

# Ending Indefinite Immigration Detention

## At a glance

An opportunity exists to establish a time limit on immigration detention. The UK is the only country in Europe that permits the indefinite immigration detention of migrants, despite calls from every walk of life and from across the political spectrum calling for a halt to this harmful practice.

## This briefing:

- Outlines the harm caused by indefinite detention.
- Provides a context of immigration detention in Northern Ireland.
- Summarises some of the authoritative voices that have spoken out in recent years against the current policy.

### Law Centre NI:

- promotes social justice and provides specialist legal services to advice organisations and disadvantaged individuals
- in four areas of law: social security, community care, mental health, employment.
- through advice, casework, training, information and policy services

### Our advice line:

Monday to Friday: (028) 9024 4401

## Introduction

The *Immigration and Social Security (EU Withdrawal) Bill* is currently passing through Westminster. An amendment to this bill could end the practice of indefinite immigration detention. Law Centre NI and other organisations have long expressed serious concerns

about the UK's approach to immigration detention, which permits people to be detained indefinitely.

The *Immigration and Social Security (EU Withdrawal) Bill* is due to be listed for report stage. The bill will then go to the House of Lords. Unfortunately, attempts to secure an amendment at the committee stage have been unsuccessful. We urge MPs and peers to seek to amend the legislation as it progresses.

## 1. Indefinite immigration detention causes harm

The UK is the only country in Europe and one of the few countries worldwide that permits indefinite immigration detention for migrants. A recent inquiry on immigration detention, conducted by the Westminster joint committee on human rights (JCHR) found that indefinite detention is harmful, ineffective and expensive:

**Impact on detainees:** Former detainees describe the indeterminate nature of detention as “mental torture”. The HM Inspectorate of Prisons and the Independent Monitoring Board agree that the indefinite aspect is a “key cause of distress and anxiety”. A growing body of medical evidence and academic research documents the negative impact of detention on mental health.

**Inefficiency:** The JCHR inquiry found that the lack of a time limit on immigration detention reduces the incentive for the Home Office to progress cases. The fact that more than 50% of detainees are released back into the community proves that their detention served no purpose whatsoever.

**Expensive:** Immigration detention is costly to the taxpayer. The annual detention cost for the year ending March 2018 was £108 million, with immigration detention costing £86 per person per day. Each year, the UK government pays millions of pounds in compensation to people who have been detained unlawfully.

Instead of indefinite immigration detention, JCHR argues that the Home Office should properly explore alternatives to detention. The United Nations High Commissioner for refugees (UNHCR) and Council of Europe are among agencies that have highlighted effective international models of alternatives to detention.

## 2. Immigration detention in Northern Ireland

In total, 27,331 people entered immigration detention across the UK in 2017, of which 534 entered detention in the Larne House short term holding facility (STHF). Larne House STHF is based in the police station in Larne. Run by a private company called Mitie, it can hold up to 19 male and female detainees for a maximum of 7 days. More than 4,000 people have been held in Larne House since it opened in July 2011. A number of concerns have been highlighted about the facility, including:

- **Limited oversight:** As immigration is an ‘excepted’ matter to Westminster, some agencies that oversee, monitor and investigate places of detention in Northern Ireland – such as the NI Prisons Ombudsman or the Criminal Justice Inspectorate – have no involvement with detention at Larne House. In 2013, the NI Human Rights Commission (NIHRC) outlined concerns about the inspection and oversight arrangements to the UN Committee Against Torture.
- **Limited information:** Very little data or information is publically available about Larne House. The Home Office is not required to issue reports eg. to the Northern Ireland Assembly or Northern Ireland Department of Justice. While some information can be gleaned through sporadic inspection, reports and news articles, the picture around immigration detention in Northern Ireland is incomplete, including details on who is being detained, for what reason, for how long and with what outcome.
- **Ineffective protections for vulnerable detainees:** It is unlawful for some categories of migrants deemed vulnerable to be detained eg. victims of human trafficking and victims of torture etc. However, an inspection of Larne House in 2018 found that custody staff were not aware of policies relating to adult safeguarding or human trafficking. Concerns about lack of protections have been raised consistently by domestic and international human rights bodies.
- **Unmet recommendations on safety:** The 2018 inspection of Larne House revealed that only two of its previous ten recommendations from 2016 had been fully met. Issues relating to safety and respect remained unaddressed.
- **Bureaucratic processes complicate release and prolong detention:** Many people initially detained in Northern Ireland are transferred to Britain for further detention. If released, such detainees may find themselves stranded a long way away from friends and family. On numerous occasions, local community groups have intervened to help people get back safely. If a person is detained after crossing the Irish land

border (often inadvertently), they may be detained in Larnie, then transferred to Britain, before being taken to Dublin. This is an unnecessarily protracted process.

### 3. Calls for change

Criticism of the UK's approach to detention is mounting. The issue of indefinite immigration detention has united politicians from across the political spectrum and has attracted support from international human rights bodies, faith leaders and civic society. Some of the voices calling for change in the last three years are summarised here:

In 2015, the All Party Parliamentary Group on refugees and Migration called for fundamental reform of the detention system.

*"We believe the problems that beset our immigration detention estate occur quite simply because we detain far too many people unnecessarily and for far too long."*

APPG on Refugees and Migration, 2015

The HM Chief Inspector of Prisons called for a strict limit to be introduced.

*"Other well-respected bodies have recently called for time limits on administrative detention. In my view, the rigorously evidenced concerns we have identified in this inspection provide strong support for these calls, and a strict time limit must now be introduced on the length of time that anyone can be administratively detained."*

HM Chief Inspector of Prisons, Nick Hardwick, 2015

The UN Human Rights Committee, which is a body of 18 international experts who monitor the implementation of the International Covenant on Civil and Political Rights, issued a clear recommendation to the UK.

*"The UK should establish a statutory time limit on the duration of immigration detention and should ensure that detention is a measure of last resort and is justified as reasonable, necessary and proportionate in the light of the relevant circumstances."*

UN Human Rights Committee, 2015

In 2016, Stephen Shaw CBE published an independent review into the welfare in detention of vulnerable persons in the UK's detention system. The review was commissioned by the Home Office and recommended that the UK consider adopting legal safeguards against excessive length of detention. The review prompted the government to announce a number of changes.

In 2017 the UNHCR called on the UK to change its approach.

*“The fundamental rights to liberty and security of person, as well as freedom of movement, apply to asylum-seekers, refugees and stateless people alike. And yet the UK detains strikingly high numbers of asylum-seekers and is one of only a handful of countries without a time limit on immigration detention. We urge the government to correct this anomaly by introducing a time limit and significantly reducing its reliance on detention.”*

United Nations High Commissioner for Refugees, 2017

Four of Northern Ireland's MPs signed an Early Day Motion calling for urgent reform.

*“Early Day Motion: That this house is deeply concerned that the UK detains people indefinitely under immigration rules... and calls on the government to urgently reform immigration detention by introducing a 28-day time limit.”*

Jim Shannon MP, Lady Hermon MP, Emma Little Pengelly MP, Gavin Robinson MP

A number of Britain's religious leaders – including senior representatives of the Church of England, Catholic Church, Muslim Council of Britain, Hindu Council, Sikh Federation, Reform Judaism and others – called on the Government to abandon its policy, describing it as “unjust, ineffective and inhumane”.

*“The time to act is now. We urge the government to put some fairness, decency and due process into our immigration system and urgently put a 28-day time limit on detention.”*

Religious leaders in Britain, February 2018

Stephen Shaw CBE issued a follow-up report to his 2016 review and concluded that some aspects of detention have actually worsened.

*“The number of people held for over six months has actually increased. The time that many people spend in detention remains deeply troubling.”*

Stephen Shaw CBE, Independent Reviewer

## Conclusion

Law Centre NI urges Northern Ireland’s MPs and peers to support efforts to end indefinite immigration detention.



## Disclaimer

Although every effort is made to ensure the information in Law Centre publications is accurate, we cannot be held liable for any inaccuracies and their consequences. The information should not be treated as a complete and authoritative statement of the law.

Law Centre (NI) only operates within Northern Ireland and the information in this document is only relevant to Northern Ireland law.

When reading Law Centre documents, please pay attention to their date of publication as legislation may have changed since they were published.