

My family helped me flee the DRC after I was tortured. I came here and am very grateful for the support of charities like the Welsh Refugee Council and the Medical Foundation for the Care of Victims of Torture. I still have flashbacks when I see the army recruiting in Cardiff, but things are getting better.”

Jose, torture survivor, Cardiff hearing.

Interim Finding 6. At the treatment of torture survivors in the asylum system

Finding 6.1 – That torture survivors are often not identified by the system

Finding 6.2 – That torture survivors are being detained despite UKBA published guidance to the contrary

Finding 6.3 – That torture survivors are being fast-tracked against UKBA guidelines

Finding 6.4 – That, because of dispersal, torture survivors frequently do not have access to organisations such as the Medical Foundation for the Care of Victims of Torture

Finding 6.5 – That there is a lack of understanding among UKBA decision-makers of the reasons why a torture survivor might fail to disclose their experiences

Finding 6.6 – At the lack of recognition and understanding that expert medical reports may be slow to arrive, or be altogether absent

UKBA response:

Decision-makers are trained to be fully aware of the sensitivities of dealing with these groups of vulnerable applicants. There is, for example, guidance on the consideration of gender-based claims and detailed guidance on the interviewing of torture survivors and other vulnerable groups. This guidance is published on our website. Interviews and decisions are extensively sampled by our own internal Quality Audit team and by the UNHCR.

A history of torture is one of the factors that must be taken into account in deciding whether to detain a person and would normally render the person concerned unsuitable for detention other than in exceptional circumstances. Independent evidence of torture will weigh heavily against detaining an individual.

Those requiring a medical report to support their claim can apply to the Medical Foundation or the Helen Bamber Foundation. Both these organisations are registered charities. Around 2,400 cases were referred to the Medical Foundation in 2006 (10% of our asylum intake) and they produced around 750 reports (3% of our intake or 30% of those referred).

In addition, we are looking at ways to identify better vulnerable applicants earlier in the asylum process, including looking at how we might incorporate UNHCR’s Heightened Risk Identification Tool into the screening process, and holding a workshop on vulnerable applicants with our key external stakeholders later this year.

Commissioners' assessment:

The Commissioners welcome the UKBA reiteration of the safeguards that are in place to protect torture survivors. However, we repeat our concerns that torture survivors are not always picked up by UKBA staff and that there remains a lack of understanding of the long-term effects of trauma. We have emphasised this issue because of the evidence we have received that torture survivors continue to be fast-tracked, to be interviewed inappropriately, and to be disbelieved. We welcome the guidance on the interviewing of torture survivors and other vulnerable groups and we welcome the work of the Quality Audit team and the UNHCR Quality Initiative to maintain high standards in this area.

We are not persuaded that the impact of a decision to detain on a torture survivor is fully appreciated, and that the use of detention for such vulnerable people is kept to an absolute minimum.

The figures quoted by UKBA (that reports were produced by the Medical Foundation on 30% of those referred) suggest the limited capacity of the Medical Foundation and the Helen Bamber Foundation to provide the necessary medical information for decision-makers. In the absence of such expert reports, we stress the need to proceed with extreme caution and sensitivity.



Recommendations 6.7: The Commissioners therefore recommend:

- 6.7.1 – That survivors of torture, sexual abuse or other forms of trauma should be clearly identified as ‘at risk’ during their passage through the asylum system in order to avoid detention and fast-track procedures. This should happen as early as possible in the process and mechanisms should be in place to ensure that these vulnerable applicants are able to put forward their claims as necessary.
- 6.7.2 – That the means of determining from the earliest possible stage whether a person seeking asylum is a survivor of torture, sexual abuse or other forms of trauma should be reviewed to ensure adequate systems and resources are available.
- 6.7.3 – That relevant Detained Fast Track procedures should be strengthened and rigorously implemented in order to ensure that in cases where there is evidence of torture, sexual violence or other forms of trauma, that that person’s vulnerability is quickly identified and they are removed from the Detained Fast Track process.
- 6.7.4 – That there should be a review of Harmondsworth and Yarl’s Wood Detained Fast Track initial decisions and appeals to make sure that claims of torture or other traumatic ill-treatment are always put before the decision-maker and that gender guidelines have been rigorously followed in interviewing.

Recommendations 6.7: The Commissioners therefore recommend:

- 6.7.5 – That legal representatives and decision makers should be trained in the commissioning and use of medical expert reports and witnesses.
- 6.7.6 – That criteria should be developed specifying when expert opinion should be obtained, for example, in the cases of psychologically vulnerable persons where credibility issues or issues of the timing of disclosure are deemed relevant.
- 6.7.7 – That survivors of torture who are dispersed should have access to appropriate support, such as through the Medical Foundation for the Care of Victims of Torture.
- 6.7.8 – That UKBA decision-makers should receive training on the impact of torture, sexual violence or other forms of trauma on an asylum seeker's credibility, and ability to disclose details that support their case.

Interim Finding 7. At the treatment of lesbian, gay, bisexual and transgender asylum seekers in the asylum system

- Finding 7.1 – At the treatment of LGBT asylum seekers in the asylum system
- Finding 7.2 – That some 'white-list' countries, such as Jamaica, recognised as 'safe' may not be so for LGBT asylum seekers
- Finding 7.3 – That LGBT asylum-seekers may be slow to 'come out' and so have difficulty providing evidence to substantiate their claim
- Finding 7.4 – That LGBT detainees are not adequately protected in detention

UKBA response:

All detained individuals are risk-assessed for any special factors or risk and issues such as the treatment of lesbian, gay, bisexual and transgender individuals will be contained in the country specific operational guidance notes. An individual's sexual orientation and gender identity are naturally a private matter for them. Nevertheless, all detainees regardless of sexual orientation/gender identity are subject to the same degree of safety and security whilst detained in our removal centres. There are systems in place to ensure this is the case, including anti-bullying strategies and Assessment Care in Detention and Teamwork (ACDT).