

The Detention Forum



A Supportive Environment (A compassionate alternative to detention)

**A foundation document for discussion within our Forum
March 2023**

1. Introduction

At our last quarterly meeting in December, our members agreed that they wanted to launch a new campaign highlighting the need for a supportive environment as a compassionate alternative to immigration detention in the UK. We want to see a supportive approach not a punitive approach.

This paper seeks to offer a foundation document for discussion within our Forum both to build capacity and confidence within our network on this issue and also to help us develop this new campaign.

It sets out why the continued use of immigration detention remains a problem; the concept of an alternative path – a supportive environment where people are offered individual tailored case management support; provides examples from the UK; offers additional examples from around the world; before suggesting some possible next steps.

We will develop this document over the next few weeks as our network discussion takes off.....

There is always an alternative..

2. An alternative to what: the case against immigration detention

Over the past decade, working together as a network, we have built up substantial experience in the UK to support the view of the International Detention Coalition that the use of immigration detention is just not supportable.

This is what we are asking for an alternative to:

- **An alternative to people being stripped of their liberty:** immigration detention has a profound effect on people's health and well-being. There have been 16 deaths in detention since 2000, 16 by suicide.
- **An alternative to punitive and deterrent measures to migration:** by law, detention should be used sparingly and for the shortest period possible. Increasingly, it is being used as a form of punishment and to deter people from coming to the UK despite this having been shown to be ineffective.
- **An alternative way to manage migration:** detention is unable to solve the crisis that it creates. Detention does not support case resolution including support for integration. We must look at and address the root causes for why people move and become undocumented including the financial cost for visa applications, lack of safe and regular routes to the UK, and Britain's colonial legacy.
- **An alternative relationship to our human rights obligations:** instead of watering down our commitment to human rights, we should be finding ways to be proud of our commitment to them. Detention interferes with human rights
- **An alternative use of public funding:** detention is expensive

We need to be clear in our communications about the harm caused by detention on multiple levels including the infringement of liberty, but also the physical and mental impact on people.

Working within an immigration system, we firmly believe that there is a better way to do so in a humane, compassionate and fair manner – this is a supportive environment.

3. Alternatives are there: examples from the UK

The beginning of a more supportive environment already exists and compassionate alternatives are being implemented in communities through the voluntary sector:

3.1 Action Foundation

The *Action Access* pilot set out to support up to 50 women seeking asylum (a maximum of 21 any one time) who would otherwise be detained in Yarl's Wood Immigration Removal Centre. The pilot aimed to test whether support in the community leads to more efficient case resolution for migrants and asylum-seekers when compared with immigration detention. By supporting participants in the community while resolving their immigration cases, the pilot aimed to deliver humane and cost-effective case management.

The Home Office and Action Foundation recruited a total of 20 women to the *Action Access* pilot between March 2019 and November 2020. This total was lower than expected due to the impact of the COVID-19 pandemic.

The pilot's legal counselling model is an important example of promising practice in terms of providing pilot participants with the opportunity to have their case reviewed by an independent legal representative and to feel that they had been treated fairly. The legal counselling model provided pilot participants with three meetings with a legal representative and was designed to allow the pilot participants to fully explore their immigration options. This approach was seen to be more likely to result in case resolution.

Participants experienced more stability and better health and wellbeing outcomes whilst being supported in the community than they had received while in detention. Evidence from this pilot suggests that these outcomes were achievable without decreasing compliance with the immigration system.

The cost of the pilot was less expensive per participant per night than holding an individual in detention. Reductions in rent on longer-term leases and running the project at capacity could mean that a future ATD programme could be less than half the cost of holding an individual in detention.

For more information, look at the [UNHCR evaluation report](#) on this pilot project.

This [blog post from Action Foundation](#) is also a very helpful document.

3.2 Kings Arms Project (KAP)

KAP has been providing holistic support to people without immigration status through another Alternatives to Detention pilot. Known as the Refugee & Migrant Advice Service, this project was developed in collaboration with the Home Office and UNHCR.

This project offered support to people who did not have immigration status in the UK. Instead of these people being detained, this project set out to offer them tailored support, but in the case of this project did not include accommodation.

Working alongside a team of solicitors, King's Arms Project helped 65 people access legal advice, through a three-part legal model. 80% of these people were presented with viable options to regularise their immigration status in the UK.

As well as having access to immigration advice, participants were provided with holistic support to help with different aspects of their lives.

This approach to casework was essential as many of the clients had struggled to access services that are usually taken for granted - seeing a GP, receiving mobility aids, using email are just a few.

This pilot had 84 participants in total, and all were supported with dignity, respect and their individual needs considered. Without access to the pilot these 84 people could have been locked up in immigration detention centres causing harm and distress for the individuals but also for their friends and family.

Key learning from the two pilot projects:

(1). We should have a focus on destitution and not just detention because we are talking about how we do support the 'unauthorised' (*what is a better word here?*) population in this country. We also need to be focused on two particular areas of work undertaken by the two pilots. Firstly, there is case management, which gives us huge learning about the importance of taking a more holistic approach to individual needs, and there is the impact of the individual legal reviews.

(2). We need to be careful of just focusing on the case resolution. There was real success in helping people to tackle the awful feeling of being 'in limbo' by providing advice and understanding of their case.

3.3 Detention Action

Since 2014, Detention Action has been running the Community Support Project (CSP), an alternative to detention pilot scheme that works with men who have experienced or are at risk of long-term detention. The participants in the project all have significant barriers to removal and begin working with the CSP up to three months before their release from prison.

A member of the CSP team addresses the particular needs and issues raised by each participant and works with them to create a transition plan setting out the goals and actions that need to take place. Ongoing assistance is provided by the project which takes into account the varied emotional and practical needs of each participant, including support in consequential thinking techniques and advocacy with statutory and non-statutory bodies on their behalf.

The CSP has shown that, when case management principles are followed, alternatives can work for even the most complex situations: people with previous convictions and barriers to removal.

- 94% of CSP participants have not re-offended since joining the project. This figure compares to the fact that around half of all people leaving prison reoffend within 12 months.
- 83% of CSP participants have successfully completed their time on the project.

3.4 NACCOM

There are a number of members within the NACCOM network, who through their work tackling destitution across the country, have come to see that they have been in effect providing an alternative to detention service. Under the radar the community projects that we would like to see happen are already happening through the power of local community action.

4. The alternative: Compassion and kindness - an alternative way to manage immigration through a supportive environment

The International Detention Coalition (IDC) defines alternatives to detention (ATD) as:

“Any law, policy or practice by which persons are not detained for reasons relating to their migration status.”

We need to be clear that we are talking about a rights based approach to alternatives to detention, not one that is enforcement based. We need to have a clear focus on liberty and access to essential services.

We are also talking about how we, as a society, support people who are unable legally to meet their basic living needs, are liable to indefinite detention, and are liable to be removed from the country. We need to be explicit in our communications about the link with destitution and about how many people affected by immigration detention are time-served prisoners.

An integral part to this approach is a presumption of liberty and a guarantee of minimum standards together with the key processes of identification and decision-making, placement and case management:

Through screening and ongoing assessment, authorities can identify and assess levels of risk and vulnerability as well as the strengths and needs of each person.

There are various placement options available to the State in managing an individual pending case resolution. These include placement in the community without conditions or placement in the community with such conditions as determined to be necessary and proportionate in the individual case.

The most successful alternatives use case management across all stages to ensure a co-ordinated and comprehensive approach to each case. Case management centres on understanding and responding to the unique needs and challenges of the individual and their context. Case management builds on an individual's strengths, identifies vulnerability or protection concerns, and addresses needs.

The approach promotes coping and wellbeing by facilitating access to support services and networks. By ensuring timely access to all relevant information and meeting other serious needs, case management also builds confidence in the immigration process and promotes informed decision-making by both the individual and government decision-maker. Case management can range in intensity from limited engagement with self-sufficient migrants through to intensive support for complex cases and/or for return preparation.

UNHCR defines *“alternatives to detention as any legislation, policy or practice that allows asylum-seekers to reside in the community subject to a number of conditions or restrictions on their freedom of movement. As some alternatives to detention also involve various restrictions on movement or liberty (and some can be classified as forms of detention), they are also subject to human rights standards”*.¹

We need to work on our own definition of alternatives to detention.

Elements of successful alternative schemes:

- Using screening and assessment to tailor management and placement decisions
- Providing holistic case management focused on case resolution
- Focusing on early engagement
- Ensuring individuals are well-informed and trust they have been through a fair and timely process
- Ensuring fundamental rights are respected and basic needs are met including access to services
- Exploring all options to remain in the country legally and all avenues for voluntary or independent departure
- Ensuring any conditions imposed are not overly onerous

The building blocks of ATD

¹ UNHCR Ten Point Plan in Action (2106), available at:
<https://www.refworld.org/10pointplaninaction2016update.html>

- Focusing on early engagement
- Early screening and assessment mechanisms to tailor case management and placement decisions
- Ensuring availability of accommodation and placement options in the community, if needed
- Providing holistic case management, focused on case resolution
- Exploring all options to remain in the country regularly and also all avenues for voluntary or independent departure
- Ensuring individuals are well- informed and trust they have been through a fair and timely process
- Ensuring fundamental rights are respected, access to services is provided and basic needs are met

For more information see [Using Alternatives to Detention as a Systems Change Strategy](#) by the IDC.

Benefits from such alternative schemes:

- Cost less than detention
- Reduce wrongful detention and litigation saving on compensation costs
- Reduce overcrowding and long-term detention
- Respect, protect and fulfil human rights
- Provide access to health and housing
- Can help stabilise vulnerable individuals in transit
- Improve integration outcomes for approved cases
- Improve individual health and wellbeing and reduce impact on physical and mental health
- Improve local infrastructure and other migrant support systems
- Improve compliance with immigration and case resolution processes

For more information, look at the IDC's [There are Alternatives](#) handbook.

What we mean by an alternative:

When we talk about an alternative, we mean an alternative that is focussed on liberty and promoting human rights. We are not talking about alternatives to detention that impinge on a person's liberty such as tagging. We want to see a supportive environment in immigration.

5. Global examples from the International Detention Coalition

Colombia

In March 2021, at least half of Venezuelan nationals present in Colombia had irregular status and in consequence, a Temporary Protection Status (TPS) was developed. Operating as a regularisation programme, it includes the right to work and access services. The scheme grants Venezuelan nationals with regular status, people seeking asylum as well as those who hold a 'safe conduct' permit, 10 years to apply and acquire a residence visa. Those in an irregular situation could be eligible if they have entered the country before 31 January 2021. The 10 year time frame gives time for people to settle, comply with requirements and apply for a regular residence visa. In January and February 2022 alone, 500,000 Venezuelan refugees and migrants were issued with Temporary Protection Permits. UNHCR has hailed the TPS as an "extraordinary example of humanity, commitment towards human rights and pragmatism."²

Thailand

On 21 January 2019, Thai Government agencies signed the *Memorandum of Understanding on the Determination of Measures and Approaches Alternatives to Detention of Children in Immigration Detention Centres* (ATD MoU), with Standard Operating Procedures (SOPs) to implement the ATD MoU in July 2020. The general principles of the ATD MoU and SOPs include the requirement that children are not detained, unless there is an "absolute necessity," and that detention be used as a measure of last resort and for the shortest time possible. The best interests of the child must inform decision-making and the child's opinion must be taken into consideration.

Furthermore, the SOPs also require the establishment of a Multi-Disciplinary Working Group (MWG), made up of immigration officials, representatives from UNHCR, UNICEF and IOM and other relevant officials. The MWG must consider ATD and develop an individual care plan for each child and registered NGOs subsequently work in partnership with the Ministry of Social Development and Human Security to support screening and assessment processes. Children released under the ATD MoU are supported by Host International Thailand and Step Ahead.

Between October 2018 and September 2021, 259 children and their families were released from immigration detention.³

² International Detention Coalition, [Gaining Ground: Promising Practice to Reduce and End Immigration Detention](#), May 2022, p.27.

³ International Detention Coalition, [Gaining Ground: Promising Practice to Reduce and End Immigration Detention](#), May 2022, p.40.

Belgium

“Plan Together” - a project of the Jesuit Refugee Service (JRS) Belgium - is a rights-based ATD pilot based in the community that provides independent, holistic case management to families with minor children who are at risk of detention in Belgium. It enables children to stay in a familiar environment in their community while they and their parent(s) work towards case resolution with the assistance of two case managers who visit the families at their homes regularly. The pilot aims to contribute to a reduction in the use of detention in general and to end child detention for migration-related reasons.⁴

The project has shown the potential to be extremely effective in supporting people throughout their immigration cases. It has also led to a positive dialogue between JRS Belgium and stakeholders such as legal professionals, local authorities, ombudspersons and government representatives.⁵

Mexico

In 2014-2015, Mexico established a national child protection system covering all children irrespective of their migration situation. This shift was accompanied by initiatives to ensure alternative care arrangements for children including a joint government-civil society ATD pilot programme that ran in Mexico City and Tapachula in 2015-2016, with coordination from IDC. This enabled the development of preliminary criteria and procedures for interinstitutional coordination among a range of stakeholders and operational mechanisms and protocols for screening and referral of unaccompanied children out of detention and their placement in community care.⁶

Bulgaria

Since 2017, the Centre for Legal Aid - Voice in Bulgaria, has been carrying out an ATD pilot project aiming to promote the use of individualised ATD as mainstream recourse for government institutions and to further develop the case management model as a tool for the successful implementation of ATD.⁷

The pilot has worked with 103 people since 2017 who would otherwise have been detained or were at risk of being detained. CLA-Voice works according to the principles of holistic case management in order to help stabilise people in the community and avoid (re)detention while they work to resolve their case.

⁴ European Alternatives to Detention Network, [Pilot Projects](#) (accessed on 10 February 2023).

⁵ International Detention Coalition, [Gaining Ground: Promising Practice to Reduce and End Immigration Detention](#), May 2022, p.42.

⁶ International Detention Coalition, [Gaining Ground: Promising Practice to Reduce and End Immigration Detention](#), May 2022, p.38.

⁷ *Ibid*, p.43.

The project has led to regular contact with the Ministry of the Interior and there is a willingness to collaborate on part of the authorities. Also, as a result of the pilot's success, CLA-Voice in Bulgaria have been approved to work on a case management programme for people in vulnerable situations in returns procedures, under national Asylum, Migration and Integration Fund resources for the period October 2019 - October 2022.⁸

Turkey

Turkey introduced ATD in legislation in December 2019 through amendments to the Law on Foreigners and International Protection (law no. 7196), adding Article 57(A) to the law. For the first time, the concept of "Alternatives to Detention" was introduced into the country's legislation. Seven alternatives are provided including: residence at a specific address; reporting duties; return counselling; financial guarantees; family-based return. While the inclusion of ATD in the law is a positive step forward concerns remain that ATD in Turkey is framed specifically in the context of returns, leaving little room for other outcomes, as well as the inclusion of certain types of electronic monitoring such as tagging. IDC regards electronic tagging as an alternative *form* of detention.⁹

For more information on international examples, look at the [Gaining Ground](#) report produced by the IDC.

6. Our next steps

- Develop an initial focus to build pressure and interest after the publication of the second pilot project evaluation report. We can join UNHCR and others in calling for the government to embrace this approach as 'business as usual'.
- Through our **communications working group** rapidly to develop a communications toolkit along the lines of the recent toolkits on destitution and safe routes including message testing. Our initial target audience will be Parliamentarians, but we will over time look to widen our target audiences and develop appropriate messages. Such a toolkit will cover:
 - Problem statement
 - Case for support
 - Call to action
 - Our involvement

⁸ For more information on the pilot, see: European Alternatives to Detention Network, [Pilot Projects](#) (accessed on 10 February 2023).

⁹ International Detention Coalition, [Gaining Ground: Promising Practice to Reduce and End Immigration Detention](#), May 2022, p.32.

- Develop a list of target Parliamentarians by our **Parliamentary working group**
- Develop a list of potential influential messengers by our **building new allies working group** initially looking to influence our target Parliamentarians
- Develop ways for us to support our network to grow its own capacity and confidence on this issue by our **co-ordination group**
- Explore ways that broader campaigning to end detention at community level can include this alternative vision of a supportive environment by our **grassroots campaign working group**.

ENDS