

Detention Inquiry Submission



Samphire, Ex-Detainee Project

30 September 2014

1. Executive Summary

This submission provides an analysis and evaluation of the practical and social impacts of the UK's use of immigration detention. We have a unique insight into this, as the Ex-Detainee Project's sole criteria for identifying beneficiaries is that they have experienced or been impacted by immigration detention. We examine the questions posed by the Inquiry, focussing on periods of transition (so, entering and exiting detention) as well as longer term impacts. Immigration detention is without doubt damaging. Our experience demonstrates the significant negative impact detention has on individuals, families and communities.

Immigration detention is meant to be used sparingly and for the shortest period necessary to effect removal. This is not our experience - in practice, immigration detention is deployed punitively and individuals are detained for inordinately long periods without a release date.

We recommend:

- 1.1 That if the system of immigration detention is to continue, a strict upper limit should be introduced;
- 1.2 That detention should only ever be deployed as a last resort and for the shortest period possible;
- 1.3 That, given the seriousness of depriving a person who has committed no crime of their liberty, detention should be automatically reviewed by a judge at frequent regular intervals [as a magistrate must authorise continued detention without charge];
- 1.4 That the reporting [contact management] system already operates as a workable alternative to detention in the vast majority of cases, although improvements need to be made;
- 1.5 That in the absence of permission to work; accommodation and subsistence support should be made available to any migrant in need, pending removal or final determination of their application(s) for leave to remain.



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2. Who we are

2.1. Samphire (formerly the Dover Detainee Visitor Group)

Samphire was created in response to the opening of the Dover Immigration Removal Centre (DIRC) where over 300 men were held with little contact with the outside world. A group of volunteers set up a visitor group in 2002, supported by Kent Refugee Action Network (KRAN), the Association of Visitors to Immigration Detainees (AVID), and Refugee Action.

Samphire has been operating as an independent registered charity since November 2004 - it is managed by a constitution and complies with all the policies and procedures that a charity must have. Samphire has evolved over time and according to our clients' needs. We now operate several different projects including an Ex-Detainee Project, Legal and Awareness Raising Projects, as well as the Detention Support Project initially envisaged.

2.2. The Ex-Detainee Project

The Ex-Detainee Project was launched in 2008 in recognition of a lack of provision for immigration detainees upon release into communities in the UK. Samphire was increasingly receiving calls for help from ex-detainees released from Dover to all over the country that were homeless, struggling to meet their basic needs and feeling isolated and confused.

We have an active client base of over 500 ex-detainees released from detention centres' throughout the UK. To date we have helped in excess of 750 ex-detainees. We receive referrals and work in close partnership with local and national organisations across the country.

The Ex-Detainee Project functions primarily by the operation of a free-phone helpline for former detainees. Our remit is extremely wide – anyone who has ever been in immigration detention can call us for advice and assistance.

3. Inquiry questions

The Inquiry poses 5 questions to organisations and groups. We feel that our experience and expertise is best deployed to answering those questions in the respect of immigration detainees during transition periods and post-detention.

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

The very act of detaining someone makes them vulnerable in a whole host of ways. Detaining someone often involves separating them from their family, friends, children, homes, and communities. Detention puts individuals in an alien environment and restricts access to essential services like healthcare and legal advice, as well as to sources of practical and emotional support.

If you take into consideration that the cohort of people who are liable to detention are potentially already at a disadvantage in our society purely by virtue of being 'foreign' and

includes people seeking asylum from persecution and human rights violations, it is clear that detained people are vulnerable people.

All of our clients have experienced immigration detention. This has a recognised impact on mental health¹.

In our 2013 Ex-Detainee Survey, we asked questions relating to mental health. 64 ex-detainees completed the survey. *92% of those respondents reported that being in detention had affected their mental health, with 75% of those reporting that their mental health was still adversely affected.* Those are significant statistics.

When we speak to new clients on the telephone we routinely enquire about their health needs. By far the most frequent response is that they are suffering from depression and they have been prescribed anti-depressants. Less often, but still worryingly frequently, are those ex-detainees who cut themselves, who have attempted suicide, are suffering from paranoia, schizophrenia, PTSD or are otherwise traumatised.

Detention makes people vulnerable. Depression is seen as normal. Self-harm and hunger strikes are normal. Age disputed minors always 'appear significantly older than 18 years'. There is a culture of disbelief² endemic in the Home Office / UKBA / Border Force that routinely takes the adversarial view, believing that detainees are always 'putting it on'.

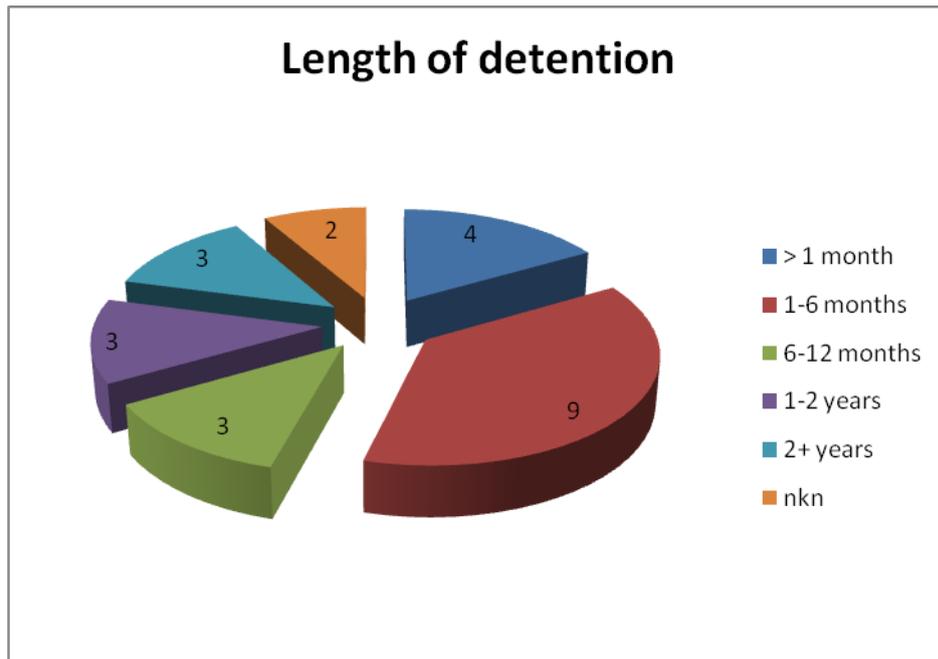
3.2. There is currently no time limit on immigration detention – in your view what are the impacts (if any) of this?

Immigration detention is meant to be utilised for the shortest period necessary to effect removal. *We routinely encounter ex-detainees who have been detained for years at a time.*

Samphire operates a small legal project. A recent evaluation of those clients from Dover IRC whom we assisted with their legal matters is illuminating in terms of the length of detention. (See table below) It is concerning that at least 3 of the detainees at Dover IRC assisted by the project were detained under immigration powers for over two years. It is hard to see how detention of such long duration could ever be judged to be reasonable and appropriate in all the circumstances.

¹ ('Mental health implications of detaining asylum-seekers: systematic review' K. Robjant, R. Hassan, C. Katona, BJP 2009).

² <http://www.rsc.ox.ac.uk/files/publications/working-paper-series/wp102-culture-of-disbelief-2014.pdf>



Casestudy 1

This man was an Algerian detainee of long duration who had recently (over two years into his detention) made contact with Samphire's Detention Support Project. Once they had realised the length of his detention, our Detention Support colleagues immediately referred him to the Legal Advice Project. The man self-reported serious mental health problems and a long psychiatric history, and presented as paranoid and reluctant to trust. He expressed having had bad experiences with the contracted legal aid providers and did not trust them to assist him. He agreed to be represented by us in respect of bail. Immediately after agreeing to represent him, we informed the Home Office that we now acted for the client. Within days, our client was transferred to Harmondsworth IRC for no discernible reason. We remained in contact with him and sought to have him assessed by an independent psychiatrist from Medical Justice and to refer him on to specialist solicitors to challenge his detention, however, the client – presumably due to his mental health issues – appeared withdraw into himself and despite our best efforts, we were not able to get any further instructions from him. It is our belief that he remained in detention at Harmondsworth for some months and has since been removed to Algeria.

This case study highlights some significant issues – mental health care provision in detention, the rationale behind, and the impact of, transfers between centres on detainees' ability to access justice, and on their health more generally.

Ex-detainee submissions to the Inquiry

We recently supported and facilitated a group of ex-detainees in making submissions to this Inquiry. Several of the former detainees in the group had been prosecuted and convicted for 'immigration' offences – primarily working illegally, use of a false instrument (to work). They all cited immigration detention as worse than prison because there was no end date in

sight. One ex-detainee noted 'in prison you count down the days, in detention you count them up.'

Those ex-detainees whom had not experienced prison reported that they felt like criminals. They described an absence of hope whilst detained, and felt as though they could be kept there forever. Several of our ex-detainees reported being taken for medical treatment in handcuffs whilst detained under immigration powers.

The negative impact that indefinite detention has on ex-detainees' mental health cannot be overstated. Indefinite detention also undoubtedly places strain on relationships and fractures families. It is also extremely costly in financial terms, at £120 per bed, per day³.

3.3. Are the current arrangements for authorizing detention appropriate?

The current system of authorising detention is not appropriate. Once the decision has been taken to detain, it seems to be almost self-fulfilling. One only has to read a selection of Monthly Progress Reports to see that decisions to 'maintain' get rubberstamped, rather than a given a considered assessment of the reasonableness of continued detention. This is an example of institutionalised 'them against us' attitude endemic to the Home Office.

Ex-detainees often raise with us their concerns of being re-detained. They live in fear of being kept at the reporting centre and leaving in a prison van for the detention centre. We know this happens because ex-detainees call us when they have been re-detained.

The inhumanity of detaining people in this way should be obvious. People are detained without notice (save for the Liability to Detention Notice which tells them they can be detained at any time) - their property and personal belongings remains at their accommodation. They end up in detention with the clothes on their back and a mobile phone if they are lucky. Substantial numbers of our clients have lost all their belongings in this manner, only to be released a month, or two, or six, or twelve later, and have to start all over again.

Parents lose contact with children, and with support networks. People lose all of their immigration papers, passports, and evidence to support their cases. Very few people detained like this end up being removed quickly. There can be no justification for this. The Home Office will try to justify it on the basis that people told in advance of detention will abscond, but have they actually any evidence to back this up?

It seems very wrong to spring traps like this on people – usually after months of inaction by the Home Office and compliance by the migrant. It wouldn't be difficult to give people a reasonable deadline to submit legal arguments, to consult lawyers and to exhaust their options. Once people feel they have had a fair, just and equitable hearing, they may be better able to accept a negative decision and its consequences.

³ <http://www.migrationobservatory.ox.ac.uk/briefings/immigration-detention-uk>

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

A full consideration of the wider consequences of the current system is beyond the scope of the Ex-Detainee Project. We will instead focus on one small aspect of immigration and detention policy – the grant of Temporary Admission (TA) from detention.

We frequently receive referrals from Welfare Officers in Immigration Removals Centres across the country, concerned about imminently releasing detainees' on Temporary Admission but with nowhere to go.

It seems that a Home Office decision maker reviewing detention realises that they may be straying into the realms of unlawful detention and that a detainee must be released post haste on TA. They pass the matter to the centre staff; however, the detainee has no address, few contacts and no means to support himself. They may have physical or mental health problems.

The problem that this highlights is the lack of access to Asylum Support, which, under the 1999 Act is limited to those who have claimed asylum (amongst other requirements) or have been released on bail. There is a power for the Home Office to accommodate other migrants (which they have strongly resisted exercising) but no duty to do so. This results in certain categories of detainees (e.g., overstayers, people liable to deportation without a protection element to their case) having no eligibility to accommodation and support.

In practice, this means that single ex-detainees end up sofa-surfing, potentially in exploitative situations, or street homeless. For ex-detainees with families, it has meant splitting the family to go stay with different friends.

It has to be borne in mind that there is no permission to work, so not only are ex-detainees' not eligible for support, they are prevented from supporting themselves.

As well as being inhumane, this is a very short-sighted policy. Reporting is low on the list of priorities for someone that is struggling to feed themselves and find a bed for the night. This means a higher rate of 'absconding' which can only mean further bad press for the government of the day.

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

The Ex-Detainee Project is not in a position to comment on alternatives to detention in other countries.

Our 2014 Ex-Detainee Survey asked a number of questions about ex-detainees' experiences of reporting. 76 ex-detainees responded, and of those, 80% had to report to Immigration. The frequency of the reporting was split roughly equally between those required to report

weekly, those required to report fortnightly and those required to report monthly. It is clear that there is differentiation in requirements, which indicates that there are criteria in place to manage contact with migrants.

There are undoubtedly problems with reporting. Nearly half of ex-detainee respondents told us that it takes them 1-2 hours to travel to report. Over 40% are reliant on friends or charities for assistance with the cost of travelling to report. 41% have been reporting for over 2 years. 39% experienced problems such as rude/unfriendly staff, harassment from the public, and waiting in adverse weather conditions. Here is a selection of comments from ex-detainees about reporting –

'Whilst reporting at London Bridge, people/passersby pass insult like "go back to your country, we don't need you in Britain".'

'The staff treat us like we are not wanted here. Sometimes you are shouted upon and told to behave - as if we are animals and not humans like them.'

'Bad weather, long walk from house.'

'Standing under the rain whilst carrying my autistic son. Waiting long while my autistic son don't have the understanding of waiting. He get stressed and start pulling off his clothes.'

'It's was in the winter, with my child she was 9 months old, too cold to be outside. I did not have a pram.'

'Queuing in bad weather for long time.'

'Abuse from passersby who call you all sorts of names.'

'Queuing in bad weather.'

'Queuing in bad weathers, especially woman with babies and pregnant and disabled people.'

'I have hole in a heart. When I walk too much my breath not ok. I feel breathless. I take a rest every ten minutes and then start walk.'

Clearly there is a need for significant improvement in the 'customer experience' of reporting. However, it is a system that is already in widespread use and which is significantly cheaper to operate than detention.

Ex-detainees have suggested telephone reporting – utilising voice recognition - or even thumbprint recognition, rather than travelling for hours to queue mindlessly for hours outside a reporting centre, to have your picture compared to your ARC card and then return home – all of which is Kafkaesque in its absurdity.

12% of our survey respondents were subject to Electronic Monitoring (tagging) *in addition to reporting*, which seems wasteful of time and money. Ex-detainees have complained to us about the arbitrary nature of the timings of the tag curfews, which anecdotally appear to have been set for the administrative ease of the outsourced security companies operating them, rather than on the basis of a balanced risk assessment.

More concerning for us than the issues around curfew timing are 2 other issues – the first is the criminalisation of migrants for daring to come to the UK, for the purpose seeking asylum or any other purpose. Ex-detainees report feeling humiliated when people spot the tag and move away from them in fear.

Vulnerable ex-detainees have expressed that they feel paranoid about the beeps and noises from the anklet, and as though they are being spied on through the tag and box. Tagging appears to us to have a highly detrimental effect on mental health.

It is important to note, although there is very limited information in the public domain, as the government do not keep accurate statistics on this issue, that the risk of migrants subject to immigration control ‘absconding’ is very low - less than 10%. The then UKBA stated, in relation to a pilot for tagging those deemed ‘high risk’, that the compliance rate was around 90% and that ‘there are no factors which would have indicated in advance that [the eight participants who absconded] were more likely to abscond than any of the other cases released.’⁴

3.6. Recommendations for Action

Immigration detention is not only inhumane in a variety of ways, but it is clearly very damaging. It is expensive to run in financial terms, but the impact on families and communities is impossible to calculate. There must be a better way than this. Our recommendations can be summarised as:

- Upper time limit
- Deployed as a measure of last resort
- Automatic judicial monitoring of detention
- Reporting as an alternative
- Basic support for anyone prevented from working by immigration status

The Inquiry should also consider setting up a parliamentary mechanism to monitor the implementation of any recommendations that they may make.

The Ex-Detainee Project
30/09/2014

⁴ ‘The Liberty Deficit’ (Bail for Immigration Detainees, November 2011)
<http://www.biduk.org/809/bid-research-reports/the-liberty-deficit-long-term-detention-bail-decision-making.html>