

UK Torture Review

Written evidence:

Terms of reference, guidance questions and how to submit

1. In April 2019, the UK will be reviewed by the UN Committee against Torture (the Committee) as part of its sixth periodic review, a process that only happens every four years. We are facilitating a **joint civil society shadow report** to present information to the Committee as part of the review process. The shadow report is a real opportunity to hold the UK Government to account and we want to hear from you.
2. The Committee is concerned with a considerable number of issues. We have split these issues into **thematic groups** as part of the consultation process (see below) and have put together a number of guidance questions to help you structure your evidence, which can be found below.
3. You should note that these questions are *for guidance only*. We do not expect you to cover every question under each group. You may want to include additional issues which are relevant to the UN Convention against Torture (the Convention) but are not included in the guidance questions. If you have any queries please contact us.

**Thematic Groups**

**Submission guidelines**

1. Submissions should be between 500-1000 words per **issue** (with a strict maximum limit of 3000 words) and include:

* Comments and evidence, including case studies, of how the UK Government has implemented the provisions under the Convention since its last periodic review in 2013. Please see the detailed guidance on the list of issues to see what the Committee is specifically looking for.
* References to studies, data or reports that have come out since the last periodic review that can be cited as evidence of how the UK Government is (or is not) implementing the Convention.
* Statistical data where possible.
* Specific recommendations on how the UK Government can better implement the Convention .
* New or emerging issues or any other concise information relevant to the Convention that may not have been highlighted in the Committee’s list of issues or may have developed since 2016.
* Evidence of the likely impact of Brexit onthe UK government’s commitments.

1. Joint submissions from organisations on specific issues are encouraged. Please indicate clearly all organisations that support the evidence submitted.
2. Each submission should:

* Be concise, between 500-1000 words per issue with a strict maximum limit of 3000 words.
* Begin with an executive summary in bullet point form of the main points made in the submission.
* Include a brief introduction about your organisation(s).
* Have numbered paragraphs.
* Include case studies and factual evidence and be fully referenced where needed.
* Include recommendations for the UK Government.

1. You should note the following before making a submission:

* We may publish your submission.
* If you do not wish for your submission to be published, you must clearly say so and explain your reasons for this. This should be discussed with REDRESS prior to submission.
* We are not obliged to accept your submission as evidence for the joint shadow report.

1. Submissions can be made using the [online form](mailto:online%20form) or by emailing Josie Fathers at [josie@redress.org](mailto:josie@redress.org).

# UK Torture Review Guidance Questions

# Group A:

# Prisons, policing, armed forces and intelligence services

*Suggested issues*:

* **Investigations into allegations of torture overseas**
* **Counter-terrorism measures**
* **Arrest and detention conditions**
* **Training and personnel**

*Suggested questions:*

**Investigations into allegations of torture overseas**

1. What steps have been taken to set up an independent judge-led inquiry into allegations of torture and ill-treatment, including by means of complicity, of detainees held by other countries in counter-terrorism operations overseas? Was the inquiry by the Intelligence and Security Committee of Parliament adequate as an investigative mechanism on this matter?

*This might include information regarding investigations into the alleged torture of Mr Aamer following his release from Guantanamo Bay in 2015; investigations into allegations of British special forces personnel handing over detainees into USA custody at Camp Nama in Iraq; information regarding the current status of the IHAT and the Iraq Fatalities investigations; the outcome of the Al-Sweady public inquiry; or any other investigations or allegations during the reporting period.*

1. Is the Consolidated Guideance to Intelligence Officers and Service Personnel on the Detention and Interviewing of Detainees Overseas, and on the Passing and Receipt of Intelligence Relating to Detainees consistent with the Convention?

**Counter-terrorism measures**

1. How have the UK Government’s counter-terrorism measures affected human rights safeguards in law and in practice? How has the UK Government ensured compliance with the Convention? Have there been any complaints of non-observance of standards? How many persons have been convicted under such legislation and what legal safeguards and remedies are available to persons subjected to counter-terrorism measures in law and in practice?

**Arrest and detention conditions**

1. Are the conditions of detention in all situations of deprivation of liberty in England and Wales (including e.g. court custody, police custody, mental health detention, immigration detention, pre-trial detention, prisons, immigration removal centres) in line with the standards set out in the Rules for the Treatment of Prisoners (the Nelson Mandela Rules)?

*This might include the provision of health-care in prisons, use of isolation and solitary confinement, use of force or restraint, use of strip searches or measures taken to reduce inter-prisoner violence.*

1. What measures, if any, have been put in place to reduce prison overcrowding in England and Wales during the reporting period?
2. Has the UK Government introduced any rules, instructions, methods and practices or arrangements for custody in the reporting period? How often does the UK Government review these practices?
3. What measures has the UK Government put in place to address the special needs of women in detention in England and Wales?
4. What measures has the UK Government put in place to address the special needs of minors in detention in England and Wales?

*This might also include deficiencies in access to appropriate mental health care; the inappropriate placement of children, including those with mental health conditions; restraint of children in young offender institutions; or investigations and disciplinary or criminal actions taken in relation to the allegations of child sexual abuse in detention.*

1. What are the results of any investigations into deaths in custody, whether related to death in mental health detention and police custody or to compensation received by relatives of the deceased in any of the cases.

**Training and personnel**

1. Are the training programmes provided to all law enforcement officials, including prison staff and border guards, comprehensive in covering all the provisions of the Convention? Is the training effective? How often is the training provided?
2. What training methodology and programmes are used when instructing police officers and other security personnel in the use of electrical discharge weapons for direct contact? Are there any other less-than-lethal devices or implements used by security forces? Do you have any details of alleged excessive use of force as a result of using such devices in the reporting period?
3. Do you have information about the training programmes for judges, prosecutors, forensic doctors and medical personnel on detecting and documenting physical and psychological sequelae of torture? Do these programmes include specific training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)?
4. How often are State officials seconded to the NPM? What are the safeguards in place to ensure that the independence of the NPM is not compromised following such role change? Does the NPM have enough material, human and budgetary resources allocated to it for its effective functioning?

# UK Torture Review Guidance Questions

# Group B:

# Asylum and Migration

*Suggested issues*:

* **Asylum claims**
* **Detention of asylum seekers**
* **Ill-treatment in Immigration Removal Centres**
* **Refoulement, extradition and diplomatic assurances**
* **Statelessness**

*Suggested questions:*

**Asylum claims**

1. Do you have any information regarding applications for asylum during the reporting period that were accepted or rejected, including those accepted because the asylum-seeker had been tortured or was at risk of torture if returned, or those not accepted despite evidence of torture? Do you have any information regarding appeals that have been made to the Immigration and Asylum Tribunal (or any other appeals mechanism) and the outcome of those appeals?

**Detention of asylum seekers**

1. What steps has the UK Government taken to ensure the early identification of victims of torture and to ensure that such individuals are not detained within the context of asylum procedures? What measures have been put in place to ensure that detention of asylum seekers is used only as a last resort? Is the “adults at risk” policy fit for purpose?
2. What measures have been taken to introduce a time limit for immigration detention?

**Ill-treatment in Immigration Removal Centres**

1. Do you have any information regarding allegations of abusive treatment of detainees in immigration removal centres, including privately-run centres? Have there been adequate investigations into such abuse?

**Refoulement, extradition and diplomatic assurances**

1. Do you have any information regardings cases of *refoulements*, extraditions, expulsions or deportations carried out by the UK Government on the basis of diplomatic assurances (or equivalent) during the reporting period? What were the minimum contents of any such assurances or guarantees? What measures have been in place in such cases regarding subsequent monitoring?
2. Has the UK Government offered diplomatic assurances or guarantees?
3. Has the UK Governemnt concluded any extradition treaties in the reporting period and is torture included as an extraditable offence in such treaties?

**Statelessness**

1. How effective is the updated policy to enable stateless persons who have no right to reside in any other country to be formally determined as stateless?

# UK Torture Review Guidance Questions

# Group C:

# Health and social care settings

*Suggested issues:*

* **Preventing ill-treatment of patients receiving health care services**
* **Persons deprived of their liberty in mental health settings**
* **Use of restraint against people in health care settings**
* **Inquiries into child sexual abuse and exploitation**

*Suggested questions:*

**Preventing ill-treatment of patients receiving health care services**

1. Do you have any information on the measures taken to ensure the effective implementation of the recommendations contained in the Mid Staffordshire National Health Service Foundation Trust Public Inquiry reports?
2. What measures are in place to prevent the ill-treatment of patients who are receiving health-care services?

**Persons deprived of their liberty in mental health settings**

1. Do you have any information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with psychosocial disabilities, including care homes?
2. Do you have any information regarding an increase in the number of applications to the Court of Protection in England and Wales for authorisation which has led to a backlog of requests and a high number of people probably deprived of their liberty without authorisation?
3. Are alternative forms of treatment, such as community-based rehabilitation services or other forms of outpatient treatment programmes, rather than deprivation of liberty?

**Use of restraint against people in health care settings**

1. Do you have any concerns regarding the use of restraint for detained individuals in health-care and detention settings? Has there been any new legislative or other measures relating to the use of restraints in health and social care settings?

**Inquiries into child sexual abuse and exploitation**

1. Do you have any comments regarding the independent inquiries in relation to child sexual abuse and exploitation in England and Wales (in terms of its prevention and the investigation of victims’ allegations)?

# UK Torture Review Guidance Questions

# Group D:

# Violence and abuse against women, ethnic, religious or sexual minorities and victims of trafficking and exploitation

*Suggested issues:*

* **Violence against women or gender based violence**
* **Human trafficking**
* **Hate crimes, including Islamophobia and anti-Semitism,** prejudice against persons with disabilities and transgendered persons
* **Migrant domestic workers**
* **Corporal punishment**

*Suggested questions:*

**Violence against women or gender based violence**

1. Have there been any legislative, administrative or other measures taken to eliminate all forms of violence against women, including domestic violence, sexual harassment, gender-based bullying in the education system and female genital mutilation? What protection and support services are available to victims of gender-based violence? Do you have information on the number of complaints, investigations, prosecutions, convictions and sentences handed down in cases of gender-based violence?

**Human Trafficking**

1. Do you have any information on the Modern Slavery Act 2015 and any other new legislation or measures and their effectiveness? Are there any shortcomings to the new legislation or weaknesses in the powers of the Anti-Slavery Commissioner? What measures have been adopted to ensure that victims of human trafficking have access to effective remedies and reparation? Do you have any information regarding the number of complaints, investigations, prosecutions and sentences imposed in cases of human trafficking in the reporting period?

**Hate Crimes**

1. What measures have been adopted to combat hate crimes, including crimes committed on the basis of race, nationality and religion (including Islamophobia and anti-Semitism)? What, if any, specific measures been taken to address underreporting of disability and transgender-motivated hate crimes?

**Migrant domestic workers**

1. Do you have any information regarding reports of abuse of migrant domestic workers have increased considerably since the 2012 introduction of the “tied visa”, which eliminated the visa holder’s right to change employer and find other full-time work?

**Corporal punishment**

1. What measures, if any, have been taken to ensure that corporal punishment of children is explicitly prohibited in all settings, including in the family, schools and alternative care settings?

# UK Torture Review Guidance Questions

# Group E:

# Legislative, administrative or judicial procedure

*Suggested issues:*

* **Compliance with the Convention**
* **The impact of Brexit and plans to repeal the Human Rights Act**
* **Access to justice**

*Suggested questions:*

**Compliance with the Convention**

1. Have any measures been taken to incorporate all the provisions of the Convention into UK legislation, including the adoption of a definition of torture in domestic criminal law that is consistent with article 1 of the Convention?
2. Have any measures been adopted to ensure that torture or complicity in torture are subject to appropriate penalties commensurate with the seriousness of the crime, in accordance with article 4 of the Convention?
3. Have any measures been taken to incorporate all the provisions of the Convention into UK legislation, including the adoption of a definition of torture in domestic criminal law that is consistent with article 1 of the Convention?
4. Have any measures been taken to repeal section 134 (4) and (5) of the Criminal Justice Act 1988, which provides for the defence of “lawful authority, justification or excuse” to a charge of official intentional infliction of severe pain or suffering and the defence of conduct that is permitted under foreign law, even if unlawful under UK law?
5. Have there been any changes regarding the UK’s position on the extraterritorial application of the Convention?
6. What, if any, new legislation or measures have been adopted to implement article 5 of the Convention?
7. Has the UK entered into mutual judicial assistance treaties or agreements with other entities (such as countries, international tribunals or international institutions) and have such assistance or agreements led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment?
8. Has the UK reconsiderd its position on accepting the right of individual petition to the Committee by making the declaration provided for under article 22 of the Convention?

**The Impact of Brexit and plans to repeal of the Human Rights Act**

1. What are the likely impacts of the Brexit process to the UK Government fulfilling its obligations under the Convention? What are the likely impacts of the proposed repeal of the Human Rights Act and proposed changes to the legal framework on the human rights protections set out in the Convention?

**Access to justice**

1. What is the impact of legal aid reforms on access to justice and effective remedies in the reporting period?
2. What steps have been taken to ensure that all measures used to restrict or limit fair trial guarantees on national security grounds, including the use of closed material procedures, are fully compliant with the provisions of the Convention?
3. Has the UK Government considered the possibility of increasing the minimum age of criminal responsibility in line with international standards?
4. Do you have information on redress and compensation measures, including the means of rehabilitation ordered by the courts and actually provided to the victims of torture or their families since the consideration of the previous periodic report? Are there any ongoing reparations programmes?
5. What, if any, concrete measures have been taken to ensure respect, both in law and in practice, for the principle of inadmissibility of evidence obtained through torture? Do you have examples of any cases that have been dismissed by the courts due to the introduction of torture evidence?