

Bid

Bail for Immigration Detainees

www.biduk.org

Annual Report 2020

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.

264
people released on bail

Bail for Immigration Detainees



What is immigration detention?

Immigration detention is the process of incarcerating individuals subject to immigration control in the UK either pending permission to enter the country or to await removal or deportation. It's an administrative, not a criminal, process, and powers to detain are exercised by officials acting on behalf of the Home Secretary. There are none of the safeguards that there should be when depriving someone of their liberty. First, the decision to detain an individual is neither approved by nor overseen by a court. Second, there is no automatic legal advice or representation. Third, there is no time limit. Given these three factors, people can be detained for weeks, months and even years. People can also be re-detained, but the Home Office treats these as separate periods of detention and does not count cumulative lengths of detention. Many people experience repeated periods of detention.

What does BID do?

BID's vision is of a UK free of immigration detention, where people are not deprived of their liberty for immigration purposes. We aim 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, parliamentarians and the general public 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.

“While I am unable to make a definitive finding of institutional racism within the department, I have serious concerns that these failings demonstrate an institutional ignorance and thoughtlessness towards the issue of race and the history of the Windrush generation within the department, which are consistent with some elements of the definition of institutional racism.”

Windrush: Lessons Learned Review: Review by Wendy Williams

“BID means principled, dedicated, high quality representation for some of the most vulnerable and disenfranchised in society. The importance of BID’s work is even more critical in the current climate”

Raza Hussain QC

Chair's Report

The last year has been a particularly turbulent one for BID, not least in terms of the global COVID-19 pandemic. BID's Director and Assistant Director were both affected by ill-health and the trustees are extremely grateful to both of them for the way in which they have coped in continuing to manage the organisation during those very difficult times. The Assistant Director stepped up to lead the organisation while the Director was unable to, and provided much-needed continuity and stability. With the pandemic taking hold across the world, the decision was taken in early March to suspend our legal advice sessions in detention centres and prisons. This initial decision was quickly followed by a decision to close the office and work from home. This unfortunately meant we were unable to provide supervision for our casework volunteers. But staff responded incredibly and set about focusing on applying for release for all who the Home Office was still detaining. The trustees are very thankful to staff for their professionalism during this difficult time. We have been so impressed by their output, and the achievement of a more than 90% success rate for bail applications from the beginning of lockdown to the end of the financial year. The Director, Assistant Director and staff continue to manage a challenging situation with great positivity. We have also had a change of trustees, with three longer-standing trustees leaving the Board and four new ones

coming in. Even though joining a Board remotely rather than in person comes with its own challenges, our new trustees have wholeheartedly embraced their new roles. There is much to concern us when we look to the future with the possibility of a "no-deal" Brexit on the horizon. We are worried about the situation of EEA nationals who may well be subjected to detention in greater numbers. However, we are confident that BID is as well-equipped as it can be to meet these and other challenges. I want to thank BID staff and volunteers for their incredible work as well as all our supporters, funders and pro bono lawyers.

**Maggie Pankhurst,
Chair of the trustees**

"Uncertainty about detainees' immigration status and the potential for long-term detention continued to cause frustration. One detainee, for example, had been held for over two years, which was unacceptable. Those held for lengthy periods were often detained because of documentation problems, a lack of suitable accommodation or casework inefficiencies. For example, one detainee had been awaiting an asylum decision for 11 months. Nearly a quarter of the population arrived after serving prison sentences during which their cases should have been resolved without the need for immigration detention."

**Report on an unannounced inspection of Morton Hall IRC,
HM Inspector of Prisons, March 2020**

**90% success rate
for bail applications
from the beginning of
lockdown to the end of
the financial year.**



New volunteers induction December 2019

Director's report



This is my last annual report, as I will be leaving BID at the end of 2020 after fifteen years as Director, so I hope I will be forgiven for indulging in a little personal reflection.

I feel truly blessed to have been entrusted with this job and, despite the highs and lows that come with any job, I can honestly say it has been an absolute privilege. I am incredibly proud of what the organisation, through its staff and volunteers, has achieved over the years in an increasingly toxic environment.

I remember vividly the initial shock and horror I felt at being exposed to immigration detention, meeting people in detention, and hearing their stories either directly or from colleagues. I was appalled that people were being subjected to such cruelty in the name of immigration control for god's sake – but in particular, in such large numbers and so casually and for such long periods of time. I found it frankly unfathomable that it was deemed appropriate to lock people up until they were released or removed, no matter how long it took. And yet, it was something that was very little known about beyond an uncompromising group of immigration lawyers and activists. That outrage has never left me, and provided a core motivator, if I needed one, to engage in a daily battle alongside my colleagues to do everything in our power to consign immigration detention to the dustbin of history. It felt like a daunting task nonetheless.

In 2005 New Labour had confirmed immigration detention to be a central tool in their asylum and immigration system in their "Firm, Faster, Fairer" White Paper; 29,210 people

left detention at the end of 2005, 70% of whom were removed from the UK; children in families were being detained, as were pregnant women. We felt as if we were at the foot of a mountain. It seemed to me that we were not easily going to achieve our overall aim of a complete end to immigration detention but that we should aim for gradual and incremental change towards that goal.

BID was already well-equipped for the challenge. Its combination of legal casework alongside research and policy advocacy had been established from the outset (at this stage BID had only existed for six years) and was already producing some hard-hitting reports. Slowly and incrementally over the years, change began to happen. BID was always at the forefront of challenges to the policies and practices of immigration detention. The first two reports after I joined were about the Detained Fast Track, an ill-conceived, unjust system of processing people's asylum claims (if deemed "straightforward") within 36 hours, and from within detention. Our reports, one about men detained in Harmondsworth and the other women in Yarl's Wood, quite rightly concluded that the system was flawed, was too fast to be fair and, furthermore, was unclear about how a claim was determined to be "straightforward". It was unconscionable that people who had suffered trauma and persecution should be deprived of their liberty and subjected to further trauma. These reports set the scene for further challenges.

From 2001 to 2010 BID ran its End Detention of Children project. Again combining legal casework support to

families in detention with research and policy advocacy, it secured the release of thousands of families, spearheaded two public campaigns in partnership with other organisations and produced compelling research revealing the damage done to families as a result of their detention. Political lobbying and media work along with others created the conditions for the announcement by the coalition government in 2010 that it would end the detention of children. An incredible victory which we never, in truth, dared to hope would happen.

Since then, and in particular over recent years, immigration detention has never been far from the news and has been the subject of a number parliamentary inquiries and official reviews. Severe criticism of the detention system by official bodies has, in part led, to a gradual reduction in the numbers of people detained. The arrival of the COVID-19 pandemic early in 2020 resulted in a further reduction in numbers which are now just around a fifth of what they were a year ago.

As I leave BID I know that my colleagues will continue to fearlessly defend the rights of those subjected to detention and speak out with their usual courage. I will be cheering them on in this fight which is so tantalisingly close to being won. I want to thank everyone that I have had the privilege of working with over the years: trustees, volunteers, funders, those subjected to detention – you have been an inspiration.

**Celia Clarke,
Director**

Achievements and performance

The global COVID-19 pandemic has had a significant impact on BID's work. Some of its effects have been negative and some positive. The most positive effect has been a reduction in the numbers of people in immigration detention in the UK. The most recent figures from government showed that there were 313 people in detention in IRCs at the beginning of May, compared to an equivalent "snapshot" figure from June 2019 of more than 1,727. At the start of the pandemic, BID wrote to the Home Secretary urging her to release all immigration detainees as we believed their health could not be guaranteed in the closed setting of immigration detention. Furthermore, as removal flights were not taking place, detaining people was potentially unlawful. Although the Home Office released hundreds of people from detention, nonetheless it declined to release everyone and stated that appropriate health measures were in place in detention to protect people's health.

BID made the decision in early March to suspend its programme of legal advice sessions in detention centres and prisons, to close the office and to ask all staff to work from home. This unfortunately meant that we could no longer retain our casework volunteers who carry out their role under the direct supervision of BID's legal managers. This has been a real loss. As a result, legal managers have been staffing our advice line four days a week with no assistance, as well as preparing bail applications for the tribunal. All these factors combined (not least the reduction in the numbers of people in detention) have resulted in fewer people being supported by BID over the last twelve months.

During the period from the beginning of government-enforced lockdown in the UK on 23rd March, to the end of our financial year, on 31st July, BID prepared 154 bail applications, 19 of which were withdrawn. 135 bail applications were heard, 123 were successful with just 12 refusals. BID's success rate during this period for represented cases has been an unprecedented 91%.

Unfortunately, the numbers of people detained under immigration powers in prisons has remained steady – 340 at the start of May 2020 - which has meant an increased focus in our casework on providing advice and representation to people in prisons.



BID wins Best New Pro Bono Activity

Legal casework and outreach

In the past year, BID staff and volunteers provided 2,861 individuals with some form of assistance; legal managers and volunteers prepared a total of 442 bail applications, of which 339 were actually heard. 264 of these bail applications were successful. Over the course of the year BID had a 77% success rate for represented cases. Many of the individuals we supported we lost contact with either due to removal or release, but we know that at least 400 people who received support from BID were released. Until the pandemic and subsequent national lockdown, BID carried out 72 legal advice sessions in six IRCs and five prisons. A total of 802 people attended these sessions. Deportation advice was provided to 103 individuals with 19 active deportation cases. Exceptional case funding was applied for either directly or through our ECF project for 26 people. Of 12 deportation appeals heard in either the First Tier Tribunal or Upper Tier Tribunal, all but two are still working their way through the system, but two were ultimately successful.

Our advice line was open Monday to Thursday from 10 until 12. With a new telephone system installed we were able to track the number of calls to the advice line. Over a ten month period, we received and responded to 3,727 calls and gave 412 hours of free legal advice.

The problem of securing accommodation on release for individuals with no home to go to worsened during the year. For example, of the 264 grants of bail referred to above, 120 of them were grants of "bail in principle", dependent on the Home Office providing accommodation. In far too many cases, these grants of bail lapsed due to the Home Office's failure to provide accommodation. BID has referred cases for public law challenges and has provided witness statements for litigation, our evidence demonstrating that this problem is systemic and widespread.

In far too many cases, grants of bail lapsed due to the Home Office's failure to provide accommodation.

Achievements

2861

individuals provided with assistance

442

bail applications prepared, 339 actually heard; 264 released on bail

77%

success rate for represented cases

400

people who had received assistance from BID were released

72

legal advice sessions delivered to 1208 people in 7 IRCs and 6 prisons

103

Individuals provided with deportation advice

Prisons project

Time-served so-called “foreign national offenders” – anyone with any form of leave (or not) to be in the UK but not actually a British citizen – can be detained under immigration powers in prisons following their custodial sentence. Usually this is because the Home Office intends to deport them because of automatic deportation provisions contained in the UK Borders Act 2007 for any non-British citizen with a sentence of 12 months or longer, or for “persistent offending”. BID believes that, not only is it unacceptable to incarcerate people for the purpose of immigration control but that it is even more unacceptable to detain them in a prison, a place established for people to serve criminal sentences. Immigration detention is an administrative process, not a criminal one. Since 2013 BID has had a small project that focuses on the provision of legal advice and representation to people held in prisons to secure their release from detention. The challenges the project faces are significant, as people held in prisons under immigration powers are not afforded even the basic conditions that those held in detention centres are granted, such as access to mobile phones and access to free legal advice. Additionally, many people caught up in this nightmare scenario are subjected to 23-hour lockdowns because of unrest or staff shortages in particular prisons. Many people that contact BID have lived in the UK for many years,

some since birth, and some of them had assumed they were British. They then face a further, undefined, period of detention, in the same place in which they have served their sentence, and possible deportation with no legal advice or representation. Our prisons project provides information through packs sent out to people in prison and once these are returned, the process of applying for bail can begin. Many of the project’s clients are also facing deportation and there is significant crossover and collaboration between this project, BID’s separated families project, and our deportation project, which provides advice and representation on deportation. Evidence from these projects also feeds into our policy work and helps in preparing witness statements for strategic litigation. The project also refers cases out to other public law lawyers to mount unlawful detention challenges. During the last twelve months, the Legal Manager and his team of volunteers assisted 412 people through one-off advice, representation, and legal advice sessions in five prisons: HMP Leicester, HMP Wormwood Scrubs, HMP Wandsworth, HMP Pentonville, and HMP High Down. 63 bail applications were prepared, 56 of which were heard. 37 were granted bail, but 26 of these were “bail in principle”. Despite all clients having criminal convictions, the success rate in applying for bail is 66%

BID believes that, not only is it unacceptable to incarcerate people for the purpose of immigration control but it is even more unacceptable to detain them in a prison, a place established for people to serve criminal sentences.

Feedback from clients
Workshops: Fifteen feedback forms were returned. 67% of respondents found the workshop/legal advice session “very helpful”, 27% found it “helpful”, 7% found it “a little helpful”. 67% said it helped them understand the bail process “a lot”, 33% said it helped them understand the bail process “a fair bit”. 87% said that it helped them understand their legal situation. 80% said that it felt like they could talk to someone about their situation.

Represented cases: Seven feedback forms were returned. 100% said that the advice provided by BID was helpful to them; 86% said the preparation for their hearing was excellent; 14% said the preparation for the hearing was satisfactory.



‘Behind Locked Doors’ event, raising awareness about detention in prisons.



The Prison Team



Additional comments were made by clients:

- “Without BID, I’m still in detention”
- “Thanks to the big help of Mr ***** - thanks to BID and *****”
- “The advice from BID was very good and it worked”
- “The preparation was very good, they done very hard work for me”
- “Everything was excellent”
- “You did fantastic job, it was my bad luck”
- “[BID helped to] build my hope”.

CASE EXAMPLE

We represented Mr T, a 50 year old father and grandfather who has lived in the UK for 18 years. He had completed the custodial part of a five-year sentence and was then detained under immigration powers for over 6 months. There were significant strengths to his application for bail; throughout the duration of his detention Mr T was not removable because he had an appeal pending, he had two sureties and he had been assessed by probation as only presenting a low to medium risk of harm and low to medium risk of re-offending. He also had physical and mental health concerns which were well documented and known to the Home Office - he had previously been admitted to a psychiatric hospital.

Unfortunately for Mr T, he did not have an address to be released to because neither his son, daughter nor surety had space to accommodate him and he had lost contact with his other friends and his former girlfriend during his time in prison. We made an application for asylum support accommodation for him and also applied for bail. Initially, bail was refused on the basis that Mr T did not have an address to be released to. To compound his problems, Mr T’s application for accommodation was refused on the basis that he had not been granted bail or bail in principle.

We applied for bail a second time and he was granted ‘bail in principle’ on condition that suitable accommodation was provided by the Home Office within 6 weeks. However, it was only 5 weeks and 6 days after being granted bail, and after huge effort, including dozens of emails and telephone calls, that the Home Office finally found an address for Mr T and he was released.

Despite Mr T being granted bail in principle, and despite the long period already spent in immigration detention, and evidence of deteriorating mental and physical health, Mr T’s Home Office caseworker had refused our requests for transfer to an Immigration Removal Centre for this interim period and he continued to be held in his prison cell for up to 23 hours a day, which affected his ability to receive legal advice on his immigration matter.

Throughout his time in prison Mr T struggled to get immigration advice on his case. His daughter managed to contact a private solicitor just prior to his human rights and asylum appeal hearing. Mr T was advised by the solicitor to adjourn the hearing to allow more time to prepare the case. However, to reduce the fees, the solicitor advised Mr T to attend the hearing himself and request an adjournment. Mr T was not produced at the tribunal on the day of the hearing due to an error made by the prison escorts. Mr T’s case was therefore heard in his absence and was dismissed.

Separated families project

Our separated families project was established in 2010 following the government announcement that it intended to end the detention of children. The Home Office had already begun to detain parents, whose children remained in the community looked after either by the other parent, or a family member, or by the local authority. BID has always been opposed to the separation of families for immigration purposes. The Home Office has a statutory duty to safeguard and promote the welfare of children and to take the best interests of the child into account when making decisions which will affect those children's lives. We believe it can never be in a child's best interests to separate them from their parent for immigration purposes. Our aim through the project is to reunite parents with their children by securing their release on bail, and providing evidence for our policy and lobbying work aimed at ending the separation of families by detention.

Over the last twelve months, the family team staff and volunteers supported 128 parents with 197 children. 101 bail applications were prepared with 78 heard. Of those, five were withdrawn during the hearing. Of the remaining 73, 66 people were granted bail, of which 19 were "bail in principle", a 90% success rate. 23 referrals were made for judicial review, of which 13 were taken on.

CASE STUDY

Our client was a national of Angola who came to the UK with his mother and siblings in 2004 at the age of 5. In 2009 he was granted indefinite leave to remain. He committed various offences as a minor, the most serious being a conviction for causing GBH with intent, and was sentenced to 3 years imprisonment. He was served with a decision to deport and detained in prison post-sentence in 2018. He was granted bail and schedule 10 accommodation, but breached his bail conditions because he was bailed to Manchester, rather than London where his partner and son lived.

Our client had failed to appeal the decision to deport him because he was in prison and then because he couldn't afford a lawyer. He suffers from ADHD and while on bail committed another offence and was sentenced to 12 months' imprisonment in December 2019. He was detained under immigration powers in prison, in May 2020. His partner gave birth to their second child while he was in prison. He missed the first two months of his daughter's life because of immigration detention. There were delays in applying for bail while we waited for the probation officer to check the proposed addresses. Eventually our client's partner moved house to provide an address for him to live in on release. He was granted bail subject to electronic monitoring because of his history of non-compliance. He is now being referred internally to our ECF project because of the length of time he has lived in the UK, the fact that he has two British children, a British partner and an ongoing health condition. Moreover, his most serious offences were committed while he was a child.

We believe it can never be in a child's best interests to separate them from their parent for immigration purposes.

We received 16 feedback forms and 100% said our service was excellent. Clients also made the following comments:

"It was just like a dream, please wake me up after nearly 18 months in detention."

"I was able to spend the holidays with my kids."

" I wouldn't ask for better but I was not in court to see. It was clear, on point, BID gives great advice and follow it up."

"There are countless advices that BID provided me with, the most important one is not to challenge the judge in the court/the grounds were strong and the barrister was also knowledgeable. BID gave me hope to stay positive especially in terms of how important the ties."

"I am able to see my children and be reunited with them, enjoying and having a good time with them."

"They gave excellent advice which made me to be well prepared."

"I got full advice from beginning; everything was excellent."

"I think I would still be detained if it wasn't for BID. Freedom is priceless."

Right to Liberty project

While our prisons project and separated families project focus on advice and representation to particular groups, our Right to Liberty project prioritises the representation of anyone not covered by those projects who might be deemed particularly vulnerable through mental or physical ill-health, or for other

reasons would be less able to represent themselves. Over the year, the R2L team has supported 180 people. 207 bail applications were prepared, 165 of which proceeded to a full hearing. 124 were granted bail (including 64 grants of bail in principle), a success rate of 75%. 32 clients were referred for judicial review.



I thank the lord for send me to you all

THANKS INDEED. I AM FEEL HELPLESS BID GIVE ME HOPE. THANK BID TEAM.

THANKS GOD YOU ARE HERE FOR ME

Please give details... I have less stress at this time because my bail it was help for my mental health

Please give details... the evidences and information obtained by bid was very good for my hearing.

my anxiety is gone I can smile again thanks to BID

yes adnan was amazing

R2L

Right to
Liberty
Project

Article 8 & Deportation Advice Project (ADAP)

Our deportation project focuses on providing legal advice and representation to people facing deportation from the UK. As with our bail casework, strong emphasis is placed on the production of self-help materials given that deportation matters are out of scope for legal aid. Because it is such a small project, we are only able to take on a few cases for representation, so in the last year we set up our Exceptional Case Funding (ECF) project. Assisted by a small group of city law firms, we make applications for ECF. If successful, these clients can then be granted legal aid. For us to take on a case for representation, we will look carefully at how we prioritise, so for example, we have always given priority to long-term British residents who may also have British citizen partners and children, or, as with our bail work, other compelling circumstances.

A total of 103 people were provided with some support from the project. 38 referrals were received and processed. Referrals to the project can be for people at all stages in the deportation process. Some are at a very early stage and have not yet been issued with a full deportation decision and order. Others are somewhere in the appeal process. Others are at the end of the process, having failed to appeal a deportation decision or the appeal being finally determined against them, and need advice or assistance in making a fresh application to remain in the UK. Often there will be a number of previous immigration court

CASE EXAMPLE

John has three minor British citizen children, one of whom has severe autism and requires a high level of care. While he was in prison, John's partner struggled to meet the needs of all the children alone. We obtained an Independent Social Worker report for John's deportation appeal. The report set down in detail the key role played by John in parenting the children and, in particular, the needs of his autistic child to have both parents caring for him. It found very strongly that it was in the best interests of the children for him to remain in the UK to parent the children. He won his appeal. In allowing the appeal, the immigration judge attached very considerable weight to the Independent Social Worker report.

The Home Office applied to the court for permission to appeal. The permission application was refused. However, the Home Office has now renewed the application for permission to appeal, and the decision is pending. Without representation by BID, and the expert report, which John could not have paid for, it is likely that John would not have won his appeal and would have been permanently separated from his partner and children by deportation.

determinations that require detailed consideration. All referrals were fully merits reviewed upon receipt of sufficient information. 15 were taken on, 17 were referred to the ECF Project.

One-off advice was provided to 43 people. Usually, a person will contact us for advice on a number of occasions. One-off advice can be very important for individuals to help guide them through the complex deportation process. One individual emailed to thank us stating, 'We wanted to thank you for providing us with a lot of support and guidance during this difficult time for our family. The uncertainty and not understanding

the law was very scary and you helped make things a lot clearer'.

Thirteen full appeal hearings took place during the year. There are currently a number of appeals awaiting a date due to court closure for oral hearings during lockdown. Appeals are very labour-intensive. They usually require at least one expert report, most often an Independent Social Worker report or a mental health report. In one case, in which the individual suffers from significant psychological ill-health and has three minor children, two of whom have special education needs, we needed three expert reports in preparation for the appeal.

ECF project and applying for ECF

Legal aid is not normally available to challenge deportation based on length of residence or family life. However, a grant of Exceptional Case Funding (ECF) can be obtained if it can be shown that an individual would not have a fair opportunity to present their case to the Home Office or to the Immigration Tribunal if they did not have legal aid to pay for representation or for essential expert reports. This may be due to language barriers, psychological ill-health or because expert evidence is required - for example, an Independent Social Worker report to assess the likely impact of permanent separation of a child from their parent, or a mental health report. We made 9 applications for ECF ourselves in addition to those submitted by the project. One client emailed us following a grant of ECF, stating:

“Thank you so much for all that you have done. We could not have done it without you. You are a star and we owe u a lot. Thanks thanks thanks from all our little family”.

ECF project: The partnership with four city law firms to make applications for ECF, which began in April 2019, continued. Under this project, cases are assessed by ADAP and suitable cases are referred for an ECF application to be prepared, supervised by ADAP. Once an application is granted, ADAP refers the case to a legal aid lawyer for representation.

Seventeen referrals were made. Six applications for funding were lodged and granted and successfully referred out to legal aid lawyers to represent. Eight did not progress to the final stage of lodging, often following a

substantial amount of work. There were various reasons for this, for example, a change of circumstances affecting financial eligibility for legal aid, or lodging an asylum claim and instructing a lawyer to act on both the asylum and Article 8 matters together (asylum is still within scope for legal aid) or simply lack of instructions from the applicant. The others are pending completion and submission.

One person who was granted ECF through the project emailed to say: “Thank you very much. I am so grateful for your very special help. I have already contacted one of the solicitors you named in your email and they have said they would be happy to help”.

And one of the volunteer lawyers captured the general view of the lawyers participating in the project when he commented for an applicant with minor children and significant physical and mental health conditions: “There is simply no way [the client] would have been able to make a successful application on his own. His case was complex..... Gathering this evidence and setting it out in a structured argument is not something [he] would have been able to do by himself. Indeed, he would not have the resources to find out this information or prepare the application for submission in the first place”.

EXAMPLE OF ECF CASE

Mary was seen by BID at a prison outreach session and had been served with a “Liability to Deportation” notice, which is the first stage in deportation proceedings. She had come to the UK as a child and had spent some of her childhood in care. She is the mother of four minor children, one with special educational needs, who had lived with her prior to imprisonment. Mary needed an Independent Social Worker report to comment on the best interests of the children and the likely impact on their well-being of long term separation from their mother if she was deported.

The successful application for legal aid enabled Mary to be legally represented and to put her case as strongly as possible to the Home Office as to why a full decision to deport her should not be made. This ‘front loading’ of the deportation representations also gave Mary the best opportunity to spare her and her children the prospect of the long and stressful deportation appeal process. Had Mary not met BID in prison, and given the absence of legal aid, she could well have ended up being deported. Four children would have been left without a mother.

Obtaining legal aid funding for clients has enabled many more clients to be represented than BID could possibly have represented alone, so we will continue to focus on this work in the future.

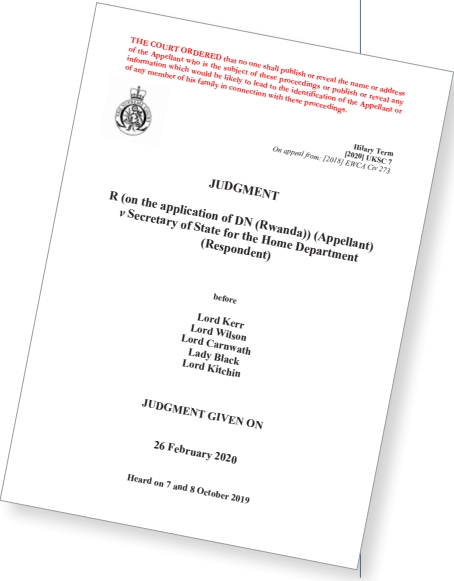
Strategic litigation

In challenging the system of immigration detention, alongside policy advocacy, BID’s legal strategy has two arms: the first is the referral of cases for public law challenges on the lawfulness of detention; the second is, when invited, to act as an “intervener” in cases that focus on different aspects of immigration detention, in the higher courts. BID referred 42 cases to solicitors for judicial review.

Interventions: BID intervened in two cases during the year: the case of DN (Rwanda) in the Supreme Court (DN (Rwanda) [2020] UKSC 7:) and the case of Seth Kaitey in the Administrative (High) Court (Seth Kaitey v SSHD [2020] EWHC 1861 (Admin)).

In the case of DN (Rwanda), we were pleased that the Supreme Court ruled that that the detention of a Rwandan man facing deportation was unlawful because the deportation order on which his detention was based was itself unlawful. In this case the deportation order was unlawful because it was made under a piece of secondary legislation which was subsequently declared unlawful by the Court of Appeal. We are also pleased that the court effectively overruled a previous decision in the case of Draga (in which BID had intervened before the European Court of Human Rights) where the Court of Appeal had ruled that damages could not be awarded in similar circumstances as those in DN (Rwanda). The implication of the ruling in DN (Rwanda) is that damages may now be claimed in cases where detention is founded on an unlawfully made deportation order.

The case of Seth Kaitey followed on from the decision in B (Algeria) (in which BID had also intervened) that had found that without there being explicit Parliamentary authority it was unlawful to place a person on bail where their detention would otherwise be unlawful. In this case, however, the claimant’s assertion that it was unlawful for a person to be placed on bail where they had not been lawfully detained and where their continued detention would be unlawful was dismissed. The claimant (whose argument was supported by BID) had argued that the new statutory framework introduced by Schedule 10 of the Immigration Act 2016 had to be interpreted restrictively since it applied to the serious matter of a person’s right to liberty. The court unfortunately found that bail powers could be exercised in relation to individuals even where they could no longer be detained. This case has been granted permission to appeal with the court’s order referencing BID’s evidence that this case has implications for around 90,000 people who are on immigration bail.



Research and policy

BID’s research and policy work focuses on challenging the policies and practices of immigration detention with the overall aim of securing a complete end to immigration detention. At the heart of this work is evidence from our casework, which is used in advocacy, research and litigation. Being on the front line of immigration detention legal work affords us a unique insight into how the system is operating and enables us to speak with authority on matters of concern to our clients. A summary of how we have worked to secure change, and our achievements over the year are set out here.

Parliamentary

Yet another immigration bill (the Immigration and Social Security Co-ordination (EU Withdrawal) Bill) has been making its way through parliament in the last year. BID worked with lawyers and other NGOs to draft amendments to the Bill that aim to end unjust deportations by lowering the threshold for those challenging their deportation on the basis of family life or private life in the UK, and to restore legal aid for immigration cases. These amendments were debated at Committee stage of the bill (two were tabled by Stuart MacDonald MP and one by Holly Lynch MP) but were ultimately not pushed to a vote and we are currently working with Lords to ensure the amendments can be debated in the House of Lords.

We have worked with the clerks of the Home Affairs Select Committee and the Joint Committee on Human Rights to enable them to sustain scrutiny of immigration detention after the committees’ highly critical reports published last year. We also contributed detailed evidence to the Home Affairs Select Committee’s inquiry into the Home Office’s handling of the COVID-19 crisis.

Legal aid and access to justice

Since 2010 BID has carried out six-monthly surveys into legal advice and representation in detention, the only ones of their kind, which have revealed a wealth of information. While we were able to carry out the survey last autumn, unfortunately the spring survey could not go ahead because of COVID-19. Our last survey was published as a research paper which contextualised our findings and provided more in-depth analysis.

Joint work with ILPA, Detention Action and the Public Law Project has enabled us to raise concerns about the quality of legal advice in detention with the Legal Aid Agency. Evidence from our surveys showing recurring problems with poor quality legal advice has formed the evidential basis for this work. The reduction in quality of legal advice in immigration detention has arisen in large part due to changes to contractual arrangements governing the provision of legal advice in immigration detention. We are seeking to persuade the Legal Aid Agency that the current contracts need to be re-tendered with considerable changes required to the structure and quality requirements of the contracts.



Legal Aid
Agency

Research

“Risky business: Immigration detention decision-making during the COVID-19 pandemic”: Given our concerns about the use of immigration detention during the global pandemic and lockdown on health grounds and legal grounds, (if people were not being removed, then detention was potentially unlawful), we carried out research based on a detailed analysis of 42 of our successful bail cases during lockdown. During the research period, 95% of bail hearings were successful. We uncovered systemic problems relating to the Home Office’s approach to assessments of risk of harm and absconding, imminence of removal, vulnerability, and failure to take account of the best interests of children. Our research showed the government’s approach to bail hearings during the pandemic to have been careless and error-strewn, failing to take account of the enormity of the changes brought about by the pandemic.

The research was well-received by stakeholders. We produced articles for Open Democracy and the Legal Action Group and the report was featured in Free Movement and The Independent. We are following this up with a project currently underway in which BID volunteers monitor remote bail hearings – a procedure which has been introduced during the pandemic – to ascertain the extent to which these provide the opportunity for a fair hearing. Our primary focus is unrepresented applicants.

Family separation and deportation

With the assistance of a volunteer researcher, we have produced a literature review which examines the impact upon children of family separation in various contexts including the incarceration of parents and separation by deportation. This will be published in the coming weeks in the form of both a self-help document that can be used by unrepresented appellants in deportation appeals who do not have access to an independent expert report, and also as evidence to support our campaign to end the automatic deportation regime.

As a supplement to the literature review, we have been conducting interviews with people who were facing deportation about the difficulties of challenging deportation and the impact on their families, which we hope to publish early in the next financial year.

Use of prisons for immigration detention

We have carried out research for a forthcoming report into the use of prisons for immigration detention. This built on our original research into the use of prisons (Denial of Justice), and focuses on access to justice and lack of safeguards for vulnerable adults detained in prisons. The research consisted of analysis of BID case files and Home Office policy, FOI requests and questionnaires completed by clients.

Oversight of detention

We submitted evidence to the Independent Chief Inspector of Borders and Immigration relating to his investigation into the Home Office’s use of sanctions and penalties, and the behaviour of Home Office Presenting Officers.

We provided detailed evidence to the UN’s International Covenant on Civil and Political Rights ahead of their inspection of the UK. Their ‘list of issues’ – which will form the basis of their inspection – strongly reflected our submissions with a paragraph covering issues relating to immigration detention, including the detention of parents, vulnerable adults and the adults at risk policy, the lack of a time limit on immigration detention, and the use of alternatives to detention.



Following the “Panorama” programme exposing the abuse of people held in Brook House IRC, solicitors’ firms Deighton Peirce Glynn and Duncan Lewis took on a challenge against the Home Office, on behalf of clients abused during their incarceration. Despite the Home Office appealing, the court ordered that a public inquiry be held which has now begun. BID’s request to be allocated “core participant” status has been declined by the Chair but we will of course feed all our evidence in as witnesses to the inquiry.

Research and policy

Accommodation on release

Regular readers of BID's annual reports will know that BID has long been concerned with the shortcomings of the release accommodation system. The Home Office is obliged to provide people released from detention with accommodation if they would otherwise be destitute. Consistently, over the years, there have been delays on the part of the Home Office in doing so. However, matters reached a new nadir following the Immigration Act 2016, and changes to the system, including the introduction of "Schedule 10 accommodation" in January 2018. This required applicants to demonstrate that they meet stringent "exceptional circumstances" criteria, even though there was no application process, and no definition of what those "exceptional circumstances" might be.

Despite having had concerns about the previous system of allocating accommodation under Section 4, BID foresaw even greater problems with this new system. We consistently raised our concerns with the Home Office in the quarterly meetings of the National Asylum Stakeholder Forum detention sub-group, in separate meetings with members of the Home Office bail policy team, and in written correspondence.

We then provided three witness statements for litigation (the first supported with funding from the Strategic Litigation Fund) aimed at challenging the systemic

problems of the Schedule 10 policy, specifically the lack of an adequate process for obtaining release accommodation (Oleh Humnyntskyi, A & WP (POLAND) [2020] EWHC 1912 (Admin)). The data we collected over a long period illustrated the problems our clients were having in accessing release accommodation and exposed the fact that these delays led to prolonged periods of unnecessary detention. The judgment was highly critical and found the Home Office's policy to be unlawful. In doing so, it cited BID's evidence at various points in the judgment. This judgment will have an enormous impact upon people held in immigration detention who seek bail accommodation. Since the introduction of the new policy, many immigration detainees have languished in detention simply because they lacked bail accommodation to which they could be released. Following the judgment, anyone who obtained bail in principle pending the provision of bail accommodation, or who was kept in detention pending the Home office finding suitable accommodation, now has a potential claim of unlawful detention.

BID had previously been provided with a grant by the Strategic Litigation Fund to work with Bhatt Murphy solicitors to prepare evidence and to apply to intervene in the case of MSM v SSHD. While that case settled following the Home Office's introduction of an amended policy on 1 April 2019, we continued to collect evidence about the experience of asylum

seekers and those who are refused asylum who are seeking bail accommodation and support.

We also produced evidence for litigation by the Greater Manchester Law Centre challenging systemic delays in provision of asylum support and Schedule 10 accommodation once a decision had been made that an applicant is eligible.



Vulnerable adults in immigration detention

Prior to the implementation of a national lockdown BID wrote a letter to the Home Office asking for all immigration detainees to be released, which was then co-signed by 10 organisations. This letter received a considerable degree of press interest and precipitated the release of many people from immigration detention (the number of people in immigration detention fell by around 1,200 in roughly a 2-month period after the start of lockdown). We have continued to correspond with the Home Office since lockdown, most recently asking for disclosure of updates to detention policies during the pandemic and for further information on testing and the use of enforced removals during the pandemic.

The NHS produced draft specifications for primary care in prisons and IRCs which contained a proposal to use Skype to carry out assessments of torture victims and other vulnerable people detained in prisons under immigration powers. We provided a response highlighting our concerns about this. The Home Office produced draft Detention Service Orders on the management of people who lack mental capacity in immigration detention, and on the process of managing people who are at risk of self-harm or suicide in immigration detention to which we also submitted our response, outlining our concerns.

We have consistently opposed the detention of victims of trafficking, through our membership of the Labour Exploitation Advisory Group, and the Taskforce on Victims of Human Trafficking in Immigration Detention. We have met with the Independent Anti-Slavery Commissioner twice and BID has led on discussions about how to improve safeguards to prevent the detention of victims of trafficking. With other NGOs in the taskforce we jointly wrote a letter to the Home Secretary after she conceded in a recent legal challenge (KTT) that she is in the process of publishing a new policy on detention of victims of trafficking. The letter raised concerns about poor identification of trafficking victims, the misuse of detention powers, problems with the detention gatekeeping function, continued detention of people who have been referred into the National Referral Mechanism, and the UK's breaches of its international responsibilities towards victims of human trafficking.

Media

We continue to have good contacts with a number of journalists and have been regularly quoted in articles in *the Guardian* and the *Independent*. A recent example was a high-profile story by Amelia Gentleman about twins born in the UK facing deportation to different countries. We have had 57 media mentions in the last year (equivalent to over one a week). We have written a number of articles for Open Democracy, Legal Action Group, Novara Media, and The Justice Gap and we continue to produce blog pieces for BID's website. Our tweets receive an increasing amount of attention and our following has grown considerably – we now have 11.5k followers.



Financial Information

For the year ended 31 July 2020



STATEMENT OF FINANCIAL ACTIVITIES FOR THE YEAR ENDED 31 JULY 2020

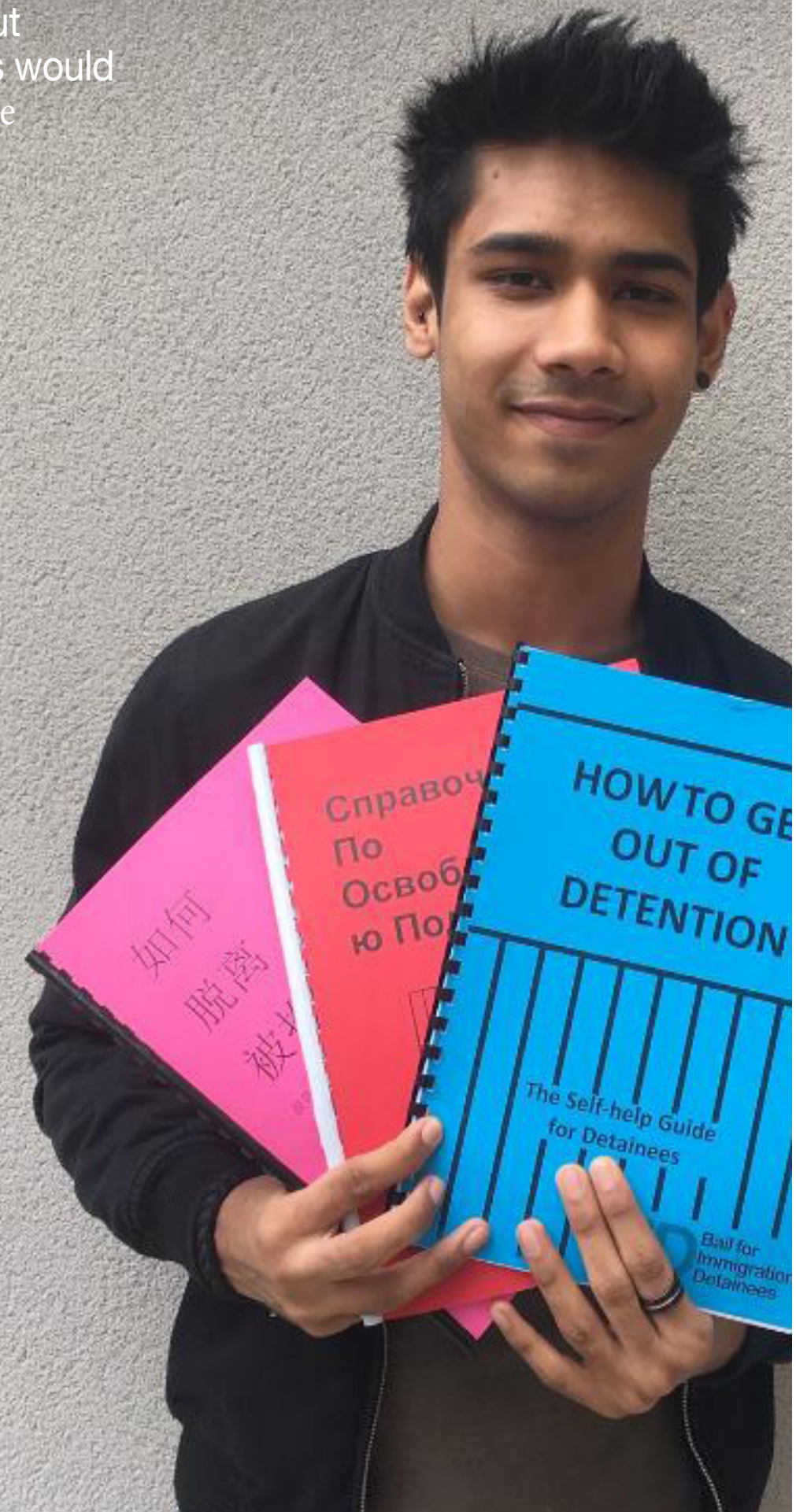
	Unrestricted Funds £	Restricted Funds £	2020 £	2019 £
Income				
Grants and donations	444,721	17,000	461,721	348,068
Charitable activities	-	234,518	234,518	301,320
Investments	2,365	-	2,365	2,356
Total	<u>447,086</u>	<u>251,518</u>	<u>698,604</u>	<u>651,744</u>
Expenditure				
Raising funds	53,606	895	54,501	54,265
Charitable activities:				
Casework and outreach	152,717	200,933	353,650	372,430
Separated families project	43,121	33,324	76,445	80,679
Deportation project	67,175	13,656	80,831	69,538
Research and policy	56,291	9,420	65,711	61,797
Total	<u>372,910</u>	<u>258,228</u>	<u>631,138</u>	<u>638,709</u>
Net income/(expenditure) and net movement in funds for the year	74,176	(6,710)	67,466	13,035
<i>Reconciliation of funds</i>				
Total funds, brought forward	320,812	24,210	345,022	331,987
Total funds, carried forward	<u>394,988</u>	<u>17,500</u>	<u>412,488</u>	<u>345,022</u>

BALANCE SHEET AS AT 31 JULY 2020

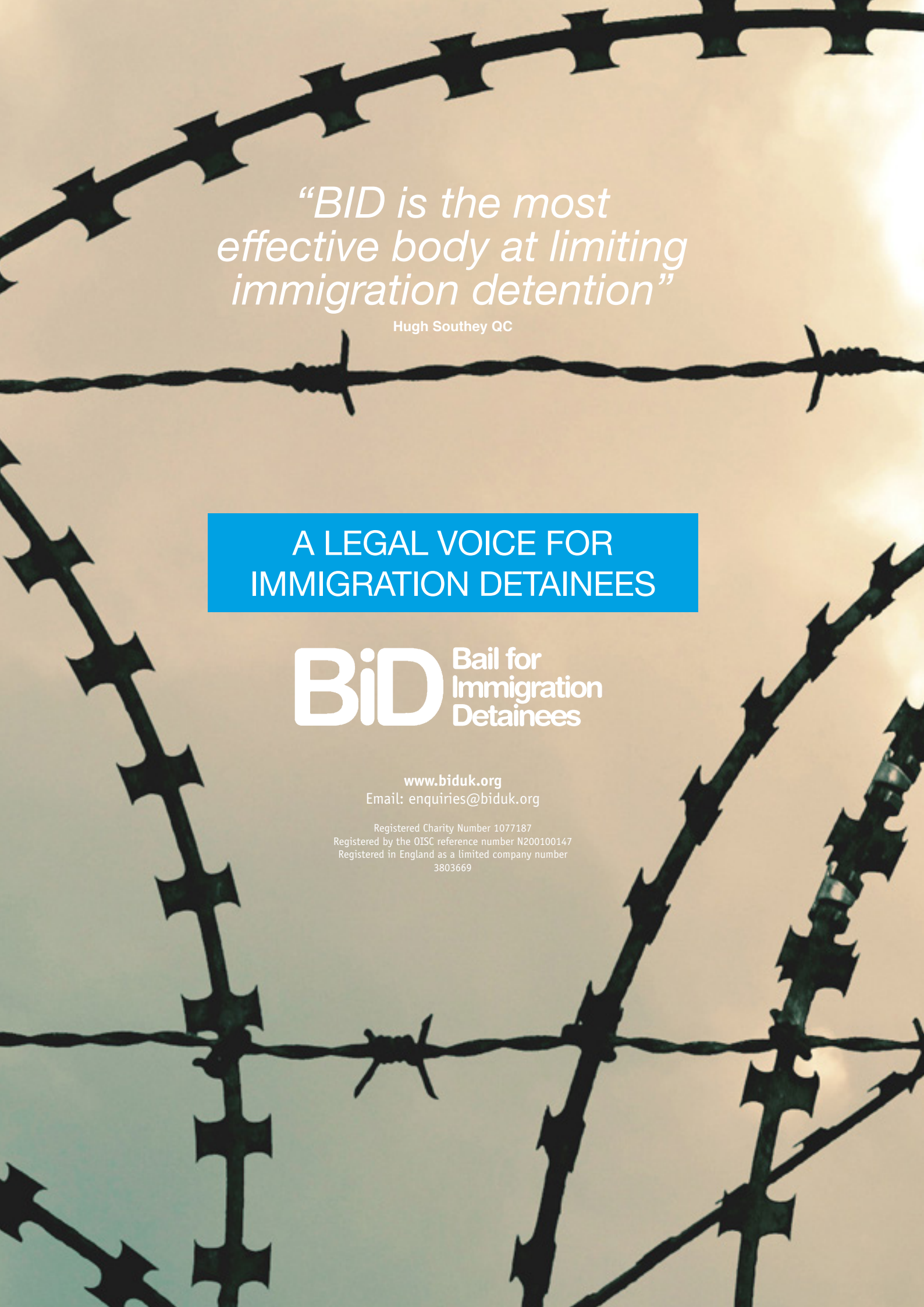
	2020		2019	
	£	£	£	£
Fixed assets				
Tangible assets		8,187		6,009
Current assets				
Debtors	31,084		19,101	
Cash at bank and in hand	405,613		398,574	
	<u>436,697</u>		<u>417,675</u>	
Liabilities				
Creditors: amounts falling due within one year	32,396		78,662	
	<u></u>		<u></u>	
Net current assets		404,301		339,013
Net assets		<u>412,488</u>		<u>345,022</u>
Funds of the charity				
Restricted funds		17,500		24,210
Unrestricted funds:				
Designated funds		30,000		30,000
General funds		364,988		290,812
Total charity funds		<u>412,488</u>		<u>345,022</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.

A huge “thank you”
to BiD’s funders and
supporters, without
whom none of this would
have been possible



Volunteer with translated books



*“BiD is the most
effective body at limiting
immigration detention”*

Hugh Southey QC

A LEGAL VOICE FOR
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Immigration
Detainees

www.biduk.org

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