

## About the Law Centre

1. Law Centre (NI) works to promote social justice and provides specialist legal services to advice organisations and disadvantaged individuals through our advice line and our casework services from our two regional offices in Northern Ireland. The Law Centre provides advice, casework, training, information and policy services to our member organisations. We are the main advisers on immigration law in Northern Ireland and facilitate the Immigration Practitioners' Group consisting of lawyers and voluntary sector organisations. We also chair the Racial Equality Forum's Immigration Sub Group and are members of the NI Strategic Migration Partnership, the Refugee and Asylum Forum and the Home Office Asylum Stakeholders Forum. We regularly provide advice to immigration detainees in Northern Ireland and to the community groups that support them.

## Immigration detention in Northern Ireland

2. Prior to 2011, immigration detainees in Northern Ireland had initially been held in prisons and then in police custody cells. In 2011, Larne House Short-term Holding Facility was opened in a port town north of Belfast. It is managed by Tascorp and has beds for 19 detainees. Detainees are held for a maximum period of 5 days (or 7 if Removal Directions are in place). Detainees are then released, transferred to Immigration Removal Centres in Great Britain or removed, including to the Republic of Ireland. Unfortunately, we do not know how many detainees are held at Larne House, nor what happens to them once they leave the detention centre. Access to Northern Ireland immigration data has always been problematic as the Home Office does not routinely publish asylum figures that are disaggregated by region (Scotland and Northern Ireland make up one region).<sup>1</sup> The lack of data means that we do not have an overall picture of the extent of immigration detention or enforcement in Northern Ireland. This makes it difficult for the voluntary and community sector to reach to those who need their services and also makes it extremely difficult to counter inaccurate information and myths.

## Immigration detention in UK

3. The Law Centre is extremely concerned that the use of immigration detention is increasing across the UK: a historic high number of 30,113 entered detention in the year ending March 2014.<sup>2</sup> We note that the number of detainees who are subsequently removed from the UK following detention continues to decrease:

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<sup>1</sup> Northern Ireland Assembly Research and Information Service, 'Asylum seekers and refugees in NI' (6 June 2014, NIAR 348-14)

<sup>2</sup> Home Office Immigration Statistics: January – March 2014 (22 May 2014) : <https://www.gov.uk/government/publications/immigration-statistics-january-to-march-2014/immigration-statistics-january-to-march-2014>



down from 60% in 2013 to 56% in 2014.<sup>3</sup> It therefore appears that detention is increasingly being used as routine practice. This is wholly contrary to UNHRC's guidelines which state that detention should be used as an exceptional measure only.<sup>4</sup>

**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.**

4. As reported to us by detainees who have experienced detention in both Larne House and detention in Great Britain (e.g. Yarl's Wood / Colnbrook), we understand that conditions in Larne House are comparatively better than in GB. The key difference would appear to be the attitude of staff; the staff at Larne House appear to be respectful and have a genuine interest in the wellbeing of detainees. While this is to be commended, there are a number of areas where improvements could be made. Specifically, we note that the HMP second report at Larne House finds that only five of its fifteen recommendations from its 2011 inspection had been achieved. These recommendations are varied and include detainees being able to lock their bedroom doors, formal adult safeguarding policies being in place, and holding men and women separately.<sup>5</sup>
  
5. In addition, we have concerns about the inspection and oversight arrangements for Larne House. Indeed, in 2013, the NI Human Rights Commission (NIHRC) outlined its concerns on this to the UN Committee against Torture.<sup>6</sup> At a policy level, a key problem with Larne House is that the Detention Centre Rules (2001) do not apply. As such, there is little transparency with regards to practices and procedures. A related issue is the lack of oversight mechanisms. This is compounded by the fact that immigration is a reserved matter to Westminster, which means the bodies that oversee / monitor / investigate places of detention in Northern Ireland – such as the Northern Ireland Prisoner Ombudsman - have no involvement with Larne House. We note that there is an Independent Monitoring Board, however, we understand that visitors are based in Glasgow and therefore their access is limited.

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<sup>3</sup> Home Office Immigration Statistics: January – March 2014 (22 May 2014)

<sup>4</sup> UNHCR, 'Detention Guidelines' (2012)

<sup>5</sup> HM Chief Inspector of Prisons (2014), Report on a Unannounced Inspection of the Short-Term Holding Facility at Larne House, London:

<http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/short-term-holding-facility-reports/2013-larne-house-sthf.pdf>

<sup>6</sup> NI Human Rights Commission, 'Submission to Committee Against Torture' (2013) Page 11 – 13

<http://www.nihrc.org/uploads/documents/advice-to-government/2013/NIHRC%20Submission%20to%20Committee%20Against%20Torture%202013.pdf>

6. Transport is a particular area of concern for detainees in Northern Ireland especially because many detainees are ultimately transferred to other places of detention. Handcuffs are used regularly during transport irrespective of individual risk.<sup>7</sup> Travel times can be long and arduous especially for those who are transported by ferry rather than by air.
7. Case studies regarding the varied experiences of asylum-seekers are outlined in the Refugee Action Group's report, "Distant voices, shaken lives".<sup>8</sup> A Nigerian detainee describes his humiliation of being handcuffed in public on a ferry:

*Next morning, he was taken by G4S guards [from Belfast] to Dungavel. He pleaded with them not to handcuff him as he boarded the ferry, busy with holiday makers: "There were lots of couples and families and children and all of them were looking at these black people in handcuffs. It was clear that they thought we were criminals. I have never felt as humiliated as I did on that journey to Scotland. I remember for the first time in my life wishing that I was dead." He was offered food but couldn't eat.*<sup>9</sup>

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

8. We do not think that the UK's detention system can accommodate or support the needs of vulnerable detainees. In a Northern Ireland context, the NIHRC has raised concerns about whether there are adequate mechanisms to identify detainees who are victims of torture or trafficking.<sup>10</sup> This same issue was raised by GRETA.<sup>11</sup> Across the water in GB, there have been a series of High Court judgments that have found that the detention of mentally disordered detainees is in breach of Article 3 of ECHR.<sup>12</sup>
9. We are particularly concerned about the detention of foreign national prisoners (FNPs) who are being held under immigration powers after having completed their prison terms. We note that the HM Inspectorate of Prisons and the Independent Chief Inspector found in a joint report that the "detention of ex-prisoners appeared to have become the norm rather than... a rigorously

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<sup>7</sup> HM Chief Inspector of Prisons (2014)

<sup>8</sup> Refugee Action Group, 'Distant voices, shaken lives' (2010)

<http://www.medicaljustice.org.uk/images/stories/reports/distantvoices.pdf>

<sup>9</sup> Refugee Action Group, p 20.

<sup>10</sup> NIHRC (2013)

<sup>11</sup> GRETA' Report concerning the implementation of the Council of Europe Trafficking Convention by the United Kingdom' (2012)

[http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA\\_2012\\_6\\_FGR\\_GBR\\_en.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2012_6_FGR_GBR_en.pdf)

<sup>12</sup> E.g. BA {2011} EWHC 2748 (Admin), 26 October 2011; MD, R v SSHD {2014} EWHC 2249 (Admin) 8 July 2014; Sino, R v SSHD [2011] EWHC 2249 (Admin) 25 August 2011.



governed last resort”.<sup>13</sup> The reality is that we do not know how many former FNPs are detained in Northern Ireland although we would surmise that this occurs across Northern Ireland’s prisons. We are deeply concerned about the conditions they face and about whether they have access to specialist immigration advice in order to respond to any deportation processes.

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

10. Immigration detention is extremely disorientating for individuals. This is particular so for those – like detainees in Northern Ireland – who enter detention through a Short-term Holding Facility. On a very practical level, it is difficult for legal representatives and supporters to keep in contact with a detainee who is being moved within the detention ‘estate’. While detainees must be given 72 hours before removal from the UK, there is sometimes little or no warning for detainees to inform them that they are being transferred to other places of detention. Obtaining information about a detainee is difficult (different centres have different policies with regards to mobile phones, etc) and the switchboard staff at the larger detention centres are rarely able to provide much information, citing data protection reasons.

11. The Law Centre lists two small refugee organisations among our members. These organisations are often the first to hear of any detention in Northern Ireland. They report that the risk of detention causes considerable fear for their members.

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

12. The UK stands apart in Europe for its policies on immigration detention: it is unique in that it does not limit the maximum period of detention. Additionally, the UK does not provide automatic judicial scrutiny of detention: the onus is on the individual to apply to a tribunal to have the legality of their detention reviewed. We find the UK’s stance extraordinary and unjustifiable. We consider it shameful that the UK has opted out of the EU Returns Directive, which sets a maximum detention limit of 18 months (still considerably more than the maximum period in many European countries).

13. We note that the UN Committee against Torture has recommended that the UK ‘introduces a limit for detention and that it takes all necessary steps to prevent

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<sup>13</sup> Independent Chief Inspector of Borders and Immigration and HM Inspectorate of Prisons, ‘The effectiveness of immigration detention casework’ (December 2012)

cases of de facto indefinite detention'.<sup>14</sup> Quite simply, the UK's approach to detention is damaging its reputation of respecting human rights.

### **Are the current arrangements for authorizing detention appropriate?**

14. In 2009, the Northern Ireland Human Rights Commission (NIHRC) highlighted the lack of clarity around arrangements for authorizing detention in Northern Ireland. Part of the problem relates to the practice of Operation Gull - a joint Home Office and police operation to identify immigration offenders. The UK has never formally published any detail about Operation Gull and indeed the Law Centre has voiced its concerns about the apparent secrecy and lack of transparency regarding its operation.<sup>15</sup> The NIHRC highlighted that some of the individuals identified through Operation Gull are not always detained in accordance with human rights standards and indeed the legality of their detention is sometimes questionable.<sup>16</sup> We have no way of knowing whether practice has since improved.

15. Asylum seekers are commonly detained at Drumkeen House Reporting Centre in Belfast. They are not given any warning and therefore are detained without any personal items - including documentation and medicine. In some instances, detainees are able to negotiate an opportunity to return to their flat (under escort) to pack up their belongings; in others, detainees are taken straight to detention. It is then left to friends and supporters to pack up their belongings – if not, they are quickly disposed of by the Housing Executive (which is contracted by Serco to provide NASS accommodation). As a matter of dignity, detainees should be afforded an opportunity to take personal belongings with them.

16. Some of the difficulties experienced by detainees in Northern Ireland are owed, it would seem, to geographical ignorance on the part of decision-makers. We are aware of a couple of cases where mistakes have been made by officials which have resulted in unnecessary hardship and stress for detainees. In one instance, a detainee, who had been transferred from Northern Ireland to the South England, was released on immigration bail to an address near Bangor in Northern Ireland. An official gave him a travel warrant to Bangor, Wales. He arrived there in the evening with no money, no warm clothing and no idea where he was. Thankfully the police provided him with food and shelter and made arrangements for him to travel to Northern Ireland via train and ferry from Scotland. He was exhausted by the time he arrived. In another case, a female detainee was released from Yarl's Wood and given a travel warrant for a train

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<sup>14</sup> Committee against Torture, Fifth periodic report of the UK, (6-31 May 2013)

<sup>15</sup> Law Centre NI, 'Briefing paper: Operation Gull' (2008): <http://www.lawcentreni.org/policy/policy-briefings/203.html>

<sup>16</sup> NIHRC, 'Our Hidden Borders' (2009) <http://www.nihrc.org/documents/research-and-investigations/asylum-immigration/our-hidden-borders-uk-border-agency-powers-of-detention-immigration-report-2009.pdf>



and ferry from Holyhead to Dublin, where she could then make onward travel to Northern Ireland. However, she did not have a visa to be in the Republic of Ireland: had she travelled, she would have risked being detained and imprisoned for unlawful entry.

**How effective are the current UK alternatives to detention (e.g. bail, reporting requirements)? Are viable alternatives to immigration detention in operation in other countries?**

17. Viable alternatives to immigration detention are outlined in the Refugee Action Group's report, "Distant voices, shaken lives".<sup>17</sup> A key model which has demonstrated success is the 'supportive casework approach' used in Sweden and Melbourne. The Melbourne model is community-based and focuses on supporting and meeting the welfare needs of individual asylum-seekers. The trust that is developed between the caseworker and the asylum-seeker leads to better compliance with state requirements. We wholeheartedly advocate the development of this type of model in preference to the current process which treats asylum-seekers akin to criminals. We believe that significant savings would be achieved by using this approach and that it would avoid the negative social implications outlined previously that are associated with the current system.

1<sup>st</sup> October 2014

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<sup>17</sup> Refugee Action Group (2010)