

JCHR: Inquiry into Immigration Detention

About Law Centre (NI)

1. Law Centre (NI) works to promote social justice and provides specialist legal services to advise organisations and disadvantaged individuals in Northern Ireland. Law Centre (NI) is based in Belfast and provides advice, casework, training, information and policy services to our member organisations in different areas of law. Law Centre (NI) is a member of the NI Strategic Migration Partnership, the Department of Justice's NGO Engagement Group on Human Trafficking, the Refugee and Asylum Forum and the Home Office Asylum Stakeholders Forum. Law Centre's understanding of the situation of immigration is rooted in our casework and policy experience and through our relationship with our members and community organisations including Larne House Immigration Detainees Visitors Group.

Immigration detention in Northern Ireland

2. Prior to 2011, immigration detainees in Northern Ireland were 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 Mitie and has beds for 19 detainees. Detainees are held for a maximum period of 7 days before being released into the community, transferred to Immigration Removal Centres in Great Britain or removed from the UK (including to the Republic of Ireland).

Whether current legal and policy frameworks are sufficient in preventing people from being detained wrongfully and whether current practices in the detention system protect human rights.

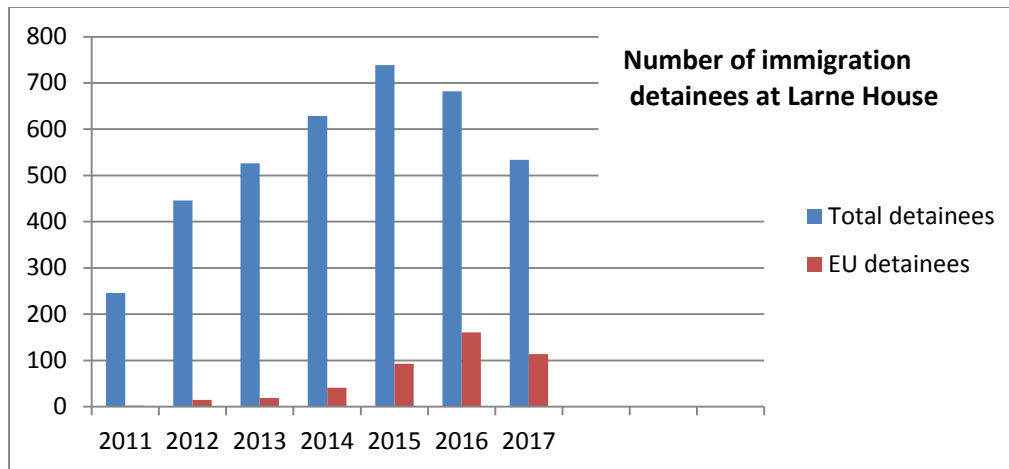
3. Law Centre shares concerns expressed by NI Human Rights Commission (NIHRC) to the UN Committee against Torture about inspection and oversight arrangements for Larne House.¹ A key issue is lack of oversight mechanisms: immigration is a reserved matter to Westminster, which means the bodies that oversee / monitor / investigate places of detention in Northern Ireland – such as the Northern Ireland Prisoner Ombudsman - have no involvement with Larne House.
4. A further issue is the the lack of clarity around arrangements for authorizing detention in Northern Ireland. In 2009, NIHRC found that some individuals are not always detained in accordance with human rights standards and that the legality of their detention is sometimes questionable.² A decade has passed and we have no way of knowing to what extent such practices continue.
5. The proportion of EU nationals detained at Larne House has risen considerably in recent years.³ The experience of Larne House Immigration Detainees Visitors Group is that EU nationals are often unclear as to why they have been detained and why they are being removed. In some instances, it would appear that EU nationals are being removed to face criminal charges committed in their home countries. Rarely do such EU nationals seek legal advice in Larne House, which means that the legality of their detention/removal is not being tested. Law Centre notes that the threshold to deport a EU national is relatively high (as per Citizens Directive 2004/38 Article 28) and that extradition law includes a number of robust safeguards. We are concerned

¹ NIHRC, 'Submission to Committee Against Torture' (2013)

² NIHRC, 'Our Hidden Borders' (2009)

³ Home Office Immigration Statistics Detention tables dt_04

that immigration detention is being used as a fast-track way for UK to remove EU nationals, thus bypassing deportation / extradition processes.



- Law Centre has concerns about the adequacy of processes relating to identifying vulnerable persons who should not be held in detention. Home Office statistics show that a child aged 12 – 16 years was briefly detained in Larne in 2013. Likewise, we are aware that victims of human trafficking have been held at Larne House. More robust identification / safeguarding procedures are essential.⁴

The operation of arrangements for bail

- Only 11 detainees were released from Larne House following bail granted by an Immigration Judge 2011 – 2017.⁵ In comparison, 853 detainees were granted bail by the Secretary of State. These figures would suggest that it is extremely difficult for detainees to initiate bail proceedings through the court system i.e. court bail is clearly not an effective remedy.

Whether immigration detention should be time-limited and if so the maximum period (including the length of detention in practice);

- The UK stands apart in Europe for its policies on immigration detention in that there is no maximum period of detention. We find the UK’s stance extraordinary and unjustifiable and consider that the UK should opt into the EU Returns Directive, which sets a maximum detention limit of 18 months. The UN Committee against Torture has recommended that the UK ‘introduces a limit for detention and that it takes all necessary steps to prevent cases of de facto indefinite detention’.⁶ Quite simply, the UK’s approach to detention is damaging its reputation of respecting human rights.

How far current policies ensure that people are only deprived of their liberty if it is necessary, rather than for administrative convenience

- Home Office statistics show that since 2013 the number of people released or granted temporary admission from Larne House has exceeded the number of

⁴ See <https://www.lawcentreni.org/Publications/Policy-Responses/GRETA-UK-evaluation-June-2015.pdf>

⁵ Home Office Immigration Statistics Detention dt_07

⁶ Committee against Torture, Fifth periodic report of the UK, (6-31 May 2013)

detainees returned to their home country.⁷ The falling number of returns from the UK would suggest that there was no need to detain the people in the first place.

Whether alternatives to detention are properly explored and used

10. Law Centre does not consider that alternatives to detention are properly explored and used in Northern Ireland. We are aware of 'repeat' detentions whereby the same individual is detained and then released on a number of occasions: this draws into question the effectiveness of their detention.

Detainees' access to legal advice and their ability to engage with the legal processes to challenge their detention

11. As outlined above at paragraph 8, the extremely low rate of Immigration Judge bail granted to detainees in Larne House suggests that legal remedies are not effective / inaccessible. Once transferred to detention in GB, it can be practically and procedurally complicated for detainees previously resident in Northern Ireland to obtain legal advice/representation in GB and/or to maintain their relationship with a solicitor based in Northern Ireland.
12. 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. The HM Inspectorate of Prisons has found that the "detention of ex-prisoners appeared to have become the norm rather than... a rigorously governed last resort".⁸ 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 their lack of access to specialist immigration advice in order to respond to any deportation processes (we note that there are no immigration clinics / surgeries at Northern Ireland's largest prison HMP Maghaberry).

Conditions in detention / transport

13. In general, immigration detainees in Larne House report a relatively positive experience at Larne House; certainly conditions are better than in the big GB Immigration Removal Centres. The key difference would appear to be the attitude of staff; at Larne House staff 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 should be made. Specifically, the HMP second report at Larne House (2014) found that only five of its fifteen recommendations from its 2011 inspection had been achieved. These recommendations include detainees being able to lock their bedroom doors, formal adult safeguarding policies being in place, and holding men and women separately.⁹

⁷ <https://www.gov.uk/government/publications/immigration-statistics-year-ending-june-2018/how-many-people-are-detained-or-returned> Tables dt_02 and dt_07

⁸ Independent Chief Inspector of Borders and Immigration and HM Inspectorate of Prisons, 'The effectiveness of immigration detention casework' (December 2012)

⁹ HM Chief Inspector of Prisons (2014), <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/short-term-holding-facility-reports/2013-larne-house-sthf.pdf>

14. 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. A female detainee was released from Yarl's Wood and given a travel warrant for a ferry from Holyhead to Dublin. 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. Another case involved a female detainee who was also released from Yarl's Wood and given a rail/sail travel ticket to return to N. Ireland. She was advised at the train station that she would not make the connecting ferry in Scotland and that her ticket could not be used on other services.
15. 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.¹⁰

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¹⁰ HM Chief Inspector of Prisons (2014)