
Know your medical rights - an advice leaflet for those in immigration detention

Medical Justice is an independent organisation that challenges instances of detainees not receiving adequate healthcare in detention. Medical Justice is a very small organisation and does not have the capacity to help many detainees on an individual basis.

While you are in detention, you are entitled to receive proper medical care appropriate to your needs. The fact that you are detained should not deprive you of this important human right. However, there have been cases of detainees not receiving adequate healthcare in detention. The aim of this leaflet is to help detainees and their advocates identify what the detainee's rights are and to outline how those rights might be secured by detainees challenging UK Borders Agency (UKBA) and/or the detention centre / healthcare centre operators.

Your medical care is the responsibility firstly of the Healthcare Centre Manager and then the Detention Centre Manager. According to the Detention Centre Rules ;

Rule 33 states

- a. Each member of Healthcare staff "shall pay special attention to the need to recognise medical conditions...(with) appropriate sensitivity".
- b. Your medical information is confidential and health care staff must observe all the necessary professional guidelines relating to medical confidentiality.
- c. If you ask to see a doctor, this must be recorded by the detention centre officer, who must pass your request to the doctor or nursing staff "forthwith", i.e. straightaway.
- d. The doctor must ask for your previous medical records in the UK if you have any, for example your GP records.
- e. The Healthcare team must forward your medical records if you are transferred to another detention centre, or discharged from detention.
- f. You are entitled to be examined only by a doctor of the same sex if you wish, and the doctor must make sure that all detainees are aware of this right.
- g. All detainees are entitled to ask to see an independent doctor who is not employed / hired by the centre, as long as the detainee can pay any costs incurred, and the manager is satisfied that there are reasonable grounds for the request.

Rule 34 states

- a. You are entitled to a physical and mental examination by a doctor within 24 hours of admission to the detention centre;
- b. If you refuse a medical examination at a particular time, you are entitled to have the examination at any subsequent time upon request;

Rule 35 states

- a. The doctor must report to the manager the case of any detainee whose health is likely to be damaged by continued detention. If this applies to you, you can ask for a Rule 35 report to be written on you, which you must sign. You can ask for a copy of the report and for the response that UKBA must make to the Rule 35 report. If your health deteriorates, you can ask for another Rule 35 report to be written (see "Rule35" and the PB judgement" below)
- b. The doctor must issue a Rule 35 report to the manager regarding the case of any detainee who s/he is concerned may have been the victim of torture, which includes rape.
- c. The doctor must report to the manager the case of any detainee who s/he suspects of having suicidal intentions, and the detainee must be placed under special observation.
- d. The doctor must pay special attention to any detainee whose mental condition appears to require it, and make special arrangements (including counselling) which appear necessary.

Rule 36 states - The detention centre manager must inform a detainee's husband or wife, or next of kin, and any other person who needs to be informed, if a detainee becomes seriously ill, severely injured or removed to hospital on account of mental illness.

Rule 37 states - A detainee can be asked to have to a medical examination for a disease that might spread in the detention centre. This must be explained by the doctor first.

Appropriate diet

It is the duty of the detention centre to provide a diet appropriate to your medical condition. Diet is important for several chronic diseases, especially diabetes, high blood pressure and obesity. A low fat, low sugar and low salt diet with extra fruit and vegetables is important for the treatment of these conditions. Ask to see the doctor about this.

UKBA policy (the Enforcement Instructions and Guidance) says that some people are considered suitable for detention "only in very exceptional circumstances", i.e.:

- i. unaccompanied children and persons under the age of 18;
- ii. the elderly, especially where supervision is required;
- iii. pregnant women, especially after 24 weeks of pregnancy;
- iv. those suffering from serious medical conditions or the mentally ill;
- v. those where there is independent evidence that they have been tortured;
- vi. people with serious disabilities;

If any of these apply to you, or another detainee, tell the health care staff, who must properly assess the situation, record it and report it to the Detention Centre Manager.

If you are worried about another detainee's mental or physical health getting worse, especially if they are in danger, tell the healthcare staff about it and ask that they be treated as soon as possible.

Healthcare "equivalent to the NHS"

In addition to the Detention Centre Rules, the government has also said that you are entitled to health care "equivalent to the NHS" (National Health Service) while you are in detention. Therefore, you are also entitled to the following, like all other patients on the NHS:

1. Sympathetic and emotionally supportive medical and nursing care;
2. When you feel ill, to have your symptoms listened to and discussed with you, and for these to be fully recorded in your medical records;
3. A proper medical examination, including a mental state examination, appropriate to your complaints. You also have the right to be examined by a doctor of the same sex;
4. Blood and urine tests, X-rays and other hospital investigations, if these will help diagnose your illness. To have the results of these tests (whether they are normal or abnormal) communicated promptly to you by the nursing or medical staff at the healthcare centre;
5. Emergency care 24 hours a day for any serious, potentially dangerous medical or psychiatric condition;
6. Hospital admission if your condition is serious enough. Some detention centres have in-patient facilities, others send their patients to NHS hospitals for admission;
7. To continue to receive medical treatment you were receiving before you were detained, for example medication for existing illness.
8. If you have been in close contact with someone who has TB, you are entitled to be screened for the disease. This involves a skin test (Heaf test),

a chest X-ray and a consultation with a doctor or nurse.

9. Every NHS patient has the right to see his/her medical records. If you want to see your records ask at the health care centre how you should apply and put your request in writing. You can also give your consent for your solicitor and a private doctor to receive copies of your medical records. Copies of your medical notes will be charged for (£10) by the detention centre healthcare centre (see "DSO 10/2008 - Charges for copies of Medical Records" below).

Travel immunisations & protection against malaria

If you are going to be deported, ask for travel immunisations and protection against malaria. If you have lived away from your country for more than 3 months you will have lost all of your natural protection against malaria; ask for the appropriate protection to be given to you (see "Removals Without Adequate Provision of Anti-Malarial's - What Can Be Done" below).

If you are HIV+, please see "Using the new BHIVA guidelines on "Detention, Removal and People Living with HIV" below.

Medication not allowed "in possession" - Note :

Certain medication may be taken from a detainee and subsequently administered to the detainee dose-by-dose. The medication should be the same, even if reduced by a different manufacturer.

Making a complaint - All NHS patients have the right to complain if they are not happy with their treatment. If you are not happy with your medical treatment in detention, talk to the doctor about it. If you are not satisfied, talk to the health care centre manager, or put your complaint in writing to UKBA. If you feel your health is being damaged by continued detention, you can copy your complaint to the Independent Monitoring Board, your solicitor, befriender, supporter (if you have one)

Further info from Medical Justice - Detainees and their solicitors, befrienders and supporters can access more detailed information from Medical Justice on the following ;

DSO 10/2008 - Charges for copies of Medical Records
<http://www.medicaljustice.org.uk/content/view/493/57/>

Using the new BHIVA guidelines on "Detention, Removal and People Living with HIV"
<http://www.medicaljustice.org.uk/content/view/851/53/>

Rule35" and the PB judgement
<http://www.medicaljustice.org.uk/content/view/396/53/>

Removals Without Adequate Provision of Anti-Malarial's - What Can Be Done
<http://www.medicaljustice.org.uk/content/view/73/84/>

