisation. Most report treated with respect	High levels of violence. Many reports of victimisation. Fewer report respectful treatment.
<i>Access to immigration officials</i>	Guaranteed regular face-to-face contact	Irregular and infrequent contact depending on location
<i>Safeguards for torture survivors and other vulnerable groups</i>	Medical review and report to immigration decision maker	No guarantee of alerting decision maker to concerns

# Differences between prisons and IRCs (2)

	IRC	Prison
<i>Support from NGOs</i>	Variable support, some specialist, depending on location	Little specialist available
<i>Welfare support</i>	Guaranteed access 7 days/week	Little support
<i>Time out of cell and free movement</i>	Generally good	Poor time out of cell and little free movement
<i>Education and vocational training</i>	Limited	Wider range normally available

# Returns and rehabilitation





# Removals

- 5,100 foreign national offenders removed from the UK 2013/14
- Including:
  - *Prisoner Transfer Agreement (38)*
  - *Early Removal Scheme (1,887)*
  - *Facilitated Returns Scheme (1,347)*
  - *Tariff Expired Removal Scheme (83)*
- About one third of those leaving immigration detention return to the community

# Resettlement and return

- Restrictions on open conditions and release on temporary licence
- Lack of offending behaviour programmes to reduce risk
- Inability to reduce risk and manage after return reduces opportunities for parole
- Ineligibility for social security and work in the community in the UK
- Requirement for information and support about and on return
- Short and long term substance misuse, physical and mental health needs after return
- Arrangements for support from local agencies and onward travel
- Dependents in the UK after return

# UK nationals in prisons abroad – the work of Prisoners Abroad

- Isolation
- Ill-treatment
- Medical care
- Safe water and food
- Family support
- Consular liaison and training

# Joyce

- In Japan
- 66 years of age
- Number of health issues including epilepsy and dementia
- Some family but we are not in contact and minimal support for Joyce
- Isolated – forbidden to speak English and unable to speak Japanese
- Unable to comply with regulations and punished

# What Prisoners Abroad does

- Joyce loves reading and we send book parcels
- Magazines and newspapers
- Language learning materials
- Regular medical fund payments (hospital)
- Liaison with Consular staff
- 189 Interventions –over 5 years

# Returning to the UK

- About 600 UK nationals released from prisons abroad each year
- Many with long absence from UK and very reluctant to return
- Isolation
- Accommodation
- Health
- Employment
- Disorientated by London life and pace
- Offending behaviour

# Serious and sexual offenders returning to the UK seen by Prisoners Abroad

Year	Total resettlement numbers	Serious offenders	Sex offenders
2012/13	156	19%	8.5%
2013/14	183	25%	13%
2014/15	181	24%	11%
2015/16	232	26%	11%
2016/17 (7 months)	245		

# Returns from Australia

- Mandatory deportation for any person serving a sentence over a year
  - catches UK citizens who went to Australia as children
- Long histories of offending, multiple medical problems, long sentences and s long absences from the UK, no family ties
- Post–return challenges: fights, substance misuse, rough sleeping, deteriorating mental and physical health



# Some resources

- **HM Chief Inspector of Prisons. (various) *Annual Report 2015/16/ Prisons and Immigration Detention Expectations (inspection criteria)/ People in Prison: Immigration detainees – a findings paper by HMI Prisons***  
<https://www.justiceinspectorates.gov.uk/hmiprisons/>
- **European Committee for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (2015) *CPT Standards***  
<http://www.cpt.coe.int/en/documents/eng-standards.pdf>
- **Home Office Detention Statistics**  
<https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2015/list-of-tables#detention>
- **Ministry of Justice (2016) *Offender Manager Statistics Quarterly – Prison Population***  
<https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-april-to-june-2016>
- **National Audit Office. (2014) *Managing and removing foreign national offenders***  
<https://www.nao.org.uk/wp-content/uploads/2014/10/Managing-and-removing-foreign-national-offenders.pdf>
- **Prisoners Abroad**  
<http://www.prisonersabroad.org.uk/>
- **Shaw.S (2016) *Review into the welfare in detention of vulnerable people***  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/490782/52532\\_Shaw\\_Review\\_Accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf)
- **UNODC (2016) *The United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)***  
[https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E\\_ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)
- **UNODC (2011) *The Bangkok Rules United Nations Rules for the Treatment of Women Prisoners and Non-custodial measures for Women Offenders with their commentary***  
[https://www.unodc.org/documents/justice-and-prison-reform/Bangkok\\_Rules\\_ENG\\_22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf)