

Beyond detention in Scotland

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 Dungavel Immigration Removal Centre. Since 2002, SDV volunteers have visited people in Dungavel twice a week to provide support. We visit over 200 people in Dungavel every year and are the only civil society organisation to visit people in Dungavel every week.

Purpose of this paper

On 3 February 2017, the Home Office made clear that it would not appeal Renfrewshire Council's rejection of their planning application to build a Short Term Holding Facility at Glasgow Airport. As a consequence, Dungavel will remain open. This means 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.¹ This paper argues for a new approach to move Scotland away from the continued use of detention.

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 detention².

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 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 detention³.

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

¹ <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

³ <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-01-14/HCWS470>

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 it is time for the UK Government to abandon its current approach and commit to a new one based on the following elements.

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. In 2016, UNHCR's progress report on its global detention strategy described its support for a range of pilot projects across the world⁴. In the UK, 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 absconding⁵.

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 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

⁴ <http://www.unhcr.org/uk/protection/detention/57b579e47/unhcr-global-strategy-beyond-detention-progress-report.html>

⁵ <http://detentionaction.org.uk/wordpress/wp-content/uploads/2016/09/Without-Detention.pdf>

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.

There remains 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, 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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