



1st October 2014

Philip Fletcher
Chairman
Mission and Public Affairs

Parliamentary Inquiry into the use of Immigration Detention

Response by the Mission and Public Affairs Council of the Archbishops' Council of the Church of England

The Mission and Public Affairs Council welcomes the opportunity to respond to this consultation paper, in the pages that follow.

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The Mission & Public Affairs Council of the Church of England is the body responsible for overseeing research and comment on social and political issues on behalf of the Church. The Council comprises a representative group of bishops, clergy and lay people with interest and expertise in the relevant areas, and reports to the General Synod through the Archbishops' Council.

Response to the Inquiry into immigration detention

1. Executive Summary

While not opposed to detention in principle, we recognise its severe impact on people and families, and want to ensure that conditions are humane. We believe that:

- IRCs should be as little as possible like prisons.
- It is inappropriate to keep people in prison beyond the end of their sentences, unless for good reasons relating to risk.
- Faith is, for many people held in detention, a very important part of their resources for enduring the experience, and faith provision in IRCs should be maintained as it has been in the past.
- Access to advice and support has in some respects improved in IRCs, but effective independent legal advice is more problematic.
- Staff on the whole treat detainees well, but support in the early hours and days of detention is not always adequate. People at risk of self harm, and those with mental health issues, are not always given the care they deserve in such a stressful environment.
- Treatment of children and of pregnant women has improved. However those who may be under 18 are not always treated appropriately to their age.
- The lack of any time limit on detention has a number of harmful effects, especially as doubts have been raised over the efficiency of casework.

2. Introduction

We do not take a view on immigration detention as a practice. It is a growing phenomenon in many parts of the world, as migration, both forced and unforced, is on the increase. Christians have a calling to identify with the 'stranger in the midst', and to question the exclusion or rejection of any person; nevertheless, the policing of national borders, and the return to their own country of those who come and remain here illegally, are legitimate activities of a government whose democratic mandate includes those priorities. We are, however, concerned at the increasing scale of immigration detention in this country, both in detention centres and in prisons, and we therefore welcome this Inquiry as a contribution to the cause of ensuring that detention is decent, safe, human, constructive and undertaken as a last resort. We have consulted with chaplains, members of Independent Monitoring Boards, and others with direct experience of IRCs, including people who have been detained.

1. *What are your views on the current conditions within UK immigration detention centres, including detainees' access to advice and services? Please highlight any areas where you think that improvements could be made.*

The **physical environment** in IRCs varies widely. The accommodation built in the last 10 years has followed standard prison design and specifications. What has been built – at Brook House, Harmondsworth, and Colnbrook- is not just prison-like. It looks like a prison: harsh straight lines, built to high-security standards, bare of anything to soften the feel of the interior.

It sounds like a prison – large echoing open wings. It feels like a prison: the attempts to call the places where the detainees sleep a ‘room’ is confounded by the fact that they are manifestly cells. The toilets have no seats, just a solid steel bowl. It smells like a prison: that toilet is inside the cell. In many cases, the detainees – who are prisoners, in any normal sense of the word – have to eat in those cells beside the toilet. Those IRCs which are less prison-like in design and atmosphere – such as Campsfield House, Dungavel, Haslar, Tinsley House – provide a better model to follow.

There has been a growing acceptance in the last few years that a number of people who have served a prison sentence, are then held **in prison** under immigration powers after their prison release date. Before 2009, this could only be justified in cases where the person was too risky to hold in an IRC. Since then, there have always been between 500 and 1000 people held in prisons on IS91. The purpose seems to have been to create extra headroom in the IRC estate, so as to enable faster throughput and more removals. The regime for detainees in prisons (whether held as if on remand, or continuing in the conditions of the convicted population) is in many ways worse than in IRCs, and this is a form of immigration detention which should not be allowed to become normal.

There has been an improving awareness of the **faith-related needs** of detainees. It is a fact that, to many of those detained, their religion is a very important part of their resources for coping with difficult circumstances (because of the nature of the detainee population, this is an even more prominent factor than it is in prisons). Chaplains have always played an important part in supporting detainees, and the importance of sacred spaces within the perimeter is on the whole recognised by those designing and running IRCs. This has sometimes (as in the case of the new units at Harmondsworth) had to be advocated, and the Bishop of Dorchester, as bishop with particular responsibility for ministry in immigration detention, has played a part in this. There is good teamworking between chaplains of different faiths and denominations within IRCs. It is important that this work continues to be funded and supported within the Centres, and that adequate physical provision is made for the religious needs of the detainees, including separate and suitable worship areas for the main faiths, to which all detainees have appropriate access. For the health of the Centre, chaplaincy needs to be seen as a service to the institution as a whole, as has always been the tradition in prisons and other institutions, and not just as a kind of supplier of religious services to those detainees who want them. The title often given, as 'Manager of Religious Affairs', does not well describe the diverse role which chaplains in fact fulfil, moving across boundaries in the establishment, supporting staff as well as detainees, vulnerable people of all kinds as well as faith adherents, addressing welfare and equality issues as well as spiritual needs.

In terms of **access to general access to information and support**, there have been improvements in some places and in some respects. All detainees now can have a mobile phone, and access to the internet (with some inexplicable barring of useful sites, in some cases). At Yarl’s Wood, every resident/detainee has a phone and access to the internet, the organisation Hibiscus is on site, and Befrienders are available – not enough but all who volunteer are used. A ‘Buddy’ system is used which seems to work and be appreciated.

There is **access to legal services** (though not, generally, to detainees held in prison after the end of sentence), but the situation has changed in recent years as legal advice contracts have increasingly been given, not to local and specialist firms, but to large national law firms. The

suspicion that the competitiveness of the bids for these contracts may have been at the expense of quality is given some substance by the number of detainees who say that their lawyer gave them their initial half-hour session, but then did nothing further for them. In a recent inspection of Haslar IRC, the Chief Inspector wrote: 'As at many of our recent inspections, increasing numbers of detainees did not have a lawyer to assist them with their immigration cases or to apply for bail'.

Detainees often **arrive** at an IRC confused and shocked. Often they will have been arrested very early in the morning at home, or unexpectedly on their regular visit to a reporting centre. In a recent inspection of Dover IRC, fewer than half said they had felt safe on their first night; night staff did not systematically check on new arrivals; and the induction session the following morning did not mention access to legal advice or welfare support. If detainees were at serious risk of self harm so as to need a staff member with them continuously, they were put in the separation unit. A report on Haslar IRC was also published in July 2014: in these respects things were rather better, but some detainees at risk of self harm were locked in solitary confinement, in effect, without even a member of staff present in the 'special accommodation unit' at some times.

2. How far does the current detention system support the needs of vulnerable detainees, including pregnant women, detainees with a disability and young adults?

Staff seem, in general, to treat detainees properly. Sometimes younger or less experienced staff show a lack of confidence and maturity in interaction with detainees, but many staff appreciate the stress of the detention environment and speak of their sympathy with the situations in which detainees are caught up. Nevertheless, allegations of ill-treatment, including sexual abuse, have been made and the process of investigating them has not always been sufficiently transparent to inspire confidence.

We welcome the announcement last year that physical force would no longer be used on pregnant women, in order to effect removal. Most use of force in IRCs is in fact undertaken in the process of taking a (usually passively) non-compliant person out to board a vehicle bound for an airport.

We also welcomed the decision, very early in the life of the Coalition government, that children would not be detained. The welfare of children remains a concern in the detention system: both because of the short-term detention of families due for removal, and because of the impact on children of being separated from a parent who is detained. We recognise that if our society wishes to arrest and remove children with their families, then the Cedars family removal centre (near Gatwick), with Barnardo's and a private contractor working in tandem under Home office supervision, is a very positive example of how to do this in a caring and sensitive manner.

A growing number of **teenagers** is arriving undocumented from other countries. Some of these end up in immigration detention where their age is disputed. They are on the whole treated sensitively, but (except in manifestly implausible instances) it is important that those who claim to be under 18 should be treated as such until and unless a formal age assessment is properly carried out by an appropriately qualified social worker.

3. What are the impacts of immigration detention on individuals, family and social networks, and wider communities?

Evidence already submitted to the Inquiry shows that detention has a negative impact on mental health outcomes for those detained, and that longer periods of detention are associated with worse outcomes, and that longer detention periods were still associated with poorer mental health outcomes three years after release. Christians in many parts of the country are used to welcoming asylum seekers and other migrants who seek out the local church, and they see the cost of detention, especially when families are split. Mental health provision in IRCs – especially at Harmondsworth, where a number of detainees with mental health issues are held – needs to be as good as possible in view of the pressures of indefinite detention and incarceration in a bleak environment.

4. *There is currently no time limit on immigration detention – in your view what are the impacts (if any) of this?*

The fact of indefinite detention places considerable stress on detainees as well as on their families. A Church of England chaplain working in an IRC says ‘In my experience, people begin to cope with a time frame IF there IS a time frame. If it is all open-ended it is (and would be) very demoralising for anyone’. There is some evidence that the lack of a legal time limit means that there is little pressure on caseworkers to progress cases as quickly as possible. The monthly letters sent to each detainee about their continuing detention (F151) often seem to record little or no activity since the previous month.

Anyone who has stepped on to a residential unit in any IRC knows that detainees will very quickly come to ask them questions about their immigration case, and what is going to happen to them. HM Inspectorate of Prisons, in inspecting immigration detention centres, used to carry out a ‘safety survey’. This was a carefully measured assessment based on interviews with a sample of detainees. They were given a list of possible reasons why they might feel unsafe, and the issues were placed in descending order of importance according to a formula combining the number of people who thought this issue was a problem, with the level of seriousness at which they rated it. After applying this method for many inspections, it appears that the Inspectorate discontinued the exercise – partly because in all published reports the ‘uncertainty’ issue came top.

This was a sign of the impact of indefinite detention. We normally think of safety in detention as a matter of not fearing assault, intimidation, discrimination. However, what detainees consistently reported as most likely to make them feel unsafe was the lack of certainty about their case.

Staff in IRCs who have also worked in prisons often say that at least in prison most people are on determinate sentences and know both when at the latest they will be released, while those on indeterminate sentences at least know what sort of things they should be doing in order to make it more likely that they will be released sooner once their tariff is up. They say that the level of distress is significantly higher in IRCs just because of the constant uncertainty.

Even an automatic bail hearing after 7 and then 35 days – as provided for by law in 1999, but never brought into effect – would be an improvement on unqualified indefinite detention.

5. *Are the current arrangements for authorizing detention appropriate?*

A Church of England chaplain who has worked in an IRC for 8 years says ‘The stories told to me are too many to ignore – that it is seen to be arbitrary in that people report in for a few months or even years and then on a particular occasion they are told they will be detained’.

The historic level of successful appeals does not inspire confidence in the new system of ‘administrative reviews’ in place of the right of appeal to a court or tribunal. Someone in the Home Office checking the work of another Home Office official cannot replace the fair, independent, transparent reconsideration by a judge of an ‘administrative decision’ which has such a huge impact on the future of someone who may have lived legally in this country for many years.

6. What are the wider consequences of the current immigration detention system, including any financial and/or social implications?

Detained people frequently observe that they are being treated like criminals, even when they have not been charged with any crime, but are detained while their immigration case is being decided. The Inquiry understandably refers to these institutions as ‘immigration detention centres’, since the number released from them, and the number staying in them for longer periods (which have been up to three years in some cases) call into question their formal name as ‘removal centres’. The detention of growing numbers of people creates a risk that a stigma will attach not only those people, but to others who are perceived as like them or connected with them.