

ANNUAL REPORT

INDEPENDENT FAMILY RETURNS PANEL

2011/2012

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CHAIRMAN'S FOREWORD

I was delighted to be offered the opportunity to fill the role of interim Chairman of the Independent Family Returns Panel by Damian Green, Minister of State for Immigration, in March 2011. My background as Director of Education and Children's Services for the previous 10 years in two separate local authorities gave me the confidence to take on this very important role.

My last appointment before taking up this, my most recent, challenge was as Director of Children's Services in the London Borough of Hillingdon. Hillingdon is the home of Heathrow, the world's busiest international airport, which brings with it enormous challenges. In 2005 Hillingdon was responsible for approximately 1000 unaccompanied asylum-seeking children (UASC) and over half of the local Looked After Children population were, or had been, involved in the asylum process. Needless to say, with this backdrop the UK Border Agency and I had not always seen eye to eye on a number of issues and I was involved in lobbying government on issues as diverse as the grant arrangements for UASC to age assessment on behalf of Hillingdon and, more widely, the National Association of Directors of Children's Services.

The Panel consists of some very talented individuals and I am grateful to them for their support and advice in writing our first Annual Report. I am also grateful for their expert opinion and professionalism during our first year in considering some very challenging issues. We all have a lifetime of experience in children's services and we have engaged in this difficult area of work because we believe we can improve things for children and their families at what is a very traumatic time in their life. As Anne Marie Carrie, chief executive of Barnardo's has said, "If not us, then who?"

This report has also been informed by a number of non-governmental organisations (NGOs). I am hugely appreciative of the role they have played as critical friends and occasionally by offering sterner challenges to the family returns process. They have provided the Panel with useful questions and areas to research which have undoubtedly led to improvements in the system. It is my intention to continue to utilise the expertise and insight of a range of NGOs often gained through first hand experience of working with families in the returns process.

Finally I would also like to offer my appreciation to the staff at the UK Border Agency Family Returns Unit based in Leeds who have offered thoroughly professional support to the Panel during the first year of operation. Members of the Panel have had to learn a whole new language, get used to the cultural undercurrents of the UK Border Agency and familiarise themselves with relevant policy and legal issues. This has only been possible because of the patience and hard work of the team at Waterside Court.

SUMMARY

The Government announced its plans for ending the detention of children for immigration purposes in December 2010. In parallel, the family unit at Yarl's Wood Immigration Removal Centre was closed for the detention of families with children. Instead a new process for removing families who had exhausted all rights to remain in the UK was designed. This involved a four-stage process of improved decision-making, the offer of assisted return, a required return stage and as a last resort an ensured return stage.

The role of the Independent Family Returns Panel is primarily and fundamentally to offer advice and challenge to the UK Border Agency when it has been determined that a family must return home and the family refuses do so voluntarily. In such cases, the Local Immigration Team draws up a plan for ensuring that the family leave and this plan is referred to the Panel. The Panel assesses the plan and directs questions to the case officers during a telephone conference. Plans are usually amended as a consequence of the challenge process and occasionally the plan to remove is deferred on the advice of the Panel.

In reality the role of the Panel has been wider than initially intended and advice and challenge have extended to matters of policy and practice, performance and contract management and engagement with partner agencies. This in turn has led not just to a better family returns process but also to some system-wide improvements and organisational developments which in sum mean that the experience of families in the removal process has improved.

Returning families to their country of origin against their wishes is a sobering endeavour. However, if one believes that the UK should retain our sovereign borders then we must find the most humane and supportive way of reaching this outcome through the development of a system which gives families the best possible chance of making a successful transition. By making the last few days in this country as practically helpful and emotionally supportive as possible we can help insulate the family from the disappointment and challenges of ensured return.

The Independent Family Returns Panel has played a significant part in system wide developments evidenced in this report which have improved the experience of children and their families within the returns process, albeit an experience they would prefer not to have. Families were returned to their country of origin more safely with the UK Border Agency and their contractors operating in a way which demonstrates adherence to their statutory responsibility for children's safeguarding and wellbeing.¹

There is still much to be done and the recommendations in this report, while significant, are just the start of the changes which the Panel feel are necessary to ensure the best interests of children during the returns process. The UK Border Agency is to be commended for inviting independent scrutiny of the family returns process and has been receptive to the recommendations in this report which augurs well for further improvement in the future. We have made 32 recommendations in total, to which we want the UK Border Agency and others in the process to respond; 6 of these are "key recommendations" which we consider to be of strategic importance and to which we

¹ <http://www.legislation.gov.uk/ukpga/2009/11/section/55>

attach particular priority. We have also highlighted 14 Good Practice Principles which reflect existing policy and to which we will be paying careful attention during the coming year to ensure that the UK Border Agency gives effect to them consistently.

Some of the recommendations have already been implemented through a process of formative feedback and evaluation. The agency has been slow to act on others. The Panel has been aware of the pressures on the UK Border Agency over the past 12 months with the appointment of a new chief executive, the separation of the Border Force from the wider organisation and the inevitable restructuring, the Queen's Diamond Jubilee and the Olympics, but nevertheless the pace of change has been disappointing and the Panel has experienced frustration as a consequence.

The Panel is conscious that the primary function of the UK Border Agency is that of enforcement, and it, like the Panel, is having to learn a whole new language and set of responsibilities. In the case of the UK Border Agency those relate to the care and wellbeing of children and their families. The UK Border Agency will need to ensure that this learning is undertaken consistently across the organisation and not left for local determination.

The new family returns process is a much improved process. Families are no longer held for indefinite periods of time, if at all, and they are supported well throughout the process. Members of the Panel have observed the process directly and been impressed with the professionalism of the staff and their willingness to take on new ideas and alter practice to reflect those ideas. As a consequence, members of the Panel feel that they have been able to make a positive difference to the quality of time and support experienced by families just prior to departure from the UK and significantly the first 24-48 hours following removal.

OUR REMIT

The Independent Family Returns Panel was established in March 2011 with the following remit:

- The purpose of the Independent Family Returns Panel is to provide independent advice to the UK Border Agency on the method of removal from the UK of individual families when an ensured return is necessary. The advice provided by the Panel will help to ensure that individual return plans take full account of the welfare of the children involved and that the UK Border Agency fulfils its responsibilities under section 55 of the Borders, Citizenship and Immigration Act 2009.
- The Panel will publish an annual report on the advice it has given, including information on any cases where the method of return differed from that advised by the Panel.
- The Panel will also consider the overall handling of families who are denied entry to the UK at the border to assess whether detention in such cases is being kept to a minimum.
- The Panel will include an independent chair and other members with safeguarding and medical expertise. The Panel will also include officials from the UK Border Agency and Department for Education.
- Members of the Panel will be appointed on an interim basis from 1 March 2011 pending a formal recruitment process later in the year.
- Decisions as to whether a family should be removed from the UK rest with the UK Border Agency and the independent courts. It is not a function of the Panel to endorse or reconsider these decisions.

Further detail on how it was envisaged that the Panel would operate is given at Annex D.

INTRODUCTION AND OVERVIEW

The Family Returns Process

- 1.1 On 16 December 2010 the Government set out plans for ending the detention of children for immigration purposes in a way which protects the welfare of children while ensuring the departure of families who have no right to be in the UK.²
- 1.2 Those plans entail a fresh approach to managing family returns which comprises the following stages: decision-making, assisted return, required return and ensured return (for a more detailed description of the stages see Annex E). The aim is to engage more effectively with families from the outset and to encourage those whose claims are unsuccessful at the decision-making stage to take responsibility for their own departure and to leave at either the assisted or required return stages, without the need for enforcement action.

The Independent Family Returns Panel

- 1.3 The Independent Family Returns Panel was established on 1 March 2011 to coincide with the national roll-out of most other elements of the new process. Members of the Panel were appointed on an interim basis to enable the process to get up and running quickly. A full list of the interim members of the Panel is at Annex F.³
- 1.4 All plans for ensured returns must now be referred to the Panel for advice on how best to safeguard the needs of the children during that return. The Panel normally meets to consider cases each Tuesday and Thursday, usually by telephone conference, although it has also met in person regularly to promote effective working and refine its approach. In exceptional circumstances, the Panel can be convened at short notice to avoid unnecessary delay and uncertainty which would not be in the interests of the children.
- 1.5 The Panel receives copies of the return plans to be considered in **advance**. The UK Border Agency case owner responsible for the specific return plan is expected to attend the Panel teleconference to present the proposal and answer questions on the case, but is not a member of the Panel. The Panel may also invite to the discussion other experts, such as representatives of local agencies who have first-hand knowledge of the family.

² <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/26-end-child-detention/child-detention-conclusions.pdf?view=Binary>

³ After an open recruitment process, Chris Spencer was confirmed as the chair of the Panel in January 2012 and other new members were appointed in May 2012.

Emerging Outcomes

1.6 From the rolling out of the new process to the end of March 2012, 665 cases entered the family returns process.⁴ Of these, 186 cases were concluded with the family being granted leave to remain or leaving the country (9 of the original 665 cases were subsequently identified as not including children). Of those who left the country, 51 per cent did so without the need for an ensured return. These early figures give grounds for cautious optimism about the new process since one of its main aims is to encourage families with no legal right to remain in the UK to go without the need for the UK Border Agency to take enforcement action.⁵

Family Returns Process:

1 March 2011 – 31 March 2012

Families entering the returns process 665

Outcomes

Grants of leave to remain 77
Returns 109
Not family with children* 9
Total outcomes 195

Types of return

Voluntary 23
AVRFC 25
Required return 8
Ensured return 53
Total returns 109

Referred to Panel 106

4 A family is considered to have entered the family returns process at the point at which a family return conference has been held or an attempt to hold one has failed.

5 <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/family-return-data/>

6 Families subsequently identified as not falling within the process, e.g. because a child turned 18

- 1.7 The Panel considered its first case on 7 April 2011 and 106 cases were referred to the Panel for advice in the period ending 31 March 2012. Of these, 53 resulted in the family leaving the country, with roughly half of those returns involving a stay in Cedars pre-departure accommodation (although Cedars did not open until August 2011).⁷ These figures are also encouraging, in that they show the extent to which the Panel is now embedded in the process and the process is enabling families to be returned.
- 1.8 However, the figures also highlight issues which are of concern to the Panel. The Panel considered an average of 3 cases a week but these cases were not spread evenly over the year. Indeed, there were periods, especially when the process was bedding in at the beginning, when Panel meetings were subject to regular cancellation due to lack of referrals. There has been a noticeable regional variation in the numbers of cases referred to the Panel which appears to be due, at least in part, to different levels of engagement in the family returns process by different parts of the UK Border Agency. This is a matter of concern to the Panel and is considered in more detail later in the report.
- 1.9 The Panel is also concerned by the slow pace of some cases through the process and the fact that only 29 per cent of cases entering the system had reached a conclusion by the end of the year. More importantly, where family cases are not being progressed, or being progressed more slowly, there is a negative impact on children's wellbeing. The longer a family remains in the UK, the deeper the roots go and the more attached children become to their surroundings and their friends and the more dependent they become on the services available to them, making their departure more difficult. Indeed children in families where casework has not been progressed in a timely way have often come to think of the UK as their home having lived a large proportion of their lives in this country. Some children within the family returns process have been born in this country and are therefore unfamiliar with the country to which they are returning. Priority should be given to such cases as children are generally more adaptable to major change the younger they are.
- 1.10 The Panel also notes that, of the 106 cases referred to the Panel, only 50 per cent had actually left the UK by the end of the year. The two main causes of this have been family members not being present when the UK Border Agency sought to effect removal and outstanding barriers to removal such as judicial reviews. These issues are explored further later in the report.
- 1.11 An independent evaluation of the family returns process is taking place and is due to be completed at the end of 2012 but it is clear to the Panel that the process is well-embedded, that the role of the Panel is critical to that and that improvements have been made as a result. These improvements, together with areas for further attention, are considered in more detail in subsequent sections of this report.

⁷ Figures for numbers of children held at Cedars and Tinsley House Immigration Removal Centre are shown at Annex G.

KEY ISSUES

Use of Cedars as part of the returns process

- 2.1 The pre-departure accommodation at Cedars opened in August 2011. Early indications are that Cedars is an exceptionally effective facility for helping to secure a successful return for families. Of those families who entered Cedars as part of their return during the period, the great majority went on to leave the country.
- 2.2 Cedars appears to be effective in helping families to prepare for their return, both practically and emotionally: parents have reported to staff that they have felt a positive benefit from their stay there. Cedars is a child-centred facility where the welfare and support services are provided by Barnardo's. It is apparent to the Panel that more families would benefit from a short stay at Cedars, especially those where children have not been prepared by parents for their return and who are therefore confused about what is happening to them.
- 2.3 The criteria for the use of Cedars as part of a return plan are attached at Annex H. In essence, they state that Cedars should be used only as a last resort when other options for ensuring a return have failed or are considered to be inappropriate. However, the Panel has noted that they are interpreted differently by different Local Immigration Teams (LITs). There is also inconsistency within LITs who have fully engaged in the process and have presented several plans to the Panel.
- 2.4 The Panel suspects that geography has been a consideration for the LITs in planning a removal. While Cedars is located in the south east of England, most of the families who have been returned have lived in northern England or Scotland. The availability of flights means that Heathrow or Gatwick are often the only option which adds to journey time. In a small number of cases the Panel suspects that the LITs have proposed the use of Cedars in order to break the journey. This is done with the best of intentions but does not appear to be consistent with the concept of Cedars as a last resort. **The Panel expects LITs to seek to remove families who do not require the use of Cedars from local airports where possible as part of a no further notice removal plan⁸** (Good practice principle 1).
- 2.5 Barnardo's have published "red lines" as a condition of their involvement in the family returns process, one of which is that no more than 10 per cent of families returned each year are accommodated and returned through Cedars. This creates an inherent dilemma within the process. It is appropriate that the detention of children is kept to an absolute minimum, indeed this is a government priority. However Cedars appears to be successful in helping families, especially children, to come to terms with return. It is the view of the Panel that more families would benefit from a stay at Cedars as part of their return plan. For this reason, the Panel questions whether the 10 per cent "red line" supports the best interests of children and their families.

⁸ A no further notice removal can occur when 72 hours' notice of removal directions has been given and the family has not complied with it. The UK Border Agency is then able to re-set removal directions without giving the family further notice, if the removal can happen within 10 days of the initial removal date passing.

Key Recommendation 1

- a) The UK Border Agency should review the criteria for the use of Cedars and ensure that they are applied consistently.
- b) Barnardo's should review the 10 per cent "red line" and consider whether it supports the best interests of children and their families.

Managing non-compliant behaviour

- 2.6 The management of a family during the family returns process is more challenging when the family does not comply or becomes disruptive. The range of behaviour experienced during ensured returns has ranged from co-operation through to violence, outright aggression and physical resistance in a small number of cases. The UK Border Agency has a clear policy for physical intervention with disrupting adults which is supported by a thorough training programme for officers and clear guidance. No corresponding policy exists in relation to children and young people under 18 years of age. Under current guidelines, the UK Border Agency is able, in exceptional circumstances, to apply in advance for ministerial authority to use force on a young person aged under 18, for example where there is evidence of previous violent behaviour.
- 2.7 Where prior ministerial authority has not been sought and a child refuses to leave their home or a vehicle, the removal has to be cancelled or postponed. This happens very rarely but it does signpost the need for a policy which can accommodate under 18s. Clearly this is a very emotive subject and any behaviour policy which includes the use of physical intervention with children would require an appropriate system of intervention, thorough training of the officers and clear guidance about when it should and should not be used. Intervention of this kind with children should be used rarely and only after encouraging the parents to take responsibility for their children's behaviour. Where parents refuse to take parental responsibility or, as occasionally happens, even encourage the children to disrupt, officers should deploy a significant number of strategies and techniques to encourage or distract the child before using more intrusive forms of behaviour management. It is not the decision of the Panel to approve the use of physical intervention strategies during the removal of a family. However once a decision is taken to remove a family there are strong arguments for ensuring that the removal happens sooner rather than later given the sometimes traumatic nature of the event and the emotional impact of having to experience a number of removal attempts. Policies for physical intervention with children are commonplace in schools, children's homes and in secure units for young people. With greater knowledge and skills developed through a comprehensive training programme, UK Border Agency officers and Reliance escorts could minimise the need for physical intervention with all children and where it is used, this could be done with minimal risk.

Key Recommendation 2

The UK Border Agency should develop a behaviour policy which includes as a last resort the use of physical intervention with children underpinned by a thorough training programme for officers and stringent guidelines for its use. It is important to stress that the Panel recommends that physical intervention should form part of a broader behaviour management policy and be used only in exceptional circumstances.

Engaging children in the process

- 2.8 Every piece of major legislation pertaining to the safeguarding and well-being of children over the last twenty years emphasises the importance of involving them in major decisions that affect their lives. There can be very few decisions which have a greater impact on the lives of children than a decision about where they will live. It is therefore important that the UK Border Agency takes steps to inform and involve children in an age and stage appropriate way about their future in the UK once a family has reached the ensured stage of the family removal process. The starting point of this process is to encourage the parents to take responsibility for preparing the children for what lies ahead but, given that a number of families believe for whatever reason that they will not be removed, parents are sometimes reluctant to engage in something that they consider may unsettle the children unnecessarily. In those circumstances the difficult conversation still needs to happen and ultimately if the parents will not have the conversation with the children then case officers must. The alternative of a family arrest and transport to a port of departure is too difficult to imagine for a child who has not been prepared for such a significant event. Such a surprise could also dramatically affect their resilience in dealing with the disappointment of having to return home.
- 2.9 Parents should be supported in this endeavour where needed with appropriate materials which have been designed with the age and stage of development of the child in mind. Where parents refuse to engage with children about removal then officers should intervene in order to reduce the emotional impact of a surprise removal. Where possible and appropriate this task could be undertaken by a professional with skills in working with children and who is known to the family such as a social worker. Where such a professional is not working with the family then a UK Border Agency officer should be in a position to impart the necessary information to a child.

Key Recommendation 3

The UK Border Agency should always involve children in major decisions that affect their lives.

Reliance

2.10 Reliance is the organisation responsible for providing in-country escorts to ensure that families are safeguarded and their best interests observed during the removal process, from the point where the family members are passed into their care following arrest, up to the handover to Reliance overseas escorts or delivery to Cedars depending on the plan for removal. The overseas escort teams then travel with the family to their country of return. As it is providing services on behalf of the UK Border Agency, Reliance is also subject to the same duty regarding the welfare of children under section 55 of the Border, Citizenship and Immigration Act 2009. Panel members have a number of concerns which arise as a consequence of their own observations and reports from various groups of staff:

- UK Border Agency staff have reported that Reliance has sometimes been unreliable which leads to the arrest teams having to include in their contingency plans the possibility that they may need to transport the family to the port of departure themselves.
- Staff at Cedars have observed that the level of awareness of Reliance staff with regard to safeguarding issues is in some cases very limited. Reliance staff themselves have indicated that their training is limited and in a few cases that it has not taken place at all before staff have been deployed to a team of escorts.
- Panel members have observed removals where incidents have not been managed in accordance with the best interests of children and safeguarding requirements (although some good practice has also been witnessed).

2.11 The Panel has already raised these concerns with senior management within the UK Border Agency who are taking action but the Panel expects to see considerable improvement in the coming year.

Key Recommendation 4

The UK Border Agency should monitor the implementation of the contract with Reliance to ensure that the specification is being delivered as intended. In addition, the UK Border Agency should satisfy itself that:

- Reliance staff have completed foundation level training before being tasked to accompany families on removals and that at least one member of the Reliance team accompanying families has higher level training experience.
- There are appropriate escalation procedures and a whistle blowing process for Reliance staff in relation to safeguarding matters and that those are audited regularly by UK Border Agency staff.
- All escorts accompanying families being returned are CRB checked and these checks are renewed every three years in keeping with best practice.

MULTI-AGENCY LIAISON

2.12 The new family returns process involves a wider range of partners from the statutory, private and voluntary sectors than was previously the case. This is a positive development and much of the strength of the new process derives from the different perspectives, skills base and challenge provided by those partner agencies. But it is important that they work effectively together and that they have a forum for addressing the issues which arise. No such forum currently exists and issues are addressed bilaterally or on an ad hoc basis.

Key Recommendation 5

The UK Border Agency should consider setting up a Children and Families Panel made up of key delivery partners such as the agency itself, Barnardo's, Reliance, Refugee Action, G4S and the Panel to address issues as they arise and prior to the need for escalation.

The Border

2.13 Most of the Panel's work has been related to advising on return plans but the remit also includes considering the overall handling of families who are denied entry at the border to assess whether detention in such cases is being kept to a minimum. The Panel receives on a monthly basis a detailed case-by-case report of families who have been held in the family unit of Tinsley House Immigration Removal Centre. These are families who have been stopped at the border while enquiries are made as to whether they may be admitted to the UK and/or pending the availability of a return flight. 55 children entered Tinsley House between 1 March 2011 and 31 March 2012, of whom the great majority had been intercepted at the border.⁹ The Panel has been generally satisfied that these border cases have been handled appropriately. However, the Panel receives no information about the much larger number of families with children who are stopped at the border and held in non-residential short-term holding facilities (holding rooms) at the port itself. The Panel expects this to be rectified in the year to come so that the Panel can fulfil its remit in respect of the border more effectively.

Key Recommendation 6

Border Force should provide the Panel with monthly data on the number of children detained in holding rooms at ports across the UK, and the length of time they are held.

⁹ These figures are provisional and may include a small number of age dispute cases and children accommodated with a prisoner immediately prior to removal.

PROCESS ISSUES

Issues arising from case presentation to the Panel

- 3.1 The Panel has noted a wide regional variation in the number of families being brought to the ensured stage of the returns process. There has also been significant variation between LITs within any given region. Some of this difference may be due to different caseloads in different parts of the country but the Panel also senses a different level of engagement by regions. This is a concern because in effect it means that the possibility of removal is in part determined by where a family is living.

Recommendation 1

Regional variation in the level of engagement in the family returns process should be performance- managed centrally at UK Border Agency Board level to ensure that family work is given a consistently strong focus across the agency. Each Region should have family specific targets.

- 3.2 The level of decentralisation within the UK Border Agency has meant that Regional Directors have had latitude in the way they deploy their resources. While this is an effective way of dealing with local priorities, it has led to different levels of specialisation in dealing with family cases. Some regions have developed specialist teams to work with families while others have trained a pool of individual officers who can be tasked to work with families when necessary. There appears to be a high correlation between the levels of engagement across the regions and the degree of specialisation developed as this seems to give focus to work with families.

Recommendation 2

The UK Border Agency should consider what level of specialisation is required within the Local Immigration Teams to give family work a higher priority across the regions.

- 3.3 The Panel makes its recommendations to the LIT about proposed plans to remove a family based upon information within the family welfare form which is received at least two days before the Panel convenes. Officers from the LIT with case responsibility for the family are asked to present the case to the Panel. The Panel has the opportunity to ask questions about the family based upon the reading of the family welfare form and the presentation made by officers. One of the principles of good practice which the Panel expects to see is that **the lead officer for the family presents the case to the Panel personally as this allows for greater scrutiny and interrogation of the family's circumstances (Good practice principle 2).**

- 3.4 There is a presumption that the advice of the Panel will be acted upon by the UK Border Agency with provision for cases to be referred to Home Office Ministers in the event of a disagreement between the Panel and the UK Border Agency. The Panel has advised improvements to all the plans it has seen in the first year of operation but the Minister has not been called upon to resolve a difference in opinion: the advice of the Panel has been taken, even where this has meant that the removal is postponed or cancelled. An example of this is given below. **The Panel expects the UK Border Agency to continue to show flexibility in implementing their plans and to review proposed returns where the Panel considers that a child's best interests are not served.** (Good practice principle 3).

Case study: Family A

The UK Border Agency proposed to return a single mother and her child, neither of whom had a right to remain in the UK. However the mother was pregnant with the child of a German citizen who stated an intention to meet his paternal responsibilities. As the father was an EU citizen, the child could have rights to remain in the UK, as could his or her mother as his or her carer and her first child as her dependent. While the current situation meant that the mother was not entitled to remain in the UK she would be able to apply to return to the UK when the child was born if she met entry requirements. The Panel considered that it would not be in the best interests of the existing child to leave the UK only to return again after the sibling's birth. The Panel therefore advised the UK Border Agency to reconsider the timing of the return.

- 3.5 The Panel has been pleased to see that the quality of the family welfare forms has improved over the past year following regular feedback to the LITs from the Panel and the Family Returns Unit who administer the process. The information received from the LITs includes the composition of the family, their immigration history, a description of any medical conditions, an account of the children's development including school records where children are of school age, the family's disposition at key contact events (including any assessment of risk to themselves, each other or officers) and whether the family are legally represented. Finally, the return plan is presented including any significant contingencies and the return support to be offered the family upon their return. Consideration of these matters has led to a number of significant issues.

Immigration History

- 3.6 The immigration history of the family is generally a straightforward statement of fact that families are provided with at the same time as the decision to remove them from the UK. All families who reach the ensured return stage have exhausted any in-country rights of appeal and have been issued with a notice requiring them to leave the UK which can usually be appealed to the courts. The family welfare form will indicate the number of iterations of earlier stages of the process known as “assisted return” and “required return”. A family will usually have been offered an assisted voluntary return package on a number of occasions and have been made the subject of self check-in removal directions at least once before the family reaches the final “ensured return” stage of the process. In one exceptional case, the claim of a family had already been considered by six separate immigration judges.
- 3.7 The process through which families emerge in order to reach a final decision about returning home and the action taken to ensure the return is completed is a long and complicated one. It is not unusual for an asylum claim to be made by one parent with the other named as a dependant in addition to the children. When that claim reaches the point where all appeal rights are exhausted (ARE), the claim is often “flipped” with the second parent claiming asylum with the first parent and the children as dependants. The whole process can then be repeated for each child individually although this is much less common. The Panel does not offer a view about whether such legal possibilities are desirable or not, but the length of time it can take to resolve those legal issues can have a negative effect on the children involved. The longer a child remains in the country the more settled they become and for older children who understand their status, it can invoke the fear of removal which creates anxiety and depression. **The Panel expects the UK Border Agency to give priority to the asylum claims of families with children as the level of distress caused is often proportionate to the length of time a child has been in the UK** (Good practice principle 4).
- 3.8 In some cases a family remaining in the UK for an extended period of time has been down to administrative delay on the part of the UK Border Agency. One family presented to the Panel had been declared ARE in November 2008 but self-check in removal directions were not set until April 2012. Such delays can be due to a number of reasons but the impact on the family, and especially the children, has been that any removal attempted now would be even more difficult for the family involved.
- 3.9 The removal process can also be significantly extended by families who abscond from their home address, sometimes for months at a time, perhaps even relocating to another area. In many respects this is the worst possible case scenario as it exposes the family to risk and leaves them vulnerable to exploitation. The parents would not be in receipt of their NASS income, as that is a condition of them remaining within the accommodation provided and the stipulated reporting arrangements. School-aged children may not have been enrolled for a place in school due to the parent's fear of identification. In some cases children have been

enrolled under different names and are required to live a secret life. Clearly a child living under these circumstances creates a major cause of concern for their well-being and development.

- 3.10 In order to expedite cases and reduce the risk of families absconding, **the tasking of teams within the LITs should allow for those families who have failed to comply with self check-in removal directions to be visited as part of a removal plan within ten days**, thus avoiding the need to set a further set of removal directions (Good practice principle 5).
- 3.11 **The Panel also expects the UK Border Agency to prioritise families whom they risk assess as being likely to abscond using the limited notice removal option via Cedars** (Good practice principle 6). It would appear that those families who are more likely to abscond are those who have a previous track record of absconding, have access to resources and those with extended family in the country.

Arrangements for family reporting

- 3.12 Throughout the first twelve months of the new process it has been apparent that there is a difference in reporting arrangements for families. Some families report weekly, some report once every two weeks and some require children to be present and some arrangements do not. There may well be good administrative reasons why there is variation across the country but the Panel feels that **children should not be required to report to the UK Border Agency with their families during the school day** (Good practice principle 7).

Assisted voluntary return (AVR)

- 3.13 Refugee Action is contracted to raise awareness of AVR among parents who request it. It should be noted that the role of Refugee Action is not to persuade or encourage parents to take this option. However, given that approximately 50 per cent of families whose cases have been referred to the Panel during the period were subsequently returned to their country of origin, the Panel believes that families would be better served if they could be persuaded to go home using AVR. This would allow families to return home with a considerable resource at their disposal. The Panel has no doubt that at the point of departure the majority of families would in retrospect believe AVR to have been a good option.

Recommendation 3

- a) Refugee Action should take a more persuasive and proactive approach when engaging with families and children.
- b) The UK Border Agency should ensure that future specification and tenders of the AVR contract demand a better balanced mix of persuasion and facilitation.

Family Details

- 3.14 The Panel has been pressing LITs to include in their referrals full information about all family members, including the estranged parent in the case of a single-parent family. The Panel expects the UK Border Agency to provide views of both parents as far as this is possible and where this does not put the family at risk (Good practice principle 8).

Case study: Family B

One single mother reported that the father of her child was a member of the British Armed Forces (though not a British citizen) who was unaware of the child's existence. The LIT reported that the father was not in contact with the mother and it was her preference that this situation should remain. The Panel took the view that the father could be contacted as he was a member of the British Armed Forces and that he had a right to know about his child.

- 3.15 **The Panel also expects the UK Border Agency to provide information about members of the extended family both in the UK and in the country of return**, together with information about the family's assets and skills (Good practice principle 9). This information helps the Panel to assess the family's resilience and ability to adapt to their return.

Medical Issues

- 3.16 The Panel considers medical information as crucial to planning the safe return of families. Yet some families do not give their consent for their records to be shared with the UK Border Agency, apparently in the belief that it will delay their removal; some are even advised not to give consent by their advocates. Where families refuse to give consent, and there is no other evidence to the contrary, the UK Border Agency makes the presumption that they are fit to fly and there are no medical barriers to removal.
- 3.17 Even where parents have consented to their medical information being shared, a small number of GP practices have failed to provide it or have asked for excessive payments to do so: one practice asked for a fee of £400. Given that the information is being requested for the purposes of safeguarding children during the removal process, it is arguable that such GP practices are not meeting their responsibilities under the Children Act 2004, Working Together Guidance March 2010 or cross-Government guidance "Information sharing: Guidance for Practitioners and Managers"¹⁰.

¹⁰ <https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DCSF-00305-2010>
<https://www.education.gov.uk/publications/standard/Integratedworking/Page1/DCSF-00807-2008>

Recommendation 4

In areas where this is an issue, the UK Border Agency should raise it through the Local Safeguarding Children Board or through local Health and Well-Being Boards. Ultimately the UK Border Agency could raise this with the Care Quality Commission and the General Medical Council, reminding GPs of their statutory safeguarding duties to share information that is in the best interest of the child.

- 3.18 The UK Border Agency has not presented cases to the Panel where members of a family have life threatening conditions such as advanced cancer or where a family is in treatment for psychological problems associated with torture. Were they to do so, the Panel would advise that it would be inappropriate to return the family until the course of treatment was complete. For less serious medical conditions requiring on-going treatment, it is important that this is accessible in the country of return. In response to queries from the Panel, **LITs are now increasingly reflecting this information in their return plans. The Panel expects LITs to continue to focus on this over the coming year** (Good practice principle 10).
- 3.19 The Panel also expects LITs to ensure that, when asking about medical conditions, they also ask whether the family is being treated as a victim of torture as parents may not consider such intervention as medical. **Where they are available, medico-legal reports should always be presented to the Panel** (Good practice principle 11).
- 3.20 Occasionally a member of a family refuses to take medication, such as malaria prophylaxis, in preparation for removal. For parents this is a personal choice and they are considered competent to assess the risk of their decision for themselves in most cases. Refusal to medicate in these circumstances is not a barrier to removal. The issue is a more complex one where a parent refuses to allow a child to be appropriately medicated and is therefore placing the child at risk. If a child is judged to be “Fraser Competent”¹¹ then the decision to take medication can be considered by the child themselves irrespective of their parents’ view. Where a child’s age or stage of development does not allow them to make an informed judgement for themselves then the child’s best interests must take precedence.

Recommendation 5

The UK Border Agency should reinforce parental responsibility in providing protective medication for themselves and for their children throughout the returns process including the Family Returns Conference and the Family Departure Meeting. This should be documented in detail whenever discussed. This is particularly important for children who have been born in the UK and who may not have built up a natural immunity against conditions common to the country of origin. For younger children details of up to date inoculation contained in the “red book” is also useful information for the Panel to consider. If the family is returning via Cedars, the GP should offer a final opportunity for medication prior to removal.

¹¹ i.e. having sufficient understanding and intelligence to enable him or her to understand fully what is being proposed and to give valid informed consent to a particular intervention

Legal Advice

3.21 The Panel has been concerned about the quality and quantity of legal advice received by families. At the ensured return stage a small number of families have had no representation. In some cases this is due to the family having dismissed their solicitors because they have advised that there is no further action they can take to further the ambition of the parents to remain in the UK. Sometimes it is the solicitor who withdraws from the process. What is of greater concern still is where solicitors will continue to work for a family where there is very little chance of them being able to remain in the UK. This depletes family resources that could otherwise be put to good effect helping the family to resettle in their country of origin.

Recommendation 6

Where families are not in receipt of legal support the UK Border Agency should offer advice to parents about where this can be accessed and this should be recorded on the family welfare form. UK Border Agency officers should make regular reference to the availability of legal support via the list of solicitors held by the Agency who offer services to families within the asylum process. Families removed via Cedars should be made aware of the availability of duty solicitor services.

3.22 It has become increasingly apparent to the Panel that legal representatives are there to represent the interests of the parents and that these do not always coincide with the best interests of the child. Last minute injunctions or judicial reviews may be an effective strategy to avoid a removal but they are not always in the best interests of the children involved. For example, if one considers a child who has experienced the difficulty of an early morning arrest, witnessed the distress of their parents, having been prepared for a return to country of origin by staff at the Cedars and a trip to the airport, only for this to be stopped at the last moment due to a late injunction or judicial review, only for this to be repeated at some point in the near future. A repeat of such scenarios cannot be in a child's best interests.

Recommendation 7

The Panel believes that legal representatives should consider the impact of their actions on the children involved. In particular, injunctions and judicial reviews should be lodged earlier in the process to avoid the disruption to children's lives and the confusion this can cause when lodged at the last minute.

3.23 We understand that on one occasion the parents of a family were advised by their legal representative that there was no further legal action that could be taken to remain in the UK and the only option was for the family to abscond. Not only is such advice contrary to the law of the land, it is also advice which if taken places the children at risk due to the greater vulnerability of the family to exploitation.

- 3.24 Legal advice is available to families within the returns process. The UK Border Agency maintains a list of accredited solicitors who have experience of working with asylum seeking families. This is offered to families at contact meetings with the family. Families at Cedars have access to a duty solicitor service providing free legal advice. Lists of accredited solicitors are available to families and they have access to legal websites.
- 3.25 The family welfare form presented to the Panel is a description of events within the removals process as they relate to a particular family. Since the family or their legal representatives do not attend in person to challenge the summary or to scrutinise the summary before the Panel meets, it has been an important consideration for the Panel that information presented should be subject to independent audit.

Recommendation 8

The UK Border Agency has agreed that return plans and supporting information presented to the Panel should be subjected to periodic independent audit. The Panel would now like to see this audit undertaken on an annual basis with a number of randomly selected cases.

Links with Local Authority Education and Children's Services Departments

- 3.26 The guidance which supports section 55 of the Borders, Citizenship and Immigration Act 2009¹² and section 11 of the Children Act 2004 emphasises the importance of agencies working together in the best interests of children. The quality of contact between LITs and local authorities regarding the family returns process is therefore critically important but in reality it is variable. In some regions the flow of information and the quality of communication about families in the returns process has improved significantly over the past 12 months while in other areas there has been little improvement. The reason for this appears to be the differing levels of engagement of the regions within the UK Border Agency in the returns process.
- 3.27 The Panel has been instrumental in facilitating and piloting high level strategic contact between the UK Border Agency and the Association of Directors of Children's Services (ADCS) regions. The aim has been to raise awareness of the family returns process and the wider day-to-day safeguarding duties and responsibilities of the two organisations where there is overlap. A successful conference was held in September 2011 in the north-east region of the UK Border Agency and ADCS which succeeded in securing a better understanding of the business for both the UK Border Agency and local authorities in the region. Similar work has occurred in Scotland where members of the Panel have met the Convention of Scottish Local Authorities (COSLA) and the Executive Director of Child Care and Head of Family Services in Glasgow. Unfortunately this conference format has not been repeated in other regions despite the very positive feedback about the impact on local working relations and arrangements.

¹² <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/legislation/bci-act1/change-for-children.pdf?view=Binary>

- 3.28 In order to build on the outcomes of the strategic conference held in the north-east region, the Panel was also involved in the piloting and delivery of a conference format for local authority and UK Border Agency staff at the operational level. This event has now been repeated in three regions, London, the north-west and the West Midlands, with positive feedback from participants about the impact on their work at the local level.

Recommendation 9

The strategic and operational conferences should be repeated across the country in order to increase mutual understanding of the roles and responsibilities of the UK Border Agency and local authorities in relation to the safeguarding and well-being of children and young people generally, but particularly with regard to the families in the removals process.

- 3.29 Contact between local authority children's services departments and the UK Border Agency has raised a number of issues and in many cases this has led to improvements in practice. For example, LITs are now more aware of their responsibilities to report children as missing to children's services when a family absconds. Since the children involved are usually with their parents when absconding they are considered to be children missing education. Other scenarios are more complex still. Families facing removal may place their children with a member of their extended family or with a friend. Where this is the case such children should be considered to be privately fostered and local children's services informed so that they are able to fulfil their statutory duties for children cared for under such arrangements. Where LITs have engaged with the family removals process there is a growing awareness of the requirements of their safeguarding responsibilities and these are increasingly reflected in the information presented to the Panel when planning to remove a family from the UK.
- 3.30 Where LITs have been planning to remove families on a regular basis they have become increasingly familiar with the contact arrangements with local children's services departments. They have also improved their understanding of the difference between a contact, a referral, an initial assessment and a core assessment in terms of the level of involvement of social workers with the family and the complexity of the problems they face. The quality of the information received is vitally important in planning for a safe return for the family. There is an emerging awareness within the UK Border Agency of the importance of various levels of contact between families and children's services but this understanding is not consistent or well embedded. Where the UK Border Agency is represented on the Local Safeguarding Children Board (LSCB) this has also helped to raise awareness of local safeguarding policy and procedure and improve local working arrangements. It also leads to partners understanding better the roles and responsibilities of the UK Border Agency. **The Panel expects to see the UK Border Agency represented on LSCBs in their area** (Good practice principle 12).

- 3.31 Where schools have been effectively engaged by LITs they have made a significant contribution to helping a family come to terms with a proposed removal. Children of school age have been reassured that their friends will stay in touch with them once they have returned home and sometimes the means to do this has been provided by the schools concerned. Too often the school becomes a campaigning agent for the family when the process has not been explained to them.
- 3.32 Effective work with schools brings major advantages to the children involved. Some schools have prepared learning logs for children to take with them when they return home which explain their achievements while at school in this country. Older children are given advice about where they can continue their studies leading to recognised qualifications following return. The Panel has not been supportive of families being returned when children are close to completing courses and taking publicly recognised examinations such as GCSEs, and the UK Border Agency are no longer making such proposals following earlier advice.
- 3.33 There has been some undesirable practice in schools which the Panel have addressed through LITs when necessary. For example, when a family absconds in order to avoid removal, this can on occasion lead to the children being taken off the school roll so when the family returns their home the children have lost their school place. This then leads to a further period of absence from education until a new school place is found by the local authority. A school is entitled to take children off the school roll after 20 days of unexplained absence when this is considered reasonable to do so. However in the case of children in the returns process the Panel feels strongly that it would be reasonable to hold a place for the children until it has been established that the family will not be returning to their address and are settled elsewhere or returned to country of origin.

Recommendation 10

The Department for Education should advise schools that children who are part of an absconding family should not be removed from a school roll until they are placed in another school or returned to country of origin.

- 3.34 It is apparent that some schools are not entirely familiar with their responsibilities when a child goes missing. It has not been consistently the case that schools report the children of absconding families as children missing education. This adds to the problem of children slipping below the radar of public services with all the consequent risks and vulnerabilities.

Recommendation 11

The UK Border Agency should work more closely with senior staff within schools to ensure that arrangements for missing children are followed. Where LITs are engaged in LSCBs this would provide a useful mechanism to ensure that appropriate arrangements are emphasised in local policy and practice.

3.35 When families have absconded from their home and settled elsewhere, they often attempt to secure a school place in the area. In securing information from parents about children's previous educational placements, schools should always contact the children's previous school in order to obtain their records. In a small number of cases this procedure has not been followed and flimsy accounts of the children's educational history have been too readily accepted by the receiving school. For example, absconding families may offer the account that the family have only recently entered the country when the children seem very familiar with the educational process in this country or speak unusually good English for a new arrival. In one case the parents have enrolled children in different schools using alternative names. Where families do abscond and successfully achieve anonymity this can lead to children feeling isolated and stressed due to having to live a secret life.

Recommendation 12

The Department for Education should advise schools that when they receive a new pupil with an incomplete educational history they should contact the Local Authority Educational Welfare Service for advice and match the child to their Unique Pupil Number via the Department for Education website.

THE REMOVALS PROCESS

Timing of the arrest of families

- 4.1 The process of removing the family from the UK begins with the arrest of the family and the serving of removal directions. The timing of the arrest visit is determined by a number of factors including the time of the flight and the need to visit the family when they are likely to be gathered together. The Panel has advocated the least intrusive method of arrest. Wherever possible early morning arrests have been kept to a minimum but where necessary a time of 06:30 - 07:30 is recommended. This gives the family chance to enter the new day in the usual manner while avoiding a situation where the parents or children have left the home to attend school or for some other reason.
- 4.2 The timing of the arrest of a family is complicated by the availability of flights to their country of origin. Families are often returned to remote parts of the world, such as Mongolia and Guatemala, where there is not an option of a direct flight. Even when there is a direct flight, certain airlines refuse to carry escorted returns. This means that the UK Border Agency is forced to consider other sub optimal routes for family returns. This in turn means that the family may be required to begin their journey at an unsociable hour.
- 4.3 The need for early morning visits has been increased due to the legitimate aim of returning families without the need for detention. For example, where a family is returned to a third country under arrangements enshrined in the Dublin Convention, the receiving country may specify that they arrive before a certain time (typically 14:00) to give the receiving authorities time to put the family through the necessary reception procedures. A family living in Hull returning to Italy via Manchester on a 10:00 flight would need to be disturbed as early as 04:00 – 05:00 to allow time to dress, pack, have breakfast, travel to Manchester and arrive at the airport in time to deal with the administrative arrangements prior to departure; throughout the family would also be dealing with the emotional impact of such an event. The use of Cedars lessens the need for early morning visits but this facility is used for only the most complex families within the returns process.
- 4.4 **Families should not be arrested before 06:00 unless absolutely necessary and in order to meet the requirements of travel.** In planning the time of arrest in this country consideration should also be given to the time of arrival in the country of destination. It is important to avoid the family arriving home at a time when they might be more vulnerable and return support is not available (Good practice principle 13)

The arrest process

- 4.5 Members of the Panel have observed a number of arrests made by UK Border Agency staff. On each occasion staff have acted professionally and shown sensitivity to the needs of the family as a whole and respect for them as individuals. All family members have been treated with dignity and the arrests have reflected the detail of the proposals presented to the Panel earlier in the process. Where difficulties such as passive resistance have arisen, this has been dealt with appropriately using the least intrusive means of intervention and with due consideration of the best interests and needs of the children involved. Despite due notice of the arrest earlier in the process at the Family Returns Conference and the Family Departure Meeting, the arrival of UK Border Agency staff often still comes as a shock to most families.
- 4.6 **The Panel expects LITs to consider allowing families to come to terms with the arrest and departure by allowing a little more time to dress, pack and have breakfast.** Balanced against this is the problem that more time would mean an earlier visit (Good practice principle 14).
- 4.7 The Panel accept that the UK Border Agency arrest teams have to plan for a worse case scenario and the unexpected. However, the number of officers in attendance sometimes seems excessive. This will include 2 officers per family member, a team leader, an officer to record events and sometimes an interpreter. In the majority of cases, if the family are calm and responsive, these officers are stood down and withdraw from the property. Appropriately trained officers are assigned to meet the needs of any children within the family and where observed, they have done so very professionally.
- 4.8 The welfare of the family is a primary concern of the arrest team. Premises are swept for any dangerous items or any unexpected persons and their identities established. Any medication is secured for the forward journey. If accommodation is shared, the Panel expects to see consideration given to the privacy of other families in the return plan.
- 4.9 During the arrest officers wear personal protective clothing. At best this can appear frightening to small children and at worse remind families of events earlier in their lives when they were previously visited by people in uniform. Social workers and other professionals visit challenging families and do not use protective clothing routinely

Recommendation 13

UK Border Agency officers should only wear protective clothing where risk assessments indicate this is necessary to protect themselves or members of the family.

- 4.10 Following the arrest of the family and their preparation for removal they are transferred to a vehicle and transported to a local police station or a UK Border Agency provision where there is a secure area away from public scrutiny. Sometimes UK Border Agency staff transport the family to their port of departure but typically they are placed into the care of Reliance in-country escorts for the onward journey. Reliance staff are briefed on the needs and disposition of the family by the UK Border Agency arrest team and they will already have had the removal plan in advance. Any amendments to the plan as a consequence of a dynamic assessment of the situation are discussed. The needs of children are a paramount consideration in these discussions.
- 4.11 When a parent becomes disruptive and is likely to cause upset to the children involved, that parent may be separated from the children and travel in a different vehicle from them. This too can cause upset and it is important to reassure both parents and children that they will be re-united as soon as the disruptive parent calms down. Separation of a parent from children should not be maintained as a form of punishment for bad behaviour or non compliance.
- 4.12 **Any separation of a parent from children during the process of removal should be kept to a minimum** and where a dynamic assessment indicates that it is necessary the event should always be explained in an age and stage appropriate way to the children in an attempt to minimise any distress. Disruptive adults should always be reminded of their parental responsibilities and asked to consider the impact of their behaviour on their children (Good practice principle 15).
- 4.13 Sometimes the Panel is asked for advice on return plans which involve more significant periods of separation, perhaps involving the detention of one parent and reunification with the other parent and children at the airport, or returns on separate flights with reunification taking place in the country of return. Sometimes these separations are part of the original plan; sometimes they are contingencies which respond to behaviour on the part of the family, such as family members absconding or otherwise disrupting the return. The position of the Panel on the separation of families for the purpose of removal is that it is generally undesirable and should be considered only when there is no reasonable alternative. The Panel has often advised against proposals to separate families but has supported them in some circumstances, for example where removals have been disrupted by the behaviour of one parent or both and that behaviour has been distressing for the children or where there has been a clear threat of disruption made or a history of disruption.
- 4.14 Even in cases where separation is proposed to take place, there are a number of important considerations which must be taken into account, such as the competence of the parent remaining with the children to care for them and ensure their wellbeing. The age of the children is also an important consideration. The views expressed in this section relate to those parents who enter the removals process as a family unit rather than those who have chosen to separate at some earlier point in family history.

Recommendation 14

The UK Border Agency should separate families only where there is no reasonable alternative, for example when there is a clear threat of disruption or a history of disruption that would adversely affect the children's wellbeing. Families should be reunited as soon as possible even during the removal if a disrupting parent calms down and gives assurances about their behaviour.

Escorting families

- 4.15 Once a family has transferred into the care of Reliance in-country escort staff they are typically transported to the Reliance depot at Heston near Heathrow airport. This is a secure facility. There the family is transferred to Reliance overseas escort staff if the family are subject to a same day removal. The ratio of escorts to family member is assessed on risk and welfare needs and usually results in a dedicated escort for each child plus the appropriate number of escorts for each adult. Medics are considered separately and a medic accompanies all family returns regardless of known medical need or risk. This change in supervision of the family is significant in that it means yet another handover of the family where the plan can potentially be diluted in detail or interpreted differently if the briefing is insufficient. Members of the Panel have witnessed deviation from the plans advised on by the Panel during their observations of removals. This can lead to an insufficient number of rest stops or the family being held in a lay-by at the airport rather than offered rest at an airside facility such as Cayley House or a holding room.

Recommendation 15

The UK Border Agency should institute systems to ensure that the plans agreed are delivered not just by their own staff but also by contractors. In particular, families should be offered the appropriate number of rest stops and a deviation from the plans on which the Panel has advised should be recorded with the reasons given for those deviations. There should be an automatic feedback loop established so that any deviation from the plan presented is reported to the Panel.

- 4.16 Families are transported in suitable vehicles, usually with toilet facilities on board. They have access to food and drink and all children have appropriate safety seats. Escorts are generally attentive to the needs of the family and individuals are assigned to ensure the best interests of each child. There are usually a number of age-appropriate toys, books and videos available. In almost all cases the Reliance team includes a member of staff with medical training should one of the family become ill. The Panel considers the presence of a medic on every removal unnecessary especially where there are no health issues identified throughout the earlier stages of the removal process and the family have declared themselves fit and well.

Recommendation 16

The UK Border Agency and Reliance should reconsider the need for medics on all return journeys.

Availability of support from Cedars

- 4.17 Where families are not returned on the same day and the plan requires the use of Cedars, Reliance in-country escorts will take the family directly to that facility. Cedars is a UK Border Agency facility where families are offered excellent welfare support by Barnardo's staff and security arrangements are the responsibility of G4S. It is situated close to Gatwick Airport.
- 4.18 The staff at Cedars are well briefed about families and there is always a strategy group meeting about each family before they arrive. The meeting is attended by Barnardo's, UK Border Agency and G4S staff based at Cedars who have available to them the family welfare form developed by the LIT to help plan for meeting the needs of the family during their stay.
- 4.19 Families are given a warm welcome on arrival and they are inducted into the centre in order to help them settle. The Barnardo's family support plan is usually of very good quality and addresses the main concerns of the family during their stay at Cedars. The accommodation is of a very high standard and a small number of families who previously experienced Yarl's Wood have made very positive comparisons in favour of Cedars in terms of the care and support they received there.
- 4.20 During their stay at Cedars the family is given as much support as possible to help come to terms with the removal. This is particularly important for children who up until the point of arrest may have been unaware of their status and the possibility of removal. Some children have been born in this country and have never visited their parents' country of origin. Others may have come to the UK at a very young age and have no recollection of their country of origin. Removal can feel even more significant for older children who are aware of the challenges of their home country and have been in the UK for a number of years and established friendships here and do not want to return. In a child's life even two years can amount to a significant proportion of their life and many that go through the family returns process have been here considerably longer.
- 4.21 Parents also have access to trained social workers at Cedars to help them come to terms with the removal. Their attempts to remain in the UK are largely based on the belief that their children will have better opportunities here than elsewhere. They have often had to sell everything they had to get to the UK and may be returning to their country of origin with very few resources. Cultural issues may also play a part in their distress. There may well be feelings of loss of face with their extended family and a perception of failure leading to feelings of desperation.

- 4.22 Practical support for families is provided through Cedars and the LIT. The Panel has paid particular attention to the family plan for the first 24 hours following return and has seen improvements in planning by the UK Border Agency as a result. The family need to know what time they will arrive so that any onward journey can be planned or a hotel booked if the plane arrives late at night. Details of any NGOs who can offer support are identified. Thought is given to who might meet the family at the airport and contact with them facilitated through Cedars staff. Schools are identified for school-aged children and medical support for family members who require ongoing treatment following return. The parents are also helped to consider managing their financial affairs such as closing bank accounts and transferring monies to their country of return.
- 4.23 Families have access to a range of services while they are at Cedars. This includes daily GP medical services and 24-hour nursing cover. Currently there is no access to specialist children's nursing or midwifery services. There is access to duty solicitor services and the internet is available in the library. Legal websites can be accessed easily by families wanting last-minute advice. Age-appropriate educational activities are available to children and, if risk assessment allows, the family are able to visit local sites of interest such as the local cinema. However, this arrangement has been very rarely used due to the short periods for which families stay in Cedars.

Recommendation 17

The UK Border Agency should consider how specialist services such as paediatric nursing, midwifery and mental health services could be made available on a need to access basis. While it is not considered appropriate for 24-hour cover on a value for money basis it might be possible to develop a pool of specialist services which could be accessed if the need arose.

Recommendation 18

UK Border Agency should consider providing access to skype facilities to families so that they are able to talk to their solicitors directly. This facility could also be used to contact family members in the country to which the family are being removed.

- 4.24 Children leave Cedars to travel home with age-appropriate books and toys and parents with information for their return support. During their time at the Cedars the families often build good relations with the staff, particularly the family support workers. It would seem appropriate that this trust is used to support the family during their journey from the Cedars to the airport on the day of removal.

Recommendation 19

It may help to reassure the family if their family support worker from the Cedars travelled with them to the airport on the day of departure.

- 4.25 The safeguarding and welfare of families while at Cedars is very good. Parents and children who are a risk to themselves or to others are well cared for. There is one apartment at Cedars which allows for greater observation of families who are considered high risk. This apartment has been used on very few occasions since the centre opened in August 2011. The centre has well developed guidance and procedures and staff are well trained. Cedars is represented on the West Sussex LSCB which allows for external scrutiny in terms of quality assurance and audit of safeguarding arrangements. There are good multi-agency arrangements and relationships in place locally. The whole ethos of Cedars is child-centred and decision-making is focussed on the needs of the child and his or her best interests.

Recommendation 20

Cedars is inspected by Her Majesty's Chief Inspector of Prisons. However, due to the unique nature of the provision there it is recommended that the lead Inspectorate includes a member of the team who has a background in inspecting Children's Services, including Children's Social Care and the inspection of children's homes. Consideration should also be given to including a representative of the Independent Chief Inspector of Borders and Immigration and other observers such as the Children's Commissioner for England.

Leaving the UK

- 4.26 The journey from Cedars to Heathrow is approximately one hour depending on the time of day and traffic conditions on the M25. It is very close to Gatwick. Families generally arrive refreshed after their stay at Cedars. However restrictions on flight availability means that some families still need to get up very early to catch morning flights to their destinations. The Panel has encouraged LITs when planning removals to avoid the need for early morning wake up calls where possible and this is now common practice.
- 4.27 The need to arrive at the port of departure well before flights leave the UK is unfortunately an administrative necessity. Three hours is a minimum timeframe for completion of the necessary paperwork. This can be a difficult time emotionally for families and they should be made as comfortable as possible. On one occasion they have been left on a bus in a lay-by close to an airport until the necessary arrangements have been made for their departure. On another occasion, a family was left airside on a bus for an unreasonable period.

Recommendation 21

When it is necessary to deviate from the plan approved by the Panel there should be a report which outlines the nature and reason for the deviation. The report to the Panel could provide important information which could improve subsequent removals. The Office of the Children's Champion within the UK Border Agency could also distribute learning from these incidents to the Regions to inform future plans.

- 4.28 There are holding rooms at major ports of entry around the country. These facilities are not suitable for anything other than a stay of a few hours for a family since many of them lack the necessary facilities to rest, wash or even visit the toilet with dignity, but the better facilities do offer an alternative to sitting on a bus. Some of them have bespoke areas for children and families and offer toys and books of interest to children of all ages.

Recommendation 22

The UK Border Agency should try to resolve the issue of sub-standard facilities for holding families at the border through negotiations with operators such as BAA from whom they lease the facilities. This would mean that where families arrive early to catch their flight they can wait in comfort with appropriate facilities at their disposal. LITs in constructing their plans should also seek to minimise waiting times at airports for families.

- 4.29 Members of the Panel have travelled with a family on two overseas removals to the family's country of origin. The first removal took place on an aeroplane chartered by the UK Border Agency primarily for the return of foreign national offenders. The agreed plan was not observed as intended and a number of safeguarding issues emerged which were of sufficient concern to prompt a meeting with the Head of safeguarding for Reliance, the UK Border Agency Office of the Children's Champion and members of the Panel. The Panel expressed concern about the use of charter flights for families and sought reassurance that measures would be put in place to address the matters of concern before they would support a similar plan. This meeting reached an agreement that Reliance and the UK Border Agency would ensure that there was more effective briefing of Reliance staff about the needs of the family and that UK Border Agency would monitor more closely whether their safeguarding responsibilities were being fully discharged through their current contractual arrangements with Reliance. Since then, no plans have been referred to the Panel proposing the use of a charter flight.

- 4.30 On the second occasion when a member of the Panel travelled with the family to their country of origin the return plan was implemented as expected and the children's best interests were observed in all respects. Reliance staff remained calm and professional even when faced with exceptionally disruptive behaviour.

Recommendation 23

The UK Border Agency should consider whether it is appropriate to remove families on a charter flight where there are returning foreign national offenders and if so stringent measures must be undertaken to ensure that children are shielded from any disturbance.

- 4.31 There has been a marked improvement in the removal plans over the past 12 months in terms of the provision made for return support for families returning home in response to pressure from the Panel. This improvement is particularly important for families returning without the benefit of a short stay at Cedars. Plans now regularly include provision of information about continuing education, where to access medical treatment, links with NGOs who can offer support to the family as well as practical support in planning onward journeys and booking hotels in advance for families arriving home late at night.

Recommendation 24

While it is acknowledged that UK Border Agency responsibility ends when the family arrive on home soil, continuing to support the family during the immediate post-removal period is an important wellbeing issue for the children involved. Where parents agree and have a forwarding address it would be good practice to follow up a small number of families for suggestions about how return support could be improved.

Recommendation 25

Any outcomes of complaints received from members of families within the process of being removed that are investigated by the UK Border Agency Professional Standards Unit should be made available to the Panel including a full copy of the report to the Chair of the Panel.

CHILDREN AND FAMILIES AT THE BORDER

The process of detaining families at the border

- 5.1 There will always be a need to hold families with children at the border while enquiries are made as to whether they may be admitted and/or while they await a return flight. The power to detain families with children is available to the UK Border Agency and Border Force under the Immigration Act 1971.
- 5.2 Children are usually held at the border by Border Force because they believe that the children's best interests are served better by remaining with the family group until a decision on admission is made. However detention is exceptional and can only be authorised by a senior officer within Border Force. The family are held for the shortest possible time, usually in a holding room at the port of entry. The maximum period that a family can be held in a holding room is 24 hours. Where possible, families are held separately from other passengers.

Recommendation 26

The Panel has visited several of these holding rooms over the past 12 months and considers the use of some of them for anything more than a few hours to be inappropriate. They are not always family friendly. Often they are shared spaces with single adults. There is little available to keep children engaged in purposeful activity. Neither are there sufficient fixtures and fittings for rest and recuperation. It is the view of the Panel that families would be more appropriately held at Tinsley House if the port of entry is either Heathrow or Gatwick. The alternative would be for the UK Border Agency to renegotiate the leasing of more suitable space at the busier ports of entry with airport operators.

- 5.3 If a family is to be held overnight or for longer than 24 hours, they are normally moved to Tinsley House Immigration Removal Centre which has a separate family unit which has recently been refurbished. This decision must be authorised by a Director and for a stay beyond 72 hours Ministerial authority must be gained. Border Force claim these and other measures which have been in force since August 2010 have seen a fall in the numbers of children and families being held at the border and where families have been held they have been held for shorter periods. Unfortunately the Panel has no way of challenging or supporting this assertion as it has been provided with information relating only to Tinsley House. No data have been provided relating to the holding of children at the ports themselves (which make up the great majority of cases).
- 5.4 The Panel has welcomed the changes implemented by the Border Force such as the use of telephone interpreters to expedite the interview process and limit the time a family spends waiting, the tighter governance arrangements and the new provision for families seeking asylum who arrive late at night to be routed into the system without being screened provided biometrics are taken, thus reducing the time spent at the port.

CONCLUSIONS AND NEXT STEPS

- 6.1 The Panel needs to continue to assure itself that the plans presented by the LITs are those that families experience on the ground during removals. In order to do this the Panel will continue to press for independent audit and directly observe removals in real time. Over the past 12 months the Chairman and other members of the Panel have met frequently with a number of NGOs in order to hear directly about their concerns regarding the new family returns process. It is the intention of the Chairman to continue to meet with NGOs in order to hear about their ongoing concerns about the family returns process and hear about issues they feel are yet to be resolved.
- 6.2 The pace of change is important to the Panel. Many of the recommendations in this report have been discussed with the UK Border Agency during the past 12 months. Some have already been acted upon while others have not. Some recommendations have been met with a positive statement of intent by the Agency but with no consequent action. Where this is the case the Panel will continue to press for change that will ultimately bring about improved outcomes for children and young people who are part of the new family returns process and which will enable the UK Border Agency to meet their section 55 safeguarding and wellbeing responsibilities.
- 6.3 The Panel will continue to offer advice in relation to value for money issues. The number of escorts at times seems excessive and the need for a medic to accompany every family is not considered a good use of public money. Cedars offers families high quality, last minute support but currently it is operating at well below capacity. This is primarily due to the differing levels of engagement of the regions across the country in the new family returns process.
- 6.4 At times during the first 12 months of the new process the Panel has felt the absence of a UK Border Agency strategy to deliver the wider responsibilities of the organisation in relation to section 55 safeguarding responsibilities. The Panel will continue to press for this in order that safeguarding becomes part of the fabric of the agency embedded in everyone's role not just those officers who have lead responsibility or the Office of the Children's Champion.
- 6.5 The Panel will continue to offer support and advice to the agency in relation to policy and practice, in particular that which impacts downstream through early intervention and prevention and in a way which will make removals a more humane process.

ANNEX A: KEY RECOMMENDATIONS

Key Recommendation 1: Use of Cedars as part of the returns process

- a) The UK Border Agency should review the criteria for the use of Cedars and ensure that they are applied consistently.
- b) Barnardo's should review the 10 per cent "red line" and consider whether it supports the best interests of children and their families.

Key Recommendation 2: Managing non-compliant behaviour

The UK Border Agency should develop a behaviour policy which includes as a last resort the use of physical intervention with children underpinned by a thorough training programme for officers and stringent guidelines for its use. It is important to stress that the Panel recommends that physical intervention should form part of a broader behaviour management policy and be used only in exceptional circumstances.

Key Recommendation 3: Engaging children in the process

The UK Border Agency should always involve children in major decisions that affect their lives.

Key Recommendation 4: Managing contractors

The UK Border Agency should monitor the implementation of the contract with Reliance to ensure that the specification is being delivered as intended. In addition, the UK Border Agency should satisfy itself that:

- Reliance staff have completed foundation level training before being tasked to accompany families on removals and that at least one member of the Reliance team accompanying families has higher level training experience.
- There are appropriate escalation procedures and a whistle blowing process for Reliance staff in relation to safeguarding matters and that those are audited regularly by UK Border Agency staff.
- All escorts accompanying family returns should be CRB checked and these checks are renewed every three years in keeping with best practice.

Key Recommendation 5: Multi-agency liaison

The UK Border Agency should consider setting up a Children and Families Panel made up of key delivery partners such as the agency itself, Barnardo's, Reliance, Refugee Action, G4S and the Panel to address issues as they arise and prior to the need for escalation.

Key Recommendation 6: The Border

Border Force should provide the Panel with monthly data on the number of children detained in holding rooms at ports, and the lengths of time they are held.

ANNEX B: OTHER RECOMMENDATIONS

To the UK Border Agency

Recommendation 1 (para 3.1)

Regional variation in the level of engagement in the family returns process should be performance- managed centrally at UK Border Agency Board level to ensure that family work is given a consistently strong focus across the agency. Each Region should have family specific targets.

Recommendation 2 (para 3.2)

The UK Border Agency should consider what level of specialisation is required within the Local Immigration Teams to give family work a higher priority across the regions.

Recommendation 3 (para 3.13)

a) Refugee Action should take a more persuasive and proactive approach when engaging with families and children.

b) The UK Border Agency should ensure that the future specification and tenders of the AVR contract demand a better balanced mix of persuasion and facilitation.

Recommendation 4 (para 3.17)

In areas where this is an issue, the UK Border Agency should raise it through the Local Safeguarding Children Board or through local Health and Well-Being Boards. Ultimately the UK Border Agency could raise this with the Care Quality Commission and the General Medical Council, reminding GPs of their statutory safeguarding duties to share information that is in the best interest of the child.

Recommendation 5 (para 3.20)

The UK Border Agency should reinforce parental responsibility in providing protective medication for themselves and for their children throughout the returns process including the Family Returns Conference and the Family Departure Meeting. This should be documented in detail whenever discussed. This is particularly important for children who have been born in the UK and who may not have built up a natural immunity against conditions common to the country of origin. For younger children details of up to date inoculation contained in the “red book” is also useful information for the Panel to consider. If the family is returning via Cedars the GP should offer a final opportunity for medication prior to removal.

Recommendation 6 (para 3.21)

Where families are not in receipt of legal support the UK Border Agency should offer advice to parents about where this can be accessed and this should be recorded on the family welfare form. UK Border Agency officers should make regular reference to the availability of legal support via the list of solicitors held by the Agency who offer services to families within the asylum process. Families removed via Cedars should be made aware of the availability of duty solicitor services.

To legal representatives

Recommendation 7 (para 3.22)

Legal representatives should consider the impact of their actions on the welfare of the children involved in families at the ensured stage of the process. In particular, injunctions and judicial reviews should be lodged earlier in the process to avoid the disruption to children's lives and the confusion this can cause when lodged at the last minute.

To the UK Border Agency

Recommendation 8 (para 3.25)

The UK Border Agency has agreed that the information presented to the Panel should be subjected to periodic independent audit. The Panel would now like to see this audit undertaken on an annual basis with a number of randomly selected cases.

Recommendation 9 (para 3.28)

The strategic and operational conferences should be repeated across the country in order to increase mutual understanding of the roles and responsibilities of the UK Border Agency and local authorities in relation to the safeguarding and wellbeing of children and young people generally, but particularly with regard to the families in the removals process.

To the Department for Education

Recommendation 10 (para 3.33)

The Department for Education should advise schools that children who are part of an absconding family should not be removed from a school roll until they are placed in another school or returned to country of origin.

To the UK Border Agency

Recommendation 11 (para 3.34)

The UK Border Agency should work more closely with senior staff within schools to ensure that arrangements for missing children are followed. Where LITs are engaged in Local Safeguarding Children Boards this would provide a useful mechanism to ensure appropriate arrangements are emphasised in local policy and practice.

To the Department for Education

Recommendation 12 (para 3.35)

The Department for Education should advise schools that when they receive a new pupil with an incomplete educational history they should contact the Local Authority Educational Welfare Service for advice and match the child to their Unique Pupil Number via the Department for Education website.

TO THE UK BORDER AGENCY

Recommendation 13 (para 4.9)

UK Border Agency officers should only wear protective clothing where risk assessments indicate this necessary to protect themselves or members of the family.

Recommendation 14 (para 4.14)

The UK Border Agency should separate families only where there is no reasonable alternative, for example when there is a clear threat of disruption or a history of disruption that would adversely affect the children's wellbeing. Families should be reunited as soon as possible even during the removal if a disrupting parent calms down and gives assurances about their behaviour.

Recommendation 15 (para 4.15)

The UK Border Agency should institute systems to ensure that the plans agreed are delivered not just by their own staff but also by contractors. In particular, families should be offered the appropriate number of rest stops if the vehicle used does not have on-board toilet facilities and a justified deviation from the plans on which the Panel has advised should be recorded with the reasons given for those deviations. An automatic feedback loop should be established so that any deviation from the plan presented is reported to the Panel.

Recommendation 16 (para 4.16)

The UK Border Agency and Reliance should reconsider the need for medics on all return journeys.

Recommendation 17 (para 4.23)

The UK Border Agency should consider how specialist services such as paediatric nursing, midwifery and mental health services could be made available on a need-to-access basis. While it is not considered appropriate for 24-hour cover on a value for money basis it might be possible to develop a pool of specialist services which could be accessed if the need arose.

Recommendation 18 (para 4.23)

The UK Border Agency should consider providing access to skype facilities to families so that they are able to talk to their solicitors directly. This facility could also be used to contact family members in the country to which the family are being removed.

Recommendation 19 (para 4.24)

It may help to reassure the family if their family support worker from Cedars travelled with them to the airport on the day of departure.

To Her Majesty's Chief Inspector of Prisons

Recommendation 20 (para 4.25)

Cedars is inspected by Her Majesty's Chief Inspector of Prisons. However, due to the unique nature of the provision there it is recommended that the lead Inspectorate includes a member of the team who has a background in inspecting Children's Services, including Children's Social Care and the inspection of children's homes. Consideration should also be given to including a representative of the Independent Chief Inspector of Borders and Immigration and other observers such as the Children's Commissioner for England.

To the UK Border Agency

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When it is necessary to deviate from the plan approved by the Panel there should be a report which outlines the nature and reason for the deviation. The report to the Panel could provide important information which could improve subsequent removals. The Office of the Children's Champion within the UK Border Agency could also distribute learning from these incidents to the Regions to inform future plans.

Recommendation 22 (para 4.28)

The UK Border Agency should try to resolve the issue of sub standard facilities for holding families at the border through negotiations with operators such as BAA from whom they lease the facilities. This would mean that where families arrive early to catch their flight they can wait in comfort with appropriate facilities at their disposal. LITs in constructing their plans should also seek to minimise waiting times at airports for families.

Recommendation 23 (para 4.30)

The UK Border Agency should consider whether it is appropriate to remove families on a charter flight where there are returning foreign national offenders and, if so, stringent measures must be undertaken to ensure that children are shielded from any disturbance.

Recommendation 24 (para 4.31)

While it is acknowledged that UK Border Agency responsibility ends when the family arrive on home soil continuing to support the family during the immediate post removal period is an important wellbeing issue for the children involved. Where parents agree and have a forwarding address it would be good practice to follow up a small number of families for suggestions about how return support could be improved.

Recommendation 25 (para 4.31)

Any outcomes of complaints received from members of families within the process of being removed that are investigated by the UK Border Agency Professional Standards Unit should be made available to the Panel including a full copy of the report to the Chairman of the Panel.

Recommendation 26 (para 5.2)

The Panel has visited several holding rooms over the past 12 months and considers the use of some of them for anything more than a few hours to be inappropriate. They are not always family friendly. Often they are shared spaces with single adults. There is little available to keep children engaged in purposeful activity. Neither are there sufficient fixtures and fittings for rest and recuperation. It is the view of the Panel that families would be more appropriately held at Tinsley House if the port of entry is either Heathrow or Gatwick. The alternative would be for the UK Border Agency to renegotiate the leasing of more suitable space at the busier ports of entry with airport operators.

ANNEX C: PRINCIPLES OF GOOD PRACTICE

Principle 1 (para 2.4)

LITs should seek to remove families who do not require the use of Cedars from local airports where possible as part of a no further notice removal plan.

Principle 2 (para 3.3)

It is important that the lead officers for the family present the case to the Panel as this allows for greater scrutiny and interrogation of the families circumstances.

Principle 3 (para 3.4)

The UK Border Agency should continue to show flexibility in implementing their plans and to review proposed returns where the Panel considers that a child's best interests are not served.

Principle 4 (para 3.7)

The asylum claims of a family which includes children should be given priority by the UK Border Agency as the level of distress caused is often proportionate to the time a child remains in the UK.

Principle 5 (para 3.10)

The tasking of teams within the LITs should allow for those families who have failed self check-in removals to be visited as part of a removal plan within ten days, thus avoiding the need to set a further set of removal directions.

Principle 6 (para 3.11)

UK Border Agency should prioritise families who they risk assess as being likely to abscond using the limited notice removal option. It would appear that those families who are more likely to abscond are those who have a previous track record of absconding, have access to resources and those with extended family in the country.

Principle 7 (para 3.12)

Children should not be required to report to the UK Border Agency with their families during the school day.

Principle 8 (para 3.14)

It is important that the LIT provides to the Panel the views of both parents when they are separated as far as this is possible and where this does not put the family at risk.

Principle 9 (para 3.15)

It is important for the UK Border Agency to provide information about members of the extended family both in the UK and in the country of return, together with information about the family's assets and skills. This information helps the Panel to assess the family's resilience.

Principle 10 (para 3.18)

Where members of a family are to be removed and they are receiving medication or treatment, LITs should research the availability of treatment in the country of return ensuring it is available and accessible as this may have a long term impact on the adult's ability to parent the children effectively.

Principle 11 (para 3.19)

The UK Border Agency, when asking about medical conditions, should ask whether the individual is being treated as a victim of torture as parents may not consider such intervention as medical. Where they are available, Medico-Legal Reports (MLR) should always be presented to the Panel.

Principle 12 (para 3.30)

Local LITs should be represented on LSCBs in their area. This would improve understanding of local safeguarding arrangements for referral assessment and intervention work with families.

Principle 13 (para 4.4)

Families should not be arrested before 06:00 unless absolutely necessary and in order to meet the requirements of travel. In planning the time of arrest in this country consideration should also be given to the time of arrival in the country of destination. It is important to avoid the family arriving home at a time when they might be more vulnerable and return support is not available.

Principle 14 (para 4.6)

LITs should consider allowing families to come to terms with the arrest and departure by allowing a little more time to dress, pack and have breakfast. Balanced against this is the problem that more time would mean an earlier visit.

Principle 15 (para 4.12)

Any separation of a parent from children during the process of removal should be kept to a minimum and where a dynamic assessment indicates that it is necessary the event should always be explained in an age and stage appropriate way to the children in an attempt to minimise any distress. Disruptive adults should always be reminded of their parental responsibilities and asked to consider the impact of their behaviour on their children.

ANNEX D: INDEPENDENT FAMILY RETURNS PANEL: HOW IT WORKS (STATEMENT OF PROCEDURE DRAWN UP FOR THE FIRST YEAR OF OPERATION, MARCH 2011)

Introduction

1. This annex sets out how it is envisaged that the Independent Family Returns Panel will carry out its business. It is an initial statement as the Panel may wish to adjust its approach in the light of experience and the results of initial evaluations.
2. On 16 December 2010 the Government set out plans for ending the detention of children for immigration purposes in a way which protects the welfare of children while ensuring the departure of families who have no right to be in the UK¹³.
3. Those plans entail a fresh approach to managing family returns which comprises the following four stages: decision-making, assisted return, required return and ensured return. The aim is to engage more effectively with families from the outset and to encourage those whose claims are unsuccessful at the decision-making stage to take responsibility for their own departure and to leave at either the assisted or required return stages, without the need for enforcement action.
4. Those families who do not take up this opportunity will move to the ensured return stage of the process and the UK Border Agency will consider appropriate enforcement action, drawing on a range of options which have been developed for this purpose. The decision on whether or not it is appropriate to remove a family is taken by the UK Border Agency. This decision will be made taking account of Article 8 of the European Convention on Human Rights and section 55 of the Borders, Citizenship and Immigration Act 2009 and the family will have the opportunity to challenge this decision in the courts if appropriate.
5. A new Independent Family Returns Panel will provide expert advice to the UK Border Agency on the method of removal from the UK of individual families when an ensured return is necessary and this will inform the UK Border Agency's decision regarding how to return the family. This advice will help to ensure that individual return plans are developed taking account of the need to safeguard and promote the welfare of the children involved.

¹³ <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/26-end-child-detention/child-detention-conclusions.pdf?view=Binary>

The Process

6. The case owning office in the UK Border Agency will draw up a plan for how an ensured return can best be achieved. The plan will include:
 - details of the family, their health and welfare needs and any other relevant information (including the views of other agencies where appropriate);
 - information on previous attempts to persuade the family to depart without the need for enforcement;
 - details of how it is proposed that they should be removed; and
 - a proposed contingency for material changes which are foreseeable (for example, the plan should set out what action will be taken if one or more family members are absent at the time of a visit).
7. The plan will be submitted to the Family Returns Panel through the Family Returns Unit (FRU) in the UK Border Agency who will act as the secretariat to the Panel. The role of the FRU will be to check that the plan contains the necessary information and that the assisted and required return stages have been followed as appropriate. The FRU will also liaise with the UK Border Agency's Office of the Children's Champion to ensure that sufficient information has been provided relating to the welfare of the children involved. When FRU is satisfied that the plan has been properly prepared, it will be submitted to the Panel for consideration.
8. The Panel will then consider the plan and advise on whether it represents an appropriate method of return which takes sufficient account of the safeguarding and welfare needs of the children. The Panel may advise that amendments be made to the plan in order to achieve this. Any such amendments must be consistent with UK Border Agency policy in place at the time and be reasonable in terms of cost. It is expected that the Panel will agree its advice by consensus.
9. The decision on how to achieve removal lies with the UK Border Agency but there is a presumption that the Panel's advice will be accepted. If, exceptionally, the UK Border Agency does not accept the Panel's advice, or if the Panel itself cannot agree what that advice should be, the case will be referred to the Immigration Minister (or in his absence another Home Office Minister) who will decide whether to accept the Panel's advice or not. He will inform the Panel how he intends to proceed, setting out reasons. The Panel will report on any cases where its advice is not accepted.
10. Responsibility for implementing a plan rests with the UK Border Agency. It is not part of the Panel's role to be on call to give advice during operations. It is important therefore that the return plan submitted to the Panel sets out contingency plans in the event that circumstances change during the removal so that these can be included in the Panel's advice. The UK Border Agency must ensure that the enforcement team is clear what sort of changes on the day would need to be referred back to the Panel for further advice.

11. When a family has been removed, a brief report should be submitted to the Panel by the Secretariat for information.

Panel meetings

12. The Panel will meet regularly, at times to be agreed¹⁴, normally by video or telephone conference, but it would be expected to meet in person regularly to promote effective working and refine its approach. The Panel will receive copies of the plans to be considered in advance of the meeting (timescales to be determined by the Panel).
13. In exceptional circumstances, the Panel may be convened at short notice to respond in the short timescales which are part of operational necessity, and also to avoid unnecessary delay and uncertainty which would not be in the interests of the children. The Panel will aim to respond to a properly constituted referral within 5 working days.
14. The case owner responsible for developing a specific family returns plan will be expected to attend the Panel to present the proposal and answer questions on the case, but will not be a member of the Panel.
15. The Panel may also invite to the discussion other experts, such as representatives of local agencies who have first hand knowledge of the family. Legal representatives will not be present, nor will families themselves; they will have had the opportunity to state their preferences through the family conference and their views should be reflected in the return plan.

Membership of the Panel

16. The Panel will have an independent chair and a small pool of members from which to draw. This pool will comprise individuals with a background in local authority social work/children's services, a medical doctor and officials from the UK Border Agency and the Department for Education. The role of the UK Border Agency official is to provide expertise on enforcement policy and practice so that the Panel is better able to scrutinise and challenge the plans put to it.
17. In any one meeting, it is expected that the Panel will comprise the chair, one other member with a background in local authority background, one doctor and a

¹⁴ Provisionally planned for Tuesday and Thursday at 1000 by teleconference

maximum of one official each from the UK Border Agency and Department for Education. If necessary for exceptional reasons, the Panel will be deemed to be quorate if there are three independent members present.

18. Current appointments are made on an interim basis with a view to open recruitment later in the year.

Border and other special cases

19. The Panel will consider the overall handling of families who are detained on entry to the UK at the border to assess whether detention in those cases is being kept to a minimum but will not offer advice on individual cases. The UK Border Agency will provide the Panel with information to enable it to do this.
20. Very occasionally, an offender approaching the age of 18 who has completed a custodial sentence may continue to be detained in the juvenile secure estate. Any proposal to detain in this way would need to be referred to the Panel for advice and would also be subject to authorisation by the immigration Minister.¹⁵

Annual report

21. The Panel will publish an annual report setting out cases referred to it, an indication of the advice provided, and eventual case outcome, as well as its findings in respect of the handling of border cases. The first report will be accompanied by an independent evaluation of its operation. It will also provide information on any cases which have been escalated to the Immigration Minister.
22. It will be part of the role of the Panel chair to speak publicly when appropriate about the work of the Panel (but not about individual families).
23. These arrangements will be kept under review and are subject to amendment in the light of practical experience of running the Panel.

¹⁵ The Panel is also informed of a small number of other cases involving offenders. Under the Early Removal Scheme for foreign national offenders (FNOs), those liable for removal may be released up to 270 days early if they are being deported from the UK. This is a mandatory scheme for all FNOs, including parents who have been in prison and given birth while serving their sentence. If authorized, the scheme allows early release of the mother and child. In practice, it is usually without controversy because the mother tends to opt for the Facilitated Return Scheme which is a voluntary scheme offering financial assistance for the reintegration of FNOs in their home country. Usually such families will be transported from prison to the airport but where the logistics make this difficult the family may spend a night at Tinsley House; such cases are reported to the Panel retrospectively.

ANNEX E: THE FAMILY RETURNS PROCESS

The Family Returns Process

From the start of March 2011, following the review into ending the detention of children for immigration purposes, a new end to end process for working with families, including those who no longer have the right to remain in the UK, was introduced nationally. This new process provides families with greater support and advice when considering their options for voluntarily leaving the UK. Families are given the opportunity to leave under their own steam and offered assistance with their return, before enforcement action is considered. The new process also ensures that the welfare of children is explicitly safeguarded in planning family returns.

The new family returns process is made up of the following key stages:

Assisted Return

The assisted return stage aims to make sure that all families correctly understand their current immigration status in the UK, and are informed of their options for returning home. Families have a dedicated family return conference to encourage them to take responsibility for their return, and to discuss the return options available to them.

Required Return

Families are given time to consider the offer of assisted return and to begin making preparations for their return, or to raise any further issues relating to their claim. After this reflection period the family is invited to a family departure meeting where they are given a final opportunity to reconsider assisted voluntary return or voluntary departure before steps are taken to ensure their return. If the family refuses the offer of assisted return, and expresses they have no intention to voluntarily depart, self check in removal directions are served on the family where they are given at least two weeks' notice of the time and manner of their departure.

Ensured Return

Where a family fails to comply with self check in removal directions the family's case proceeds to the ensured return stage. At this stage, a flexible range of options can be considered from which a return plan can be tailored to an individual family's needs. These include:

- Escorted return, without further notice of return – where the family fails to depart for reasons of non-compliance and removal directions can be re-set for a date which is within 10 days of the failed removal, the family may not be given further notice of their removal;
- Escorted return, with further full notice of return – when removal directions are served on the family while they remain living in the community with a minimum of 72 hours' notice. On the day of departure the family are arrested and escorted to the airport;
- Escorted return, with limited notice – where the family is informed that their departure from the UK is to take place within a specified period, but not the

exact date. That specified period will not be less than 72 hours and not more than 21 days following the time and date of service of the notice;

- Open accommodation – residential accommodation where families will be housed on a full board basis without cash support. Families are not detained or compelled to travel to open accommodation, and may come and go from the accommodation as they please;
- Pre-departure accommodation – residential accommodation where families will be held for no longer than 72 hours before being returned, or up to 7 days with Ministerial authority. See below for additional information.

All family cases that have reached the ensured return stage are referred to the independent Family Returns Panel, whose role it is to advise on whether the return plan represents an appropriate method of return which takes sufficient account of the safeguarding and welfare needs of the children.

Pre-departure accommodation (CEDARS)

One of the options for ensured return is pre-departure accommodation. This new accommodation, “Cedars” in Pease Pottage, Sussex, has been designed in partnership with Barnardo’s to meet the needs of families who can stay together in nine self-contained apartments for a short period immediately before their departure from the UK. Families have open access to a library, family and youth lounges, and play areas for children.

The facility is operated by G4S, and Barnardo’s provide on-site support, high quality welfare and social care services to families as they prepare to return home.

The accommodation is used as a last resort after advice has been sought from the independent Family Returns Panel and only after all voluntary return options have failed. Families stay at the facility for the shortest time possible before their return flight. The majority of stays are limited to 72 hours and any extension, up to a maximum of one week, will need to be approved by the Immigration Minister.

ANNEX F: THE FAMILY RETURNS PANEL: INTERIM MEMBERSHIP

Chris Spencer (chair), former Director of Children's Services at Hillingdon Borough Council. He is also an associated member of the Association of Directors of Children's Services, a child psychologist and has a long association with child welfare issues.

John Donaldson MBE, former Head of Service for Immigration and Emergency Services at Glasgow City Council.

Philip Ishola, (at the time) Head of the Asylum and Immigration Service and counter child trafficking lead officer for Harrow Children's Services and London Safeguarding Children Board Safeguarding Trafficked Children Lead.

Dr John Keen, general practitioner and medical advisor to the UK Border Agency.

Pauline Newman, former Director of Children's Services at Manchester City Council.

UK Border Agency official, to provide expertise on the logistics and practical aspects of managing immigration removals.

Department for Education official, to provide expertise in safeguarding policy and legislation.

ANNEX G: CHILDREN HELD SOLELY UNDER IMMIGRATION ACT POWERS IN CEDARS AND TINSLEY HOUSE BY MONTH

Period March 2011 – March 2012

Month	Cedars	Tinsley House
March 2011	:	4
April 2011	:	0
May 2011	:	7
June 2011	:	4
July 2011	:	9
August 2011	0	2
September 2011	11	4
October 2011	3	3
November 2011	10	4
December 2011	10	6
January 2012	17	11
February 2012	9	0
March 2012	9	1

Data are provisional
 : = Not applicable

Some children may be recorded more than once if, for example, the child has entered on more than one separate occasion in the time period shown.

Children are defined as those with age recorded as under 18 on entering the facility; these figures may include age-disputed cases.

ANNEX H: CRITERIA FOR USE OF CEDARS PRE-DEPARTURE ACCOMMODATION AS PART OF AN ENSURED RETURN

“Pre-departure accommodation may be used in cases where:

- Assisted and required return routes have been exhausted or, in exceptional circumstances, a required return was not considered to be appropriate; and
- Other ensured return options have been unsuccessful in ensuring the return of the family; or
- Other ensured return options are considered unsuitable for the family.

“As with all ensured return options, a return plan which proposes the use of pre-departure accommodation should be submitted to the independent Family Returns Panel for advice.

“Cedars is designed to accommodate and cater for the individual needs of a family but it does not offer the same level of security as an immigration removal centre. For this reason, Cedars is unable to accept any individual who:

- Is serving a criminal sentence and is leaving under the Early Removals Scheme;
- May present a risk to the public if they abscond and/or present a risk to staff or other residents of Cedars.”

“Pre-departure accommodation should only be used as a last resort, and following full consideration of all other ensured return options.”

Chapter 45, Enforcement Instructions and Guidance