

# The announced closure of Dungavel: what is the future of immigration detention in Scotland?

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## About Scottish Detainee Visitors (SDV)

SDV is an independent charity based in Glasgow that seeks to influence policy on immigration detention and provides support to people detained in Scotland. Since 2002, SDV volunteers have visited people in Dungavel twice a week to provide support. We visit over 200 men and women in Dungavel every year and are the only civil society organisation to visit people detained every week.

## Purpose of this paper

On 8 September 2016, the UK Government announced that Dungavel, the only detention centre in Scotland, would close toward the end of 2017<sup>1</sup>. At the same time it announced its intention to build a new 51 bed residential short term holding facility (STHF) close to Glasgow Airport.

It is clear from the announcement that the closure of Dungavel does not mean that people living within Scottish communities will no longer be at risk of immigration detention. Not only is there a proposed new facility in Glasgow, but the Home Office will still be able to detain people formerly resident in Scotland in one of the remaining detention centres in England. This paper considers the implications of this announcement for people at risk of immigration detention in Scotland. Background to the issue can be found in our briefing “Immigration Detention: the issues for Scotland”<sup>2</sup>

## The UK Government plans

An application for the proposed new facility was submitted to Renfrewshire Council on 15 September 2016, and this reveals more detail about the UK Government’s plans<sup>3</sup>. The application is for a new building on a site on Abbotsinch Road in Paisley. The proposal specifies 20 bedrooms, twelve for men, five for women, two for ‘vulnerable persons’ and one for disabled people. According to a report in the National newspaper, Renfrewshire Council was unable to give any indication of when the application would be considered<sup>4</sup>. No further details have emerged publicly regarding the timescale for the closure of Dungavel or the extent to which this is dependent on the new facility.

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<sup>1</sup> <http://www.bbc.co.uk/news/uk-scotland-glasgow-west-37307435>

<sup>2</sup> <http://sdv.org.uk/wp-content/uploads/2014/10/SDV-briefing-on-detention-in-Scotland-August-2016.pdf>

<sup>3</sup> Planning application 16/0655/PP available to view at: <http://pl.renfrewshire.gov.uk/online-applications/>

<sup>4</sup> <http://www.thenational.scot/news/plan-released-for-dungavel-replacement-centre-beside-glasgow-airport.23061>

### Three scenarios

Information continues to emerge about the UK Government's plans but based on what is known, we can envisage three possible outcomes, none of which does anything to address concerns about the use of immigration detention in the UK. We consider these briefly below, before moving on to reflect on the opportunity that now exists to reframe the debate and think more imaginatively about how we work with people currently living in Scotland and at risk of detention.

#### 1. Closure of Dungavel and STHF opens at Glasgow airport

This is what the announcements to date propose. The UK Government has said that the proposed facility at Glasgow will remove people with no right to remain in the UK quickly and that the 'vast majority' of people would be held there for less than a week. Based on our experience, SDV is sceptical of that claim and believes that a more likely outcome is that many people will be moved to other detention centres. In this scenario, the only possible option would be to move people to England, where they will continue to be held indefinitely and possibly for many weeks, months and even years.

What is known about the operation of the existing STHFs at Larne House in Northern Ireland and Pennine House at Manchester Airport supports our concerns. Published Home Office figures do not show how many people held in these STHFs are moved to other centres, but information can be gleaned from inspection reports. The latest inspection of Larne House reveals that in the three month period before the inspection in November 2013, 44% of people leaving detention in Larne were moved to another centre<sup>5</sup>. Just 27% were removed from the country. In the report of their May 2013 inspection, inspectors noted that '(T)he vast majority of detainees leaving Pennine House in the previous three months went to IRCs [Immigration Removal Centres], particularly Dungavel House and Colnbrook'<sup>6</sup>. SDV regularly visits people in Dungavel who have been transferred from Pennine House and Larne House.

The prospect of people being routinely moved to England after being detained for a few days in the new facility amplifies existing concerns about cross-jurisdictional moves, access to legal representation, and social and family support for people detained in Scotland<sup>7</sup>.

In addition, there are concerns about protections for people detained in STHFs. The Detention Centre Rules (2001)<sup>8</sup> set out what people are entitled to while they are detained and the basics around healthcare, access to welfare and privileges, safety and security, and other matters. These rules do not apply to STHFs and the UK Government has never

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<sup>5</sup> <https://www.justiceinspectorates.gov.uk/hmiprisonswp-content/uploads/sites/4/2014/04/2013-larne-house-sthf.pdf>

<sup>6</sup> <https://www.justiceinspectorates.gov.uk/hmiprisonswp-content/uploads/sites/4/2014/03/pennine-house-2013.pdf>

<sup>7</sup> <http://sdv.org.uk/wp-content/uploads/2014/10/SDV-briefing-on-detention-in-Scotland-August-2016.pdf>

<sup>8</sup> [http://www.legislation.gov.uk/uksi/2001/238/pdfs/uksi\\_20010238\\_en.pdf](http://www.legislation.gov.uk/uksi/2001/238/pdfs/uksi_20010238_en.pdf)

published an equivalent set of rules for them. The Association of Visitors to Immigration Detainees (AVID) has called this ‘a huge protection gap that leaves many at risk’<sup>9</sup>.

## **2. Closure of Dungavel and no STHF**

It is unlikely but at least theoretically possible, that, for example, planning permission for the new facility is denied and the UK Government continues with its plans to close Dungavel. While this would mean there would no longer be a dedicated immigration detention centre on Scottish soil, we would argue that this is the worst possible outcome. The result would be that people living in Scotland subject to immigration detention by the UK Government would be moved directly to England if they were detained, taking them farther away from their families and communities and disrupting their legal support, without even a brief stopgap in a new STHF.

People detained under immigration powers in Scotland currently have greater access to legal aid - and therefore legal advice to challenge their detention - as legal aid is devolved in Scotland and has not been subject to the same level of cuts to funding as in England and Wales. Removing people from Scotland would have the effect of removing them from their legal representatives and hindering their access to justice.

## **3. No STHF and Dungavel remains open**

It is at least theoretically possible that the proposed new SHTF does not go ahead and the UK Government decides to keep Dungavel open. The status quo outcome would mean a continuation of the concerns about detention that we and many other organisations and individuals in Scotland have long campaigned to raise awareness about and challenge.<sup>10</sup>

## **Reframing the debate**

Over the last few years, advocacy and campaigning focused on immigration detention in the UK has resulted in the issue being pushed higher up the political agenda, with major inquiries, parliamentary debates, and research calling for urgent reform. The Detention Inquiry report of 2015 concluded that the UK detains too many people for too long and that the system is ‘expensive, ineffective and unjust’. It recommended a time limit and a move towards community based alternatives to detention<sup>11</sup>.

The Shaw Review into the detention of vulnerable people echoed many of the findings of the Detention Inquiry and called for a drastic reduction in the number of people detained and the length of detention. In response, the UK Government said that it accepted the broad thrust of

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[http://www.aviddetention.org.uk/sites/default/files/images/AVID%20response\\_SHAW%20REVIEW%20MAY2015.pdf](http://www.aviddetention.org.uk/sites/default/files/images/AVID%20response_SHAW%20REVIEW%20MAY2015.pdf)

<sup>10</sup> <http://sdv.org.uk/wp-content/uploads/2014/10/SDV-briefing-on-detention-in-Scotland-August-2016.pdf>

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/490782/52532\\_Shaw\\_Review\\_Accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf)

Shaw's recommendations and would introduce reforms to the system that would result in less use of detention and a reduction in the length of detention<sup>12</sup>.

The Immigration Act 2016 introduced some limited reforms to detention. It committed to a new process for managing vulnerable people in detention and introduced automatic judicial oversight of decisions to detain for the first time. It also limited the detention of pregnant women to 72 hours (or a week with ministerial approval). This mirrors the situation for families with children since 2010, which has resulted in a large reduction in the number of children entering immigration detention (from 1,119 in 2009 to 163 in 2015).

These developments all suggest that the direction of travel should be towards reduction in the use of detention across the UK. We would argue that the planned closure of Dungavel presents an opportunity to use a number of approaches to significantly limit both the use of detention and its duration for people living in Scotland. Elements of a new approach would include the following.

### **1. Developing a range of community based alternatives to detention**

There is increasing evidence that working with people subject to immigration control within the community using a case management approach, based on early intervention and tailored to the specific needs of different populations has significant advantages:

- It is more humane;
- It is more cost effective;
- It assists in integration in the event that a person's right to remain in the country is recognised;
- It increases compliance with a negative immigration decision and enables people to return voluntarily in a planned way.

The Detention Inquiry report highlights a number of examples of community based alternatives to detention from Europe and the United States, and argues that a shift to such alternatives would encourage better decision making and move the UK away from its focus on end-stage enforcement. More recently, research from Detention Action has argued that community based alternatives can be successful even with ex-offenders, reducing re-offending and delivering very low rates of absconding<sup>13</sup>.

### **2. Better immigration casework and decision making**

We know from official figures that the vast majority of people leaving detention in Dungavel are released back into the community. In the second quarter of 2016, the figure was 80% or 239 people. Just 57 people were removed from the UK. The fact that 239 men and women were detained, at significant cost the public purse and even greater cost to their wellbeing and that of their families, friends and communities, raises serious concerns. By working with civil society and investing in the development of a range of alternative measures, the UK

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<sup>12</sup> <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-01-14/HCWS470>

<sup>13</sup> <http://detentionaction.org.uk/wordpress/wp-content/uploads/2016/09/Without-Detention.pdf>

Government could avoid the costly and harmful impact of detention and enable people to remain in the community.

### **3. Better end of sentence planning for foreign national offenders**

Approximately 40% of people currently in immigration detention across the UK are detained pending removal following a prison sentence. Some are detained in immigration removal centres and others remain in prisons beyond their sentence, detained under immigration powers. Often their detention is prolonged as there are significant barriers to their removal. We would argue that prolonged, costly and harmful detention under immigration powers could be avoided with better planning while people are serving their sentences. Where it is clear that there are barriers to removal or voluntary return, ex-offenders should be released and any potential risks managed within the community, as they would be for UK nationals.

### **4. Detention as a last resort and for a maximum of 72 hours**

The UK Government has recognised the harm that detention causes to families with children and pregnant women, and committed to alternatives to detention beyond 72 hours (or exceptionally a week). We believe that the UK Government can and should be working with civil society and statutory services to explore alternatives to detention for all those currently subject to immigration detention.

With the announcement of the closure of Dungavel, there is now a real opportunity for the UK Government to commit to working with the Scottish Government and Scottish civil society to develop effective alternatives to detention, based on international examples of good practice and emerging evidence from existing projects in the UK. With a firm commitment that men and women living in Scotland who are currently at risk of immigration detention will not be removed from their legal and support networks to detention in other parts of the UK as a result of Dungavel's closure, we and other civil society organisations will be pushing for a rights based approach to working with people in the community that is centred on dignity, fairness and, most importantly, freedom.

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