

Beyond immigration 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, and on release from detention. 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.

Detention in the UK

The UK detains around 25,000 people a year for immigration purposes, in seven detention centres and two residential short-term holding facilities. Dungavel is the only detention centre in Scotland.

The power to detain for immigration purposes was created by the Immigration Act 1971. People are detained under the administrative authority of Home Office officials and, according to the UK Government's own guidance¹, detention is used in the following circumstances: to effect removal; to establish a person's identity or basis of claim; or where there is reason to believe that the person will fail to comply with any conditions attached to the grant of temporary admission or release.

People who can be detained include: asylum seekers whose applications have been refused; people who have overstayed their visas; people who have breached the terms of their visas; people who have been refused permission to enter the UK; and foreign nationals who have served a prison sentence and have been issued with a deportation order. Fifty-three per cent of the 24,748 people entering detention in 2018 were categorised as 'asylum detainees'².

Uniquely in Europe, there is currently no time limit on detention in the UK, and it can be very prolonged in some cases. At the end of December 2018, 42% of the 1,784 people in detention had been detained for 28 days or less, but 3 per cent (54 people) had been detained for more than a year. Crucially, people entering immigration detention have no idea how long their detention will last, making it a particularly stressful experience.

What detention means for people in Scotland

The mental health impacts of detention on the people affected by it have been well documented in, for example, 2015's report of the parliamentary inquiry into the use of

¹ <https://www.gov.uk/government/collections/enforcement-instructions-and-guidance>

² <https://www.gov.uk/government/publications/immigration-statistics-year-ending-december-2018/how-many-people-are-detained-or-returned>

detention in the UK³ and the Shaw Review into vulnerable people in detention⁴. However, there are some particular issues for people detained in Scotland, considered briefly below.

Isolation

Dungavel is in an isolated position. It is not on a bus route, the nearest railway station is 14 miles away, and it is six miles from Strathaven in South Lanarkshire, the nearest town. The nearest detention centre is Morton Hall in Lincolnshire, 270 miles away. People are brought to Dungavel from all over the UK, often taking them far from where they were living before their detention.

The location of Dungavel means maintaining contact with family and friends can be difficult for people detained there. For visitors without a car, the journey can be lengthy. For people coming from the south of England or the north of Scotland, a visit to Dungavel is likely to require an overnight stay. SDV visitors frequently talk to people whose families and friends are unable to afford to visit them. This increased difficulty in maintaining contact with family and friends exacerbates the mental health impacts already inherent in indefinite detention.

Vulnerable people in Dungavel

SDV visitors have met people in detention with serious physical health issues including those who had scars that would strongly support their claim to have been tortured. We have also met people in detention suffering from mental ill health. This includes people with pre-existing serious mental health conditions, such as schizophrenia, and those whose mental health has deteriorated as a result of their indefinite detention. The latest inspection report for Dungavel noted that 98 vulnerable adult care plans had been opened in the six months before the inspection but there were concerns about the management of these cases⁵.

Women in Dungavel

There are 14 bed spaces for women in Dungavel compared to 235 for men. In a film made by SDV, one woman who had been detained there described it as being *'like a chicken surrounded by dogs'*.⁶ Over the years that SDV has been visiting, it has been commonplace for just one or two women to be detained at the centre: an isolating and potentially frightening experience, particularly in light of research by Women for Refugee Women showing the histories of gender-based violence of many detained women.⁷

The most recent inspection report of Dungavel⁸ noted that some women were subject to unwanted attention from men and the centre did not have a sufficiently well-developed policy to identify and meet the needs of women detained there.

³ <https://detentioninquiry.files.wordpress.com/2015/03/immigration-detention-inquiry-report.pdf>

⁴

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf

⁵ <https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2018/11/Dungavel-Web-2018.pdf>

⁶ <https://vimeo.com/47544343>

⁷ <http://www.refugeewomen.co.uk/wp-content/uploads/2014/01/WRWDetained.pdf>

⁸ Op cit

Legal issues specific to Scotland

Wherever they are detained, people are subject to frequent and arbitrary moves around the detention estate.⁹ These moves are disruptive and disorienting to anyone who is detained but when the moves are between Dungavel and centres in England, the consequences can be particularly serious because of the differences in the legal systems between England and Scotland.

A move to England often takes place just before an attempt is made to remove someone. It may then not be possible for a Scottish solicitor to make representations on a person's behalf in England and there may not be time to find an English solicitor to challenge a possibly unlawful removal.

The vast majority of people are released back into the community

According to the government's own guidance,¹⁰ a key purpose of detention is to effect removal from the country. However, official figures¹¹ show that detention is ineffective in facilitating removal and that Dungavel is even more ineffective than the detention estate as a whole.

In 2018, three quarters (67%) of those leaving detention from Dungavel were released back into the community. This compares to 56% for the detention estate as a whole. Just 33% of people leaving detention from Dungavel were removed from the country compared to 47% for the detention estate as a whole.

Pressure for change

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 detention¹².

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 detention.

⁹http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/71/71vw32008_HC71_01_VIRT_HomeAffairs_ASY-73.htm

¹⁰ <https://www.gov.uk/government/collections/enforcement-instructions-and-guidance>

¹¹ <https://www.gov.uk/government/statistics/immigration-statistics-april-to-june-2017>

¹²

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490782/52532_Shaw_Review_Accessible.pdf

The Immigration Act 2016 introduced some limited reforms to detention. It committed to a new process for managing vulnerable people in detention (subsequently implemented) 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 71 in 2016).

In July 2018, a follow up to the 2016 Shaw Review was published. This assessed the UK Government's progress in responding to the recommendations of the previous report and made 44 recommendations regarding detention policy and practice. In response, Sajid Javid announced that he would introduce a programme of pilot community based alternatives to detention and a review of how time limits operate in other countries.

Two further Parliamentary Inquiries have been undertaken. One by the Joint Committee on Human Rights¹³ was published in February 2019 and the other, by the Home Affairs Committee¹⁴, was convened after the revelations of abuse at Brook House and published in March 2019. Both recommended a 28 day time limit and other changes to Home Office practice, such as improved case working, independent decision making and improved judicial oversight.

There is cross party support for detention reform and amendments have been proposed to the immigration bill currently making its way through Parliament, that would introduce a 28 day time limit for Europeans in detention.

All of this has placed considerable pressure on the UK Government to deliver meaningful detention reform and there has been some progress in reducing the scale of detention. Since 2015, four detention centres have been closed (Haslar, Dover, The Verne and Campsfield House) considerably reducing the size of the detention estate. In addition, the number of people in detention at the end of 2018 was 30% lower than at the end of 2017, and the number of people entering detention in 2018 was 10% lower than in 2017.

Nevertheless, the Home Office continues to detain more than 25,000 people a year, only to release more than half of them, some of them after being detained for many weeks or months.

Key changes we want to see

1. The introduction of a strict 28 day time limit on detention for everyone.

The 2015 Detention Inquiry recommended a time limit for immigration detention of 28 days and this call has been supported by a range of organisations, official reports and inquiries.

¹³ <https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/1484/1484.pdf>

¹⁴ <https://publications.parliament.uk/pa/cm201719/cmselect/cmhaff/913/913.pdf>

According to the Home Office's own guidance, detention should only be used when a person's removal is imminent, defined as 'where there are no legal or practical barriers to removal within four weeks'. The introduction of a statutory time limit would encourage better caseworking by the Home Office and ensure that it follows its own policies.

A time limit would be the single most effective means of reducing the use of detention. With a 28 day time limit, the number of people detained on 31 December 2018, would have been reduced by 42%.

2. 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 world¹⁵. 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 absconding¹⁶.

For more information, please contact Kate Alexander (director@sdv.org.uk)

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¹⁵ <http://www.unhcr.org/uk/protection/detention/57b579e47/unhcr-global-strategy-beyond-detention-progress-report.html>

¹⁶ <http://detentionaction.org.uk/wordpress/wp-content/uploads/2016/09/Without-Detention.pdf>