

Bid

www.biduk.org

Annual Report 2022

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.

Bail for Immigration Detainees

HMIP found slow case progression had a direct connection to the deterioration of detainees' mental health: 'much of the frustration, anger and anxiety we found among detainees was due to delays in the Home Office processing cases and failing to provide sufficient information about progression or decisions'.

Her Majesty's Inspector of Prisons' report on Brook House Immigration Removal Centre

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 or deported from their home 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 applications for bail to be heard before the Tribunal
- Represent clients in their 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 to solicitors 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

“BID went above and beyond in obtaining bail for me, keeping me and my family updated on any changes and providing emotional support.”

Client

Chair's Report

Last year I reported that we had seen a reduction of the numbers of people being held in detention because of the COVID pandemic but at the same time the number of people detained in prisons under immigration powers had increased. During this year staff and trustees have developed a new strategy for BID and we have confirmed our vision of ending all immigration detention. As one step towards this we intend to focus our resources on ending immigration detention in prisons. Alongside this we will continue to undertake strategic litigation, policy and campaigning work.

There is much for BID to do in an increasingly hostile environment. BID is a small, focused organisation which depends on trusts, foundations and individual supporters for its funding. The funding environment is very difficult at the moment and this is unlikely to change in the foreseeable future. We have however succeeded in raising sufficient funds to ensure that our work will continue next year and I would like to thank our funders for their commitment to the work of BID and their continuing support.

I would also like to thank the pro bono lawyers who work with BID. Without your expertise, commitment and generosity we would not be able to help the numbers of people that we currently support.

Finally, my thanks go to the staff, volunteers and trustees. This has been another year of change. Staff have been working back in the office, we have once again recruited an excellent group of volunteers and we have seen changes in staff and trustees.

The achievements outlined in this report would not be possible without the support of everyone mentioned above.

**Maggie Pankhurst,
Chair of the trustees**

Director's report

BID's vision is for a world without immigration detention but sadly, this vision seems further away than ever with our clients, their children, families and communities at the receiving end of the most extreme state hostility to date. This has culminated in significant regressive legislation which is having a profound and harmful impact on our client group, criminalising asylum seekers and substantially increasing the numbers of detainable and deportable people.

Immigration law is being routinely used to doubly punish offenders who do not hold British Citizenship through automatic deportation and citizenship stripping. Inevitably the impact of this is felt most by non-white ethnic minority residents who have additionally faced well documented racial biases in the criminal justice system such as over policing and harsher sentencing.

An unpublished report commissioned by the Home Office finds that "the British Empire depended on racist ideology in order to function", and concludes that the origins of the "deep-rooted racism of the Windrush scandal" lie in the fact that "during the period 1950-1981, every single piece of immigration or citizenship legislation was designed at least in part to reduce the number of people with black or brown skin who were permitted to live and work in the UK". It is this long history of hostility to non-white migration that informs the present government's legislative agenda and is deeply embedded into Home Office culture. 'An institutional ignorance and thoughtlessness towards the issue of race' was a key finding of the Wendy Williams' 'Windrush

lessons Learned review' which also found that the UK's treatment of the Windrush generation, and approach to immigration more broadly, conformed to certain aspects of Lord Macpherson's definition of institutional racism as enshrined in his report published in 1999 following the murder of Stephen Lawrence.

Many of our clients therefore face structural racism within the criminal justice system and within the immigration system. Our team have worked hard for decades to get such clients out of detention and to prevent their deportation. This year, we started our revocation project which works with those unjustly deported to return them to the UK where they can reunite with their families and communities.

Despite previous promises that reforms would "reduce the number of those detained" in April the then Prime Minister Boris Johnson announced that the government were "*expanding our immigration detention facilities, to assist with the removal of those with no right to remain in the UK*" and that they "*are investing over half a billion pounds in these efforts*". Johnson, and the then Home Secretary, Priti Patel, have both confirmed that the proposed accommodation centres in the UK will contain a secure detention facility emulating the Greek model. Thanks to cross sector efforts one of the manifestations of this plan, a detention facility at Linton-on-Ouse has been successfully resisted. These plans and their abandonment make clear that the government's intention to increase the use of detention will be met with a powerful resistance. The increased use of detention, as well as other inhumane policies such

as off shore detention are not evidence based. The government's failed attempts to remove people to Rwanda for their asylum claims to be processed has left many of the 125 people whose removal was stopped through legal challenges detained. Our Rwanda Project was established in June to address the growing number of referrals from people in detention facing deportation to Rwanda. In partnership Allen & Overy and Reed Smith, the project trains pro bono lawyers to prepare bail applications. We have had a 100% success rate in securing bail for such clients.

Detention is meant to be used as a last resort for the shortest time to facilitate removal but of the 21,365 people who entered detention in the year ending September 2021, there were only 2,830 enforced returns. Many of these people turned to BID for help and in the last 12 months we responded to well over 7000 telephone calls and received over 1000 e-mails asking for assistance.

Everything we do at BID is connected to the environment in which we operate. Our focus remains providing legal advice and representation to people in their bail applications however our strategic focus is now on providing the highest-level support we can offer to people being held under immigration powers in prisons where pandemic measures and staff shortages have led to prolonged cell confinement exacerbating and initiating mental ill health. This means that we represented fewer clients last year as the work is inherently more complex and time consuming but of the clients we did represent we secured bail in excess of 90% against a national average of 52%.

From a strategic level we believe that on the path to ending immigration detention we can first make the case to end detention in prisons and we

have taken inspiration from the #WelcomeToCanada campaign which has led to British Columbia announcing that they would no longer incarcerate people in prisons for immigration matters.

While migrants and minorities continue to be scapegoated by the Government, it is clear that a powerful resistance is growing. This year has seen an onslaught of attacks on our fundamental human rights but it has also seen victories including the cancellation of charter flights to Iraq and Rwanda.

To those playing politics with people's lives, the message is clear – we are watching you and you will be held accountable. Thank you to everyone who has supported and energised us this past year, we couldn't have done it without you.

**Annie Campbell Viswanathan,
Director**

Achievements and performance

Bail casework and outreach

“BID was particularly good at guiding me through every step of the hearing.”

Client

BiD

Achievements

7,446

In the past year BID advised 7,446 detainees through our telephone advice line and responded to a further 1000 queries through our enquiries e-mail.

1,356

We provided a total of 1356 people with legal assistance in preparing their bail applications through our DIY scheme.

366

We provided full legal representation and prepared 366 bail applications. Of these, 19 cases were withdrawn before the hearing and 347 were heard.

313

313 cases were granted bail or bail in principle, an astonishing success rate of 90%.

78

We provided deportation legal advice to 78 people.

38

Exceptional Case Funding (ECF - applications for legal aid in deportation cases): This project is now in its 4th year, and we have assisted 38 people on making ECF applications and finding legal representatives.

100%

100% of those who returned feedback forms rated our work as either “excellent”/“very helpful” or “helpful.”

128

We provided free legal advice to 128 parents or carers separated from 284 children.

43

We made 43 referrals for unlawful detention

Prisons' project

Our Prisons' Project focuses on the provision of legal advice and representation to time-served prisoners detained in prisons under immigration powers and facing deportation action. No one in prison has access to mobiles or internet, at least not legally. All access to clients over the last reporting year was by telephone or by post or in some cases via the emailprisoner.com website.

There is significant crossover and collaboration between this project, BID's Separated Families' Project, and our Article 8 Deportation Advice Project. Evidence from these projects also feeds into our policy work and helps with preparing witness statements for strategic litigation. The project also refers cases out to other lawyers to mount unlawful detention challenges. It recently emerged that the number of people unlawfully detained by the [Home Office has hit a record high, with compensation payouts rising by a third to £12.7m](#) in just a year. The figures are immense, but the significant rise from the previous year suggests that the Home Office is not learning lessons from past wrongful decisions.

"It is down to the extensive research and evidence gathering that you did that we got bail"

- The project provided legal advice to 601 people.
- 35 bail applications were prepared. All of which were heard.
- 33 were granted bail.

"Thank you for all the hard work you've put in. It is very much appreciated by me and the rest of the family"

CASE EXAMPLE

Client is a vulnerable man in his thirties who entered the UK aged 12 with his father and his siblings. His mother was already present in the UK with his other siblings. He was granted asylum and Indefinite Leave to Remain in the UK over twenty years ago.

He was convicted of a drug related crime and sentenced to just under three years imprisonment. As a result, he was issued a Stage 1 notice of deportation and in February 2018 his refugee status was revoked, along with it his right to work in the UK.

Struggling to support his two daughters with no right to work, the client took to selling drugs and was imprisoned again for this. After serving his sentence, he was detained under immigration powers, the Home Office arguing that they could remove the client within a reasonable timescale – despite the fact that the client was an Adult at Risk Level 2, that he had not set foot in his country of origin since the age of 12, and that he had two young daughters here in the UK.

The client was initially refused his first bail application, after which he sought out Bail for Immigration Detainees, where we took him on as a represented client. We learnt from the Country Returns Guide published in July and October 2022 that enforced returns to his country of origin have been paused, with no foreseeable re-start date, and were paused for the vast majority of the client's detention, if not all.

At the bail hearing for the client, the First-tier Tribunal Judge instantly granted bail upon confirmation from the Home Office that enforced returns were paused – without need for any additional argument from the client or the barrister present. Accordingly, the client was granted bail, and released to his family home, in time to spend Christmas with his daughters.

Separated families' project

The Home Office has a legal duty to safeguard and promote the welfare of children and to take into account the child's best interests when making decisions that affect them. At BID we do not believe that separating children from their parents purely for immigration purposes can ever be in a child's best interests. Our project provides legal advice and representation to parents held in immigration detention to enable them to be reunited.

- We supported 128 parents separated from their 284 children.
- 42 bail applications were heard, and 41 were successful.
- Feedback from clients showed that 100% rated the service "excellent".



"They provided me a legal manager and a barrister who went above and beyond in obtaining bail for me, keeping me and my family updated on any changes and providing emotional support."

"BID was particularly good at guiding me through every step of the hearing."

"As a family we are very very grateful to you and your team for all that you have done for us. It is a debt that cannot be replayed with anything in this universe."

"Thank you once again from all of us, I have just shared the news with my parents and brother and it is very emotional."

CASE STUDY

Our client is in his thirties and has lived in the United Kingdom continuously since arriving here at 18 years of age to join his mother. He is the biological father of three British citizen children in the UK with whom he had subsisting relationships before being incarcerated. He had not been in touch with two of his children since being in custody as he was ashamed of it. He instructed that he wanted to re-establish contact with them upon release.

He had a number of offences which he instructs were the result of financial pressure of having to provide for his two children. He had tried to commit suicide while in custody and the Secretary of State recognised him as Level 2 Adult at Risk.

The Home office could not remove him from the UK as he did not have a valid document with which to be admitted in the country to which he was to be removed. Despite him being fully compliant with the Secretary of State's efforts to produce a travel document, for over three years the Secretary of State had been unable to produce such documents required for removal.

We applied for bail and applied for Schedule 10 accommodation within the bail application. It was clear that the Secretary of State had consistently failed, to obtain the required ETD and that his removal could not take place within any reasonable timescale.

Our client was represented at the hearing and bail was granted—this was bail contingent upon accommodation being sourced (sometimes also known as bail in principle). The Tribunal retained management of bail, scheduled a bail review hearing within 28 days and directed the Secretary of State to progress the Schedule 10 application.

Despite being directed to progress the Schedule 10 accommodation application, for almost one month the Secretary of State made no progress on our client's bail application. Instead, at the bail review, the Secretary of State took the position that no application had been made. BID's involvement allowed our client to make the point that a Schedule 10 accommodation application had been made when submitting the bail application, as per the Secretary of State's own guidance. The Tribunal agreed that the application had been made and, once again, directed the Secretary of State to progress the application and to confirm if she accepted her obligation to provide our client with accommodation.

There was a further review and, despite finally acknowledging the application made, the Secretary of State failed, once again, to comply with the Tribunal's directions.

We referred our client's case for an Unlawful Detention claim and he now has solicitors working on this.

He was finally released to Secretary of State's accommodation, after being in immigration detention for more than 7 months.

Right to Liberty Project (DIY)

Our DIY scheme provides advice and support to help people make their own applications for bail. We provide tailored advice and depending on capacity, we also assist with preparing bail applications, drafting detailed grounds for bail and supporting people in their evidence gathering.

“You have been absolutely amazing.”

“Thank you for everything that you are doing.”

- We answered 7,446 calls to our advice line and responded to a further 1000 queries through our enquiries e-mail.
- We opened 1,356 DIY cases some of which we continue to work on.
- We provided free legal advice to support 172 bail applications to be lodged of which 158 were heard and 148 were granted.

In addition to developing the DIY project the Right to Liberty (R2L) project prioritised cases for full representation of vulnerable people and those who have been held in detention for the longest periods:

- The project prepared 97 bail applications, of which 8 applications were withdrawn during or before a bail hearing.
- Of the remaining 89 bail applications that were heard 77 were granted bail.

CASE EXAMPLE

Our client was granted bail and released in June. He was instructed to report weekly to a reporting centre which he had done. Prior to this, he had been locked in his cell for upwards of 23 hours a day which at first proved extremely difficult to take his instructions.

Unfortunately, a month later the client was re-detained due to the refusal of his discretionary leave application. He was detained by the Immigration Officers on reporting.

The client wanted BID to represent him again. This time he was detained in an IRC and not in a prison so it was easier to stay in contact with him. We lodged his bail application and provided pro-bono representation.

This time around, the client received an extremely strict judge who scrutinised him. He was very nervous, suffering from mental health issues. Finally, after further scrutiny, he was granted bail and was released shortly after. This bail application is something that the client could not do himself and he did not know that he could be re-detained for not having an active discretionary leave application. He was very grateful of the work that BID did on the file. This case illustrates the daily hurdles that our clients face in securing their release.

Rwanda Project

The Rwanda Project is the newest representation project of Bail for Immigration Detainees. It has developed organically from an initial cohort of referrals received on 15th June 2022.

All detainees referred to the Rwanda Project are asylum-seekers who have been served with a Notice of Intent (NOI) to consider their removal to the Republic of Rwanda, or another third country, for their asylum claims to be dealt with there. The Migration and Economic Development Partnership between the United Kingdom and Rwanda was enacted on 14th April 2022. The project is generously supported by Allen & Overy & Reed Smith.

The total number of people supported by the Rwanda Project in this period was 26. This includes all DIY cases, represented cases, and one-off enquiries accepted by the Rwanda Project.

During the reporting period we have opened a total of 26 new cases in the Rwanda Project. A total of 18 bail applications were prepared of which 100% were granted.

CASE EXAMPLE

The client fled Syria where he had been a victim of torture. He was one of an initial cohort of 13 clients referred to us by Deighton Pierce Glynn (DPG) Solicitors. They obtained an expert report on all 13 clients from a Senior Support Worker at the Poppy Project. The report stated that he had been abducted, held captive by gangs that starved him and abused his vulnerability before trafficking him to Europe by boat.

As is the case with several Rwanda clients, he had established family ties in the U.K., including a brother, an aunt, and a number of cousins, and his family were able and willing to accommodate and support him. Nevertheless, despite an immediate asylum claim, he was detained immediately upon his arrival, served with an NOI, and detained.

He was served with removal directions (RDs), on which day DPG wrote to the Secretary of State challenging his removal and his detention. He was referred to the National Referral Mechanism (NRM) two days later. Despite interviewing at the outset of his asylum claim, the Home Office failed to identify him as a potential victim of human trafficking until they received DPG's pre-action letter. His Removal Directions were duly cancelled.

The Secretary of State opposed our bail application but bail was granted on the grounds that removal was not imminent, in light of his ongoing asylum claim; and his vulnerability, as evidenced in a Rule 35 report and other expert reports. The Presenting Officer offered a verbal undertaking that Electronic Monitoring would not be imposed, in an effort to persuade the Judge to transfer management of bail to the Secretary of State. The Judge rejected the offer and retained management of bail.

Article 8 & Deportation Advice Project (ADAP)

The project provides advice and representation to people facing deportation from the UK. Under the provisions of the UK Borders Act 2007, any foreign national with a criminal conviction of 12 months or more is subject to automatic deportation, regardless of length of residence in the UK. Until 2013 when legal aid cuts removed deportation from scope of legal aid, it was possible to get legal aid to argue that a private and family life had been established in the UK and that deportation would be disproportionate. However, with the passage of two Immigration Acts (2014 & 2016) together with the removal of legal aid, it is now very difficult to win a deportation appeal.

- The project prioritises long-term UK residents with British families and those with particularly compelling circumstances. It also prepares and disseminates a range of self-help leaflets about deportation. This is a small project which comprises a Legal Manager with occasional volunteer support. 78 people were provided with advice or representation in the last year.
- We took on 36 cases this year and also provided one off advice in 48 cases.
- We currently have a total of 38 active cases at ADAP.

There were four full appeals before the First-tier Tribunal. One was successful but the Home Office has applied to the Upper-tier Tribunal for permission to appeal. One is pending a determination at the First-tier Tribunal, following a successful appeal by us to the Upper-tier Tribunal resulting in a fresh First-tier Tribunal hearing. One was refused but is pending a permission to appeal decision. One was dismissed and appeal rights exhausted. However, a fresh human rights application has been lodged and is pending a decision. We lodged 10 fresh applications. All are pending decisions.

ADAP Judicial Review referrals

We made 6 referrals for judicial review. These were for a wide range of issues, including cancellation of removal directions, both of which were successful, a challenge to very prolonged delays in decision-making, a challenge to the type of status granted to a client, challenges to regulation 33 certifications, (which would have allowed the Home Office to remove an individual before their appeal was heard), and a challenge to a refusal to accept further human rights submissions as amounting to a fresh claim.

“Absolutely superb at marshalling barristers, volunteers to get people out on bail; interventions at all levels of court; advocacy in parliament, responses to consultations; thinking strategically about key issues in policy, legislation and litigation.”

ADAP CASE EXAMPLE

Josef is a non-EEA national who has lived in the UK for almost two decades. He has a long-term partner and four minor British citizen children. One child suffers from a very severe and debilitating health condition and has significant care needs. The child has a very close bond with his dad.

When he came to BID he has exhausted his appeal rights. However, he had not offended since 2014 and the last few years his time was spent caring for his minor children while his partner worked. BID lodged an application for him under the European Union Settlement Scheme as the carer of British citizen children.

The EUSS application was refused but successful on appeal. The Home Office has appealed against the decision and we are now awaiting a decision from the Tribunal. If the appeal is successful, Daniel will be granted Settled Status and he and his family will finally have stability and the peace of mind that their family life will not be torn apart.

“I want to say thank you for all that you have done for me.”

“You kept me going anytime I called you on phone when I was inside. You may not understand the positive impact you provided anytime we talk, you gave me energy to keep on fighting”

“Thank you very very much for your support. You have really really worked hard for this within all the years”

“I would like to thank you very much for everything you have done for us. We won thanks to your determination and your help. I don’t know how to thank you”

“We are together as a family and we are very happy. Our daughter does not have to fear for her future anymore”

Exceptional Funding Applications (ECF)

Overall BID provided legal advice about Exceptional Case Funding to 38 people through our internal project and our partnership project.

Seven cases were referred to the Exceptional Funding Partnership Project for an application for Exceptional Legal Aid case funding by volunteer lawyers under BID supervision. Clients were at all stages of the deportation process, from the initial Liability to Deportation, to appeal stage, being appeal rights exhausted and requiring a fresh human rights application to be made. Five of the clients had young children with whom they were in regular contact and deportation would result in potentially permanent separation, destroying their family life.

Of those referred, four were lodged with the Legal Aid Agency, one is pending lodging, two did not progress due to a change in the applicant's circumstances. Two have been granted legal aid so far and one has now been referred to a legal aid lawyer.

In addition to these, BID lodged eight applications for Exceptional Legal Aid Case Funding, separate to the ECF Project. All were granted. All but one has been referred to a legal aid lawyer. However, we are experiencing very significant difficulties in referring to legal aid lawyers due to lack of capacity in the sector. On average, contact with a minimum of ten firms is required to refer cases and the process can take a number of months. For example, we have one case granted legal aid in September 2021 and to date at least 20 attempts have been made to refer cases with no success.

This can be extremely frustrating for clients, particularly if they are awaiting an appeal date, as it causes significant delays in preparation of their case. It also means they require advice and assistance from BID in understanding and responding to Tribunal Directions in relation to submission of evidence or help with keeping the court informed of developments, particularly if they have parallel family or extradition proceedings.

ADAP CASE EXAMPLE

Suan an EEA national. He spoke very limited English and suffered from poor physical health and anxiety. Due to language barriers and lack of access to a lawyer, he failed to lodge an appeal against the Home Office deportation decision. He also had extradition proceedings parallel to the deportation action.

When he contacted BID for help he was very anxious and confused. We successfully lodged an out of time appeal for him. We applied for Exceptional Legal Aid funding for his deportation appeal and we assisted him with communication with the immigration tribunal and with his extradition lawyer pending a grant of funding and referral to a legal aid lawyer.

Legal Advice Outreach

Outreach sessions at prisons were gradually recommenced following COVID. However, progress was affected by outbreaks on the wings, which meant that planned sessions could not go ahead or numbers able to attend were significantly reduced due to prison logistics. We provided outreach at HMP Wandsworth and visited HMP Send for the first time and provided a talk on BID's work and the deportation process. A number of visits are planned for the coming year.

We also resumed legal advice surgeries in IRCs towards the end of this reporting period. We are now delivering monthly legal advice surgeries in Brook House IRC & Yarlswood IRC and have already provided legal advice to 33 people. We are also in contact with other IRCs where we aim to renew legal advice surgeries in the new year.

Revocation project

We have four cases who have been deported on which we are taking instructions for a possible fresh human rights claim. All have minor children in the UK. One application to revoke from abroad, with very strong compassionate circumstances including significant health issues for the applicant and his UK wife, is awaiting a decision from the Home Office.

We have found that individuals deported to some non-EEA countries face significant obstacles with reintegration, particularly if they have lived in the UK for many years and do not have a family network to turn to for support. Even maintaining contact with BID can be a challenge due to lack of access to reliable internet or lack of resources to keep a mobile phone in credit.

Self-help materials

We continued to update our self-help materials to reflect changes in deportation rules following Brexit, particularly in relation to possible applications by non-EEA national carers of British citizen children. We have found that this is an area on which there is a significant lack of information, particularly for individuals in prison or in immigration detention.

“In the previous six months, 52% of detainees leaving the centre had been released into the community, suggesting that many should not have been detained in the first place.”

Her Majesty's Inspector of Prisons' report on Colnbrook Immigration Removal Centre

Strategic Litigation

BID continues to focus its strategic litigation policy upon ensuring access to justice. Ever since its first intervention in 2005 in the case of *ID v SSHD* BID's focus has been upon ensuring that the courts are assisted so as gain a better understanding of the obstacles individuals and people who are detained under immigration powers face in gaining access to legal remedies, legal representation and redress when seeking release on bail; challenging unlawful detentions; and appealing against deportation despite long-standing ties to the UK

Majera [2021] UKSC 46 (20 October 2021 (case previously known as SM (Rwanda

Judgment was reached in this case where BID intervened before the Supreme Court. The First-tier Tribunal (FTT) had granted Mr Majera bail without a restriction on him being able to take up voluntary employment. The Home Office reversed this decision and it refused requests that it should seek an amendment to the bail conditions from the FTT, arguing that as the FTT had incorrectly issued its decision (as Mr Majera had not been required by the First-tier Tribunal to appear at a specified time and place before an Immigration Officer), it was invalid and the Home Office was therefore entitled to issue its own decision in its place.

The Supreme Court stated that the Government's position 'risked administrative chaos' and exposing 'innocent third parties to legal liabilities. It pointed to a number of precedents and affirmed that that the Rule of Law required parties challenging the validity of a court decision to return to the court that had issued its order to have it amended or reversed. This applied no matter if it was arguable that a court order was invalid, void or a nullity: "It is a well-established principle of our constitutional law that a court order must be obeyed unless and until it has been set aside or varied by the court (or, conceivably, overruled by legislation). (44)"

BID said after judgment was issued that the logic of the Home Office's argument would have meant that until it had issued the appellant with its own decision he was unlawfully at large through no fault of his own. It would also have meant that the Home Office could replace any court order where in its view a decision was wrongly issued, and indeed it would have opened up a Pandora's box for allowing any party to ignore a judicial decision whose validity was being challenged. The fact that the Home Office also attempted to prevent a man from carrying out voluntary work even though such work had proven beneficial to his rehabilitation showed a lack of regard for public safety, placing its pursuit of its hostile environment agenda before the rule of law.

BID thanks its excellent team of lawyers, all of whom provided their services on a pro bono basis.

Seth Kaitey [2021] EWCA Civ 1875

The Supreme Court granted BID permission to intervene in the appellant's appeal following judgment in the Court of Appeal. BID had previously intervened before the Court of Appeal and the Administrative Court. This case followed on from the decision in *B (Algeria)* (in which BID had also intervened) where the Supreme Court found that without there being explicit Parliamentary authority it was unlawful to place a person on bail where their detention would be unlawful. Here the appellant's assertion that it remained 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. BID supported the appellant's argument 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. BID's focus is however also that there must be implied limitations on the power to grant bail, such as those that apply to persons in detention (the *Hardial Singh* principles).

BID wishes to thank its legal team, all of whom have provided their help on a pro bono basis,

FOI re Disclosure of Data Relating to Iranian ETDs

BID made an FOI for the disclosure of data relating to the numbers of people issued with ETDs by the Iranian Embassy. Disclosure was refused, essentially on the basis of the UK's relations with Iran. Disclosure is being sought by BID as this issue has a bearing upon the lawfulness of detaining people for immigration reasons. Submissions to the Home Office and an appeal to the Information Commissioner's Office were both refused, and BID has now lodged an appeal with the First-tier Tribunal against this decision.

“the Bill undermines the 1951 Refugee Convention, the agreement which has protected refugees for decades and of which the UK is a signatory. At the same time, if implemented, the policies would risk the lives and well-being of vulnerable people. UNHCR believes this Bill would undermine, not promote, the Government's stated goal of improving protection for those at risk of persecution.”

UNHCR – comments on the Nationality and Borders Bill



“I want to say thank you for all that you have done for me. You kept me going anytime I called you on phone when I was inside. You may not understand the positive impact you provided anytime we talk, you gave me energy to keep on fighting”

Witness statements in support of litigation

JCWI's intervention before the ECHR in Otite:

BID was pleased to provide a witness statement and case examples to support the intervention of the Joint Council for the Welfare of Immigrants in the case of Otite that is before the European Court of Human Rights. The case relates to the relationship between the deportation provisions of section 117C, paragraph 398 of the Immigration Rules, and Article 8, with a focus on the Government's 'unduly harsh' test and its impact upon children and families.

Women for Refugee Women's claim re Derwentside IRC:

BID was pleased to provide a witness statement to support WRW's claim that focused on the lack of access to legal advice for women held in Derwentside IRC.

Detention Action's claim regarding the detained duty advice scheme's at IRCs:

BID was pleased to provide witness statements to DA and its representatives, the Public Law Project, and we continue to support DA's work to improve the quality of legal advice in IRCs. This is very much in line with BID's legal advice work at IRCs and our work monitoring access to legal advice throughout the detention estate.

GPS tagging:

BID has provided a witness statement to Duncan Lewis solicitors and worked with Wilson solicitors on issues arising from the imposition of 24-hour GPS monitoring on certain categories of persons released on bail.

"In our view, this Bill represents the biggest legal assault on international refugee law ever seen in the UK."

Joint Opinion, Nationality and Borders Bill, October 2021

"Once a man is time-served, on an immigration warrant, quite frankly he gets forgotten about until we get the next update [on his immigration case]."

Prison officer, quoted in a report by the Independent Chief Inspector of Borders and Immigration

Research, Policy & Campaigning

Driven by issues flagged by clients as well as the governments hostile legislative agenda, our research and policy work spanned five key areas this year which are summarised below.

“I wanted to thank you with all my heart for all your hard work and that it has paid off. This ECF makes the world of difference and shows that I have met criteria, a positive powerful step to winning my case”

Client

GPS ANKLE TAGGING

Since the introduction of mandatory electronic monitoring using GPS technology for people on immigration bail who meet the deportation criteria, BID has conducted a sustained campaign against the practice alongside several key partner organisations – Privacy International, Migrants Organise, and the Public Law Project.

We have carried out interviews with 20 former BID clients who have been made to wear tags, about the impact this has on their mental health, daily life and family relationships. The resulting report will fill the evidence gap that currently exists regarding the impact of electronic monitoring for people facing deportation and will help individuals demonstrate the harm caused by tagging and challenge decisions by the Home Office to impose this draconian form of monitoring.

The campaign used a variety of strategies including: a large-scale light projection on a Home Office building, educational videos, social media content, briefings and write-to-MP tools. We also drafted and briefed on an amendment to the Nationality and Borders Bill that was debated in the committee stage of the Bill House of Commons that would have ended mandatory electronic monitoring and introduced key safeguards. We are now viewed

as experts in the area and are consistently approached by organisations and journalists looking to do work on GPS electronic monitoring, including since the GPS tagging policy has been expanded to ensnare initial asylum seekers facing removal to Rwanda when they are released from detention.

“I would like to thank you very much for everything you have done for us. We won thanks to your determination and your help. I don’t know how to thank you. We are together as a family and we are very happy. Our daughter does not have to fear for her future anymore.”

Client

NATIONALITY AND BORDERS BILL

We campaigned against the government's 'New Plan for Immigration' – which became the Nationality and Borders Bill (now Act). After responding to the consultation, we were involved at various stages with scrutinising many aspects of the Bill including its implications for asylum and refugee law, immigration detention and bail, victims of trafficking and other vulnerable people, accommodation and access to justice. We drafted briefings and amendments on several of these areas and worked closely with other organisations in the sector, supporting where we could. We submitted evidence to Parliamentary Select Committees scrutinising the Bill and built a close working relationship with shadow Immigration Minister Bambos Charalambous. Our amendment on accommodation centres, and on GPS electronic monitoring, were tabled and debated in Committee stage of the Bill in the House of Commons. We also had an amendment that we drafted tabled in the House of Lords by Baroness Hamwee.

Since the passage of the Nationality and Borders Bill and its transformation into an act of parliament, we have continued to resist the hostile proposals it contains. On the very first day the government's cruel Rwanda policy was announced

we worked with colleagues at Liberty and JCWI to co-ordinate a joint letter that was signed by 220+ organisations. We wrote a letter to the African Human Rights Commission, and the African Union, and lobbied for this to be on the agenda at the Commonwealth Heads of Government Meeting. We have now set up a Rwanda project to secure release for the hundreds of people who have been detained and issued with a 'notice of intent' for removal to Rwanda and are collecting evidence and carrying out interviews to publish a report on this.

We have also joined a coalition of organisations to campaign against "accommodation centres". This recently culminated in the government's decision to ditch plans to introduce a 1500-capacity asylum accommodation centre in Linton-on-Ouse in North Yorkshire. We continue to work with the taskforce for victims of trafficking in immigration detention to challenge the parts of the act that will harm victims of trafficking and reduce safeguards against detention for vulnerable adults.

BROOK HOUSE INQUIRY

The first ever public inquiry into immigration detention picked up speed in early 2022, with the chair of the inquiry hearing evidence from 75 different individuals and organisations. The evidence sessions revealed that abuse, racism and violence became normalised in Brook House in mid-2017, and these were the result of features of the immigration detention system, and Home Office policy, that created fertile conditions for those abuses to take place. A significant factor was the use of profit-driven private contractors to run detention centres. BID produced a detailed witness statement for the inquiry outlining our experiences in Brook House during the time period being examined and our policy work following the panorama documentary, as well as broader observations concerning systemic failings across the immigration detention estate, and recommendations.

“Racism at Brook House was “vitriolic, casual, and institutional – underscored by an underlying lack of empathy, even when individuals are at their most distressed and vulnerable, even in life or potentially life-threatening situations.”

- Evidence to the Brook House public inquiry

Research, Policy & Campaigning

DEPORTATION AND THE HUMAN RIGHTS ACT

Following on from two reports on deportation and family separation in the previous year, BID has continued its campaigning and policy work in this area. We are progressing this area of research and have joined up with a group of academics and Social Workers Without Borders on a long-term piece of joint research on family separation, and comparing the treatment of children's rights in deportation cases with family law and criminal justice contexts.

We are focused on resisting the government's proposed repeal of the Human Rights Act and weakening of Article 8 ECHR protections for people seeking to appeal deportation. We produced a detailed response to the government's recent consultation on Human Rights Act reform which has formed the basis for our lobbying work. We wrote to the Justice Secretary to raise concerns about the manner in which the consultation was carried out including the misleading use of statistics and case studies relating to deportation.

Having focused primarily on family separation issues in our recent policy work on deportation we identified the need to shine a spotlight on people facing deportation who grew up in the UK and are British in all but paperwork. We

recently began a project carrying out interviews with those individuals which we aim to use in our lobbying on the Human Rights Act.

Alongside this a considerable part of our campaigning to resist deportation has been through public campaigning to resist individual charter flights. For the Iraq and Jamaican deportation charter flights we carried out interviews with people and their families, wrote statements and generated public support on social media alongside other organisations and diaspora groups. This gained significant and, for BID, unprecedented traction with over 4,000 people using our template to write to their MPs to challenge the flight to Jamaica, leading to a big increase in our following and engagement with our twitter posts.

Alongside this we are making a film with the organisation Each Other to highlight the stories who succeeded in Article 8 deportation appeals whose rights would be threatened by the repeal of the Human Rights Act. We are also carrying out research based on surveys with legal practitioners and data from BID's exceptional case funding project, with the intention of highlighting gaps in provision in immigration legal aid.

DETENTION IN PRISONS

This year, BID set out to carry out research investigating access to justice for people detained in prisons, for two primary reasons. Firstly, in late 2021, BID decided to focus on challenging the use of prisons for immigration detention as a strategic priority, due to the particular disadvantages and infringement on fundamental rights that it creates and sparse

provision of support from other organisations in this area. Secondly, the government recently introduced a telephone advice scheme, designed to provide a functional equivalent service to the legal advice surgery scheme in IRCs, after

the High Court found the previous system to be discriminatory and unlawful in a case in which BID intervened. We felt it was necessary, and indeed were approached by the Legal Aid Agency, to scrutinise how well this was working.

The research, based on responses to our questionnaire posted back to us from within prisons, revealed a number of major concerns. 70% of participants did not have a legal representative in their immigration case, while 89% described the difficulties they had faced accessing justice while detained in prisons under immigration powers. Meanwhile 74% of participants continued to

be locked in their cells for 22-24 hours per day.

Participants in the research highlighted several barriers to accessing advice under the government's telephone advice scheme including prison officers who were unhelpful, uncaring or even discriminatory towards foreign nationals; delays and difficulties getting numbers added to a person's pin; lack of funds to make phone calls; people not being provided with contact details of solicitors by the prison. Those who were able to contact lawyers or were able to receive advice were told the lawyer could not take on their cases for various reasons such as the lawyer not having capacity; not providing legal aid; being too far away from the prison; or not dealing with immigration. People were very dependent on having family or friends outside the prison who could advocate for them.

Alongside this research we have continued to prioritise prisons in our research and policy work and at different points we have met with the Prison Service, the Home Office, the Legal Aid Agency, the Immigration Inspector and the Prisons Inspector. The latter is currently undertaking a thematic review of immigration detention in prisons. We responded to the government's White Paper on future prison regimes.



Communications and fundraising summary

Over the past year BID has seen audience growth across all its communication channels. While raising the profile of immigration detention as a human rights issue, this is also enabling us to communicate with more people than ever significantly growing our supporter base.

We had 38 media mentions, our Tweets were seen over 1,274,000 times and we exceeded our individual giving target again this year. Our website was visited by 42,301 people and over 7,500 emails to MPs were sent using our template and tool.

This year has been largely focused on raising awareness with some asks both financial (donation) and participatory (free events, challenge events, write to your MP) encouraging people to act.



A round up of the year: **2021/22**

AUGUST: **BID writes** a letter urging the Home Office to acknowledge EU Settlement Scheme applications and reduce the amount of time EEA nationals are spending in detention under immigration powers.

SEPTEMBER: **BID joins** over 100 organisations calling on the Government to abandon plans to criminalise Afghan refugees. At the end of the month, 11 Hackney Half runners **raise over £7,200** for BID.

OCTOBER: BID welcomes **landmark ruling** in Supreme Court case R(Majera), a case in which BID's pro bono lawyers intervened. BID's submissions to the case were found to be helpful, and the Supreme Court ruled in favour of the appellant.

NOVEMBER: BID **write a letter** requesting an ICIBI inspection into Home Office decision making in cases involving children.

DECEMBER: BID launches **#RingTheAlarm campaign**, sharing 8 reasons the toxic Nationality and Borders Bill must be binned. The #RingTheAlarm campaign spreads the word about the Nationality and Borders Bill by educating and encouraging the public to contact their MPs. 587 people write to their MPs with BID's #RingTheAlarm template in December.

JANUARY: BID organises an **online event** exposing the Home Office's inhumane practice of using solitary confinement for immigration purposes.

FEBRUARY: **BID responds** to the Napier Barracks planning application open consultation. BID opposes the use of the Napier Barracks as housing for asylum seekers, as they are military barracks that do not adequately support the needs of the asylum seekers.

MARCH: MPs are set to vote on the Nationality and Borders Bill in March. BID's #RingTheAlarm campaign urges people to write to their MPs and ask them to bin the bill. 71 people **write to their MP** using our template.

APRIL: **BID opposes** the Government's inhumane plans to deport people seeking asylum to Rwanda. BID **provides a template** for people to ask their MPs to stand against these plans. 2,540 people use BID's template to write to their MPs.

MAY: BID stands against the mass deportation to Jamaica on 18th May, and 3,684 people **write to their MPs** with BID's template, asking them to stop the deportation flight. Later in the month, 687 people use BID's template to email their MPs, asking them to **stop the mass deportation to Iraq** on 31st May.

JUNE: BID staff, volunteers, and supporters **participate in the 10km London Legal Walk**, raising money for our advice line. BID's advice line is often the first point of contact for legal advice for people who are detained. The Legal Walk Team raised enough to run the advice line for more than 10 weeks.

JULY: BID **releases a short video** explaining GPS monitoring and how electronically tagging people the Government wants to send to Rwanda is harmful and intrusive

"Thank you very much for your support. You have really worked hard for this within all the years."

Client



Financial Information

For the year ended 31 July 2022



STATEMENT OF FINANCIAL ACTIVITIES FOR THE YEAR ENDED 31 JULY 2022

	Unrestricted Funds £	Restricted Funds £	2022 £	2021 £
Income				
Grants and donations	413,846	-	413,846	461,657
Charitable activities	-	163,630	163,630	290,200
Investments	1,364	-	1,364	1,346
Total	<u>415,210</u>	<u>163,630</u>	<u>578,840</u>	<u>753,203</u>
Expenditure				
Raising funds	58,281	-	58,281	55,764
IT costs due to Covid-19	-	-	-	27,500
Charitable activities:				
Casework and outreach	229,760	136,595	366,355	341,275
Separated families project	89,847	13,162	103,009	81,253
Deportation project	82,934	6,943	89,877	85,198
Research and policy	69,301	6,930	76,231	66,423
Total	<u>530,123</u>	<u>163,630</u>	<u>693,753</u>	<u>657,413</u>
Net income/(expenditure) and net movement in funds for the year	(114,913)	-	(114,913)	95,790
<i>Reconciliation of funds</i>				
Total funds, brought forward	508,278	-	508,278	412,488
Total funds, carried forward	<u>393,365</u>	<u>-</u>	<u>393,365</u>	<u>508,278</u>

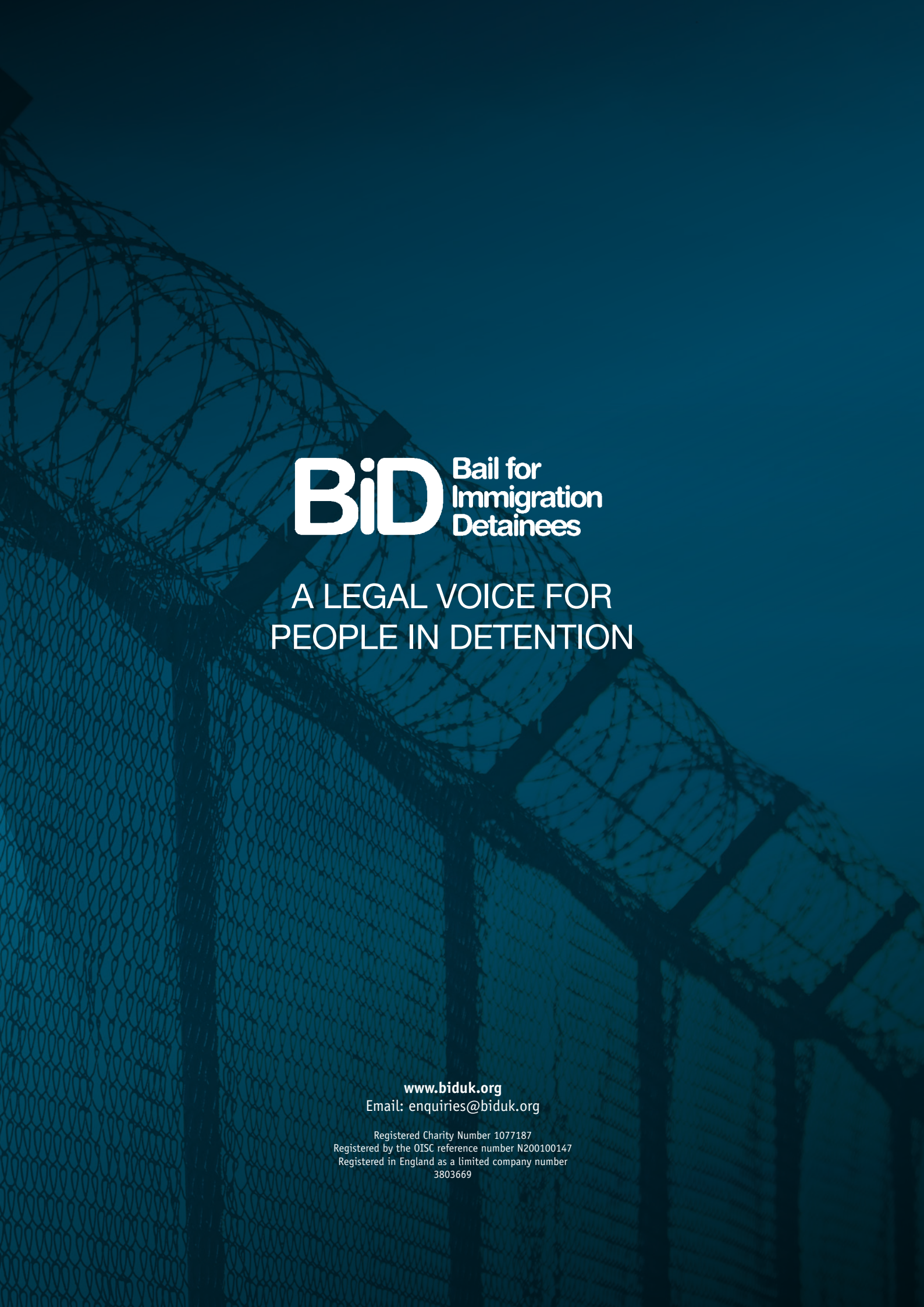
BALANCE SHEET AS AT 31 JULY 2022

	2022		2021	
	£	£	£	£
Fixed assets				
Tangible assets		9,402		8,319
Current assets				
Debtors	16,471		15,770	
Cash at bank and in hand	549,456		550,704	
	<u>565,927</u>		<u>566,474</u>	
Liabilities				
Creditors: amounts falling due within one year	<u>181,964</u>		<u>66,515</u>	
Net current assets		383,963		499,959
Net assets		<u>393,365</u>		<u>508,278</u>
Funds of the charity				
Unrestricted funds:				
Designated funds		-		30,000
General funds		393,365		478,278
Total charity funds		<u>393,365</u>		<u>508,278</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:





BiD Bail for
Immigration
Detainees

A LEGAL VOICE FOR
PEOPLE IN DETENTION

www.biduk.org

Email: enquiries@biduk.org

Registered Charity Number 1077187
Registered by the OISC reference number N200100147
Registered in England as a limited company number
3803669