



# **CHILD DETENTION REVIEW**

## INTERIM ASSESSMENT OF FAMILY RETURN PILOTS

December 2010



# EXECUTIVE SUMMARY

## INTRODUCTION

On 1 June 2010 the UK Border Agency began a review into ending the detention of children for immigration purposes. This led to the creation of a new returns process consisting of three stages:

- Assisted Return
- Required Return
- Ensured Return

Details of these new processes have been published on the UK Border Agency website<sup>1</sup>. The North West and London regions were chosen to pilot these because they were in a position to begin testing the initial proposals within a short timescale. The first Family Return Conference took place on 17 June in the North West and on 29 June in London.

## BACKGROUND

Up to 22 November, the pilot involved **96** cases, this consisted of:

- In London, the pilot consisted of **44** cases (from an initial 66<sup>2</sup>)
- In the North West, the pilot consisted of **52** cases (although it started initially with 16)
- 169 children (under 18), most were under the age of 11
- The most common nationality was Nigeria or Pakistan
- In the North West, all were Failed Asylum Seekers (FAS)
- Most lead applicants had been in the UK five years or less
- In the North West, most families (36) were appeal rights exhausted *after* January 2009, in London most (18) were appeal rights exhausted *before* January 2009
- Most families consisted of 2 or fewer children under the age of 18
- In the North West, most families were known to have an individual with a medical condition, in London most did not have any known conditions

A full background to the pilot areas and the families involved is at **Annex A**. These pilots were only testing the Assisted and Required Return stages. Since the 22 November the pilots have been additionally testing the Ensured Return stages. This interim assessment is being conducted based on progress made in the 5 months up to **22 November 2010**.

Throughout this period we have sought the input and participation of corporate partners involved in the review. There has been action learning during this period (such as better AVR discussions, greater contact with social services, and improved relationships between casework and enforcement teams).

**Assessment of the pilots is ongoing.** Further interim assessments will be made as the Ensured Return options are piloted. It is recognised that there is limited evidence of the views, experiences and impact on the families involved in this assessment. It is fully intended that further assessments will include further qualitative research on the impacts of the process and this will require further input from corporate partners.

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<sup>1</sup> <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/oemsectione/>

<sup>2</sup> 22 cases were removed from the London pilot because a conference had not yet been attempted due to operational constraints. Should it be possible to conduct a conference in the future, they will again be included in the pilot and assessment. There is no specific profile to these cases (e.g. 41% are Failed Asylum Seekers, 55% were not reporting)

## DATA

Data used in this assessment was manually collected during the pilot. Feedback from UK Border Agency staff involved has also been included. All data is therefore from Management Information (MI) and is subject to change, unless otherwise stated. The UK Border Agency accepted the criticisms regarding a lack of MI on families made by the Chief Inspector in his report on family removals<sup>3</sup>. Whilst there are ongoing efforts to address this, the lack of robust historic MI presents difficulties in attempting to compare data. Moreover, it is not possible to compare the pilots to ongoing non-pilot cases. This because, rather than proceed with detention and removal, the process for all cases (nationally) was amended on 12 August so that every family case must be offered an AVR programme, and have attempted self check-in removal directions, before attempting detention and removal. Some historic MI has been used, but is not directly comparable. Finally, there were only 5 case conclusions (5% of cases) during the period of assessment; it has therefore not been possible to draw wider inferences from those cases.

## KEY FIGURES

- A Family Return Conference was attempted in 96 cases.
- 75 Family Return Conferences were conducted during the period of assessment.
- 6 families have applied for an AVR package.
- 2 families departed under Assisted Return (one voluntary departure, one AVR).
- 1 family removed using Required Return.
- 2 returns of families using detention (of less than 72 hours).
- 23 Self Check-In Removal Directions were not complied with.

## SUMMARY OF INTERIM FINDINGS

- **A Family Return Conference is more likely to be successful where there has been previous compliance with reporting restrictions** - The London pilot had a large number of cases that were not in contact management and also had the most unsuccessful attempts at a Family Return Conference. In the North West pilot 50 families were compliant with reporting at the start of the pilot and 42 complied with the request to attend the Family Return Conference
- **The Family Return Conference has, so far, resulted in few families' breaching reporting restrictions or absconding** - In the North West just 4 families stopped reporting after the Family Return Conference
- **There is insufficient evidence, so far, to judge whether the new approach does encourage a higher take-up of AVR or other voluntary return** - There has been 1 voluntary return and 1 AVR during the assessment period, but the North West has seen 6 AVR applications. This is better than previous pilots in this area
- **We will continue to monitor the conversion rate from applications to departures and seek to identify the best approach for engaging families**
- **Self Check-In has not been complied with so far, although one case has been removed using Escorted Removal Directions at a second attempt**
- **The Family Return Conference has resulted in families raising Further Submissions and other challenges earlier** - Over 50 barriers have been raised

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<sup>3</sup> <http://icinspector.independent.gov.uk/wp-content/uploads/2010/07/Family-Removals-A-Thematic-Inspection.pdf>

- **However, a number of families (31%) only raised challenges when Self Check-In Removal Directions were set**
- **Rejecting Further Submissions after Self Check-In Removal Directions are set in a timely way has not yet resulted in subsequent compliance with Self Check-In Removal Directions**
- **The costs of the process are still being examined. However, the pilot is resource intensive in terms of staff time, particularly where cases are not concluded**
- **Staff conducting conferences observed that most families appeared uninterested or disengaged in the Assisted Return options presented at the Family Return Conference, but in a number of cases the prospect of removal led to a degree of distress sufficient to require UK Border Agency staff to engage with social services. This has underlined the need for UK Border Agency to build closer relationships with social services going forward**

# INTERIM ASSESSMENT

## MEASURE 1 - COMPLIANCE WITH REPORTING CONDITIONS AFTER THE FAMILY RETURN CONFERENCE

1. A total of **75** Family Return Conferences were successfully conducted during the period of assessment. 27 were conducted in London, 48 in the North West.
2. The intention of a Family Return Conference is to build engagement with the family, the new process should not alter compliance with reporting restrictions nor encourage families to abscond.
3. The Enforcement Instructions and Guidance (EIG) definition of an “absconder”<sup>4</sup> does not reflect all types of non-compliance that may occur in the processes being piloted (e.g. a family may be compliant with reporting restrictions, but will not attend a self check-in). However, to get an idea of compliance, the level of compliance of families released from detention has been examined. According to local MI of families detained for removal by Becket House or Liverpool between 14 June and 23 November **2009** (comparable regions and period to the pilots):

	BKT	LIV
Entered Detention	37 <sup>5</sup>	24
<b>Released</b>	16	9
<b>Remained in Contact Management<sup>6</sup></b>	14	9

### Findings - London

4. A total of 27 Family Return Conferences were conducted from 44 attempts (55%).

	Reporting	Not Reporting
<b>Initial Compliance</b>	24	20
<b>Family Return Conference at Family Home</b>	10	4
<b>Family Return Conference at Reporting Centre</b>	10	3
<b>No Family Return Conference</b>	4	13
<b>Subsequent Compliance<sup>7</sup></b>	19	4

### Findings - North West

5. In the North West 52 *initial* Family Return Conferences were attempted and 48 were successfully conducted (92%). In 8 cases the lead applicant did not attend the Reporting Centre as requested for the conference. This led to 4 conferences being successfully conducted by enforcement staff in the family’s accommodation.

	Reporting	Not Reporting
<b>Initial Compliance</b>	50	2
<b>Family Return Conference at Family Home</b>	4	0
<b>Family Return Conference at Reporting Centre</b>	42	2
<b>No Family Return Conference</b>	4	0
<b>Subsequent Compliance<sup>8</sup></b>	41	2

6. Five families stopped reporting after the Family Return Conference, and they were also not resident in their accommodation when the second conference was attempted.

<sup>4</sup> <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/oemsectiond/chapter19> - “An individual who leaves the border control area without permission, escapes from detention, breaches one or more of the conditions imposed as a condition of Temporary Admission, Temporary Release, Bail, or release on Restriction Order, and whose current whereabouts are unknown.”

<sup>5</sup> Figures are number of families unless otherwise stated

<sup>6</sup> Remained in contact management, or remained in contact management until they were later removed or granted leave

<sup>7</sup> Remained in contact management, or remained in contact management **after** a Family Return Conference had been conducted

<sup>8</sup> Remained in contact management, or remained in contact management **after** a Family Return Conference had been conducted

## MEASURE 2 – TAKE UP OF VOLUNTARY DEPARTURE & AVR

7. One of the intentions of the Family Return Conference was to raise the possibility of voluntary or AVR amongst families who otherwise would be subject to enforced return. During the period of assessment there was 1 voluntary return and 1 AVR.

	LDN	NW
<b>AVR Applications</b>	0	6
<b>AVR Withdrawals</b>	0	1
<b>AVR Removals</b>	0	1
<b>Vol Departures</b>	1	0

8. According to local MI, between 14 June 2009 and 14 November 2009 **59** families in the London region and **12** families in the North West region departed on AVR<sup>9</sup>. The numbers for the North West are too small to draw any conclusions from. However, in London it is noted that most (76%) were non-FAS families.
9. A specific AVR programme for families (**AVRFC**) was launched in April 2010 and this has increased AVR take up generally, between 1 April and 13 October, 860 applications for this programme have been made. According to local MI from the 14 June 2010 and up to the beginning of October 2010 (the latest point at which data is currently available) **66** families in the London region and **15** families in the North West region **departed** on AVRFC<sup>10</sup>. Numbers in the North West are higher, but still small. In London, there were increased numbers, but those families that departed are still non-FAS families (82%).
10. It is also noted the Family Return Project in Scotland, which has been running since June 2009, has not seen any AVR departures.

### Findings - London

11. There were no applications for AVR from cases in the London pilot. However, **1 family** did depart voluntarily of their own volition rather than through the formalised AVR routes. The Family Conference was conducted in the family home in June. After a Judicial Review was refused, the family informed UK Border Agency that they now wished to depart voluntarily. They left the UK in October.

### Findings - North West

12. There were 6 AVR applications during the assessment period in the North West. One of these resulted in an AVR departure within the assessment period. An AVR application was made less than a week after the Family Return Conference and the family departed in November (about 16 weeks after the application).
13. Another family made an application for AVR less than 3 weeks after the Family Return Conference. However, this was withdrawn 3 months later as they had been advised to make further submissions. The other 4 AVR applications were made after Self Check-In Removal Directions were served. These applications all remain outstanding. As there can be a long time from AVR application to departure the position of these cases will become clearer at the next assessment.
14. The North West team report that they feel they have improved the way they sell the benefits of AVR as the pilot has progressed. Future assessments may reveal whether this is the case. If the 6 AVR applications from FAS families, from 48 Family Return Conferences

<sup>9</sup> This data is from an old AVR programme and entire regions and it is therefore not directly comparable with the pilots

<sup>10</sup> This data is from entire regions and it is therefore not directly comparable with the pilots

(13%) in the North West do result in departure, this should be seen as a degree of success. However, there is a greater need to understand the motivations behind families in deciding to take an AVRFC package and further qualitative research is needed to explore this.

### MEASURE 3 – SUCCESS OF REQUIRED RETURN

15. Where families chose not to take up Assisted Return the intention was that the Family Conference process would encourage compliance with Self Check-In Removal Directions (which would be served with a minimum of two weeks notice). A total of **29** cases had Required Return Removal Directions set during the period of the assessment. All but one of these was in the North West pilot.

16. According to Local MI between 14 June and 23 November **2009** (also referred to above):

	BKT	LIV
Entered Detention	37	24
<b>Subsequently Removed</b>	<b>21</b>	<b>15</b>

17. However, this does not compare all cases where detention was *attempted* in June to November 2009. Moreover, as the full process (i.e. Ensured Return) was not being piloted during the assessment period we would not expect to match these figures.

### Findings

18. Required Return has not been successful at **first** attempt in any case, but one case was successful when it was tried a second time. The reasons for unsuccessful Required Return were:

Judicial Review	5
Absconder / Failed to Comply	13
Further Subs	2
Out of Time Appeal	1
Other	2
<b>Total Failed</b>	<b>23</b>
<b>Successful (2<sup>nd</sup> Attempt)</b>	<b>1</b>
Outstanding <sup>11</sup>	6

19. **One family was removed** under this stage of the pilot. The family had failed to comply with Self Check-In. As a result the North West team re-set directions as an escorted (arrested) check-in within 10 days and this was successful<sup>12</sup>.

20. A further **2 families** were removed using brief periods of detention (for less than 72 hours) when Required Return failed. Detention was used because it was considered that as the cases were “barrier free” and the Ensured Return process was not yet ready to be tested, there was no good reason to delay concluding the cases.

21. The results are inconclusive at this stage (particularly as the Ensured Return process was not used). A future assessment will allow us to take a firmer view of the success of this part of the process.

### MEASURE 4 – RAISING BARRIERS TO RETURN EARLIER

22. One of the goals of the new process is to identify barriers or other issues that is preventing a family returning to their country of origin so that these can be dealt with earlier

<sup>11</sup> As of 22 November 2010

<sup>12</sup> In future this will be a panel decision

to avoid the need for unnecessary enforcement and to give the family the opportunity to consider their position after any issues they may have held back have been fully addressed.

23. According to local MI between 14 June and 23 November 2009 (also referred to above):

	BKT	LIV
Entered Detention	37	24
<b>Last Minute Challenge<sup>13</sup></b>	<b>21</b>	<b>14</b>

24. We should therefore expect to see at least half of cases in the pilot raise barriers at the Assisted Return stage.

## Findings

25. More than half raised barriers at the Assisted Return stage (prior to Required Return Removal Directions, note, some cases may have raised more than one barrier in this period):

	LDN	NW
Further Submissions	8	19
EFM Application	5	2
Out of Time Appeal	1	1
Judicial Review	2	3
Other	7	4
<b>Total Barriers</b>	<b>23</b>	<b>29</b>
<b>None</b>	<b>6</b>	<b>23</b>

26. Nine of the 29 cases which went to the Required Return stage only raised a barrier *after* removal directions had been served.

27. Of the 13 cases that did not comply with the removal directions (see paragraph 18):

- 4 lodged a barrier after the removal directions were served but, despite those barriers being dealt with by UK Border Agency in a timely manner, they still did not comply.
- 3 subsequently applied for AVR;
- 1 made a “swap over” claim<sup>14</sup>;
- 1 was removed after having removal directions reset;
- 2 were detained and removed;
- 2 “absconded”

28. Of the 5 cases that lodged a Judicial Review, 4 were the result of rejection of Further Submissions lodged between service of Removal Directions and date of departure.

29. In 2 cases UK Border Agency was unable to deal with the Further Submissions before the date of departure and removal directions were cancelled. Both were later rejected, this led to a Judicial Review and a further “swap over” claim. The out of time appeal was later refused, but also led to Further Submissions. The two other failures were both as a result of problems with the validity of Emergency Travel Documentation (ETDs).

## MEASURE 5 - COSTS

30. An Impact Assessment (IA) has been conducted of the overall costs associated with the new processes. However, the North West team has attempted to estimate the costs of two elements of the pilot process. The conferences at Reliance House, conducted by one or two Higher Executive Officers (HEOs), have an estimated cost of between £135 and £161,

<sup>13</sup> Further submissions or a legal challenge (Judicial Review, Injunction or an appeal) *after* they were detained

<sup>14</sup> Where another member of the family makes an asylum claim in their own right



suggesting a cost between £5,940 and £7,084 (for 44 conferences). This includes average admin costs in setting the interview up, travel tickets for the family, interpreter costs for an hour long interview etc. A Family Return Conference conducted by Immigration Officers (IOs) costs about £250, suggesting a cost of £8,000 (for 32 visits). This is based on average travel times and costs from Reliance House to the family's address and average conference times. The total cost of these elements may be in the region of **£14k to £15k** in the North West.

31. In addition, the pilot teams have an increasing workload, particularly as more and more cases are being added (in the North West). The level of engagement with the family that the new process requires may be unsustainable if the number of families they are responsible for continues to grow without seeing a commensurate conclusion rate.

## MEASURE 6 - IMPACTS

32. The intention of the new process is to ensure that the family's wellbeing is safeguarded and that the family are treated in a humane way throughout the new process.
33. At the beginning of the pilot it was considered that existing relationships with social services would be sufficient to deal with any adverse reaction the conference where there was a cause for concern for the wellbeing of the parent or their children. Data on referrals to social services as a result of interaction at an enforcement visit or at a reporting event is not collected by UK Border Agency. Previously, where there was any perceived threat of self harm, a removal with less than 72 hours notice was pursued, or the issue was managed in detention, where a range of measures are in place to support vulnerable cases.
34. Management Information from Detention Services shows that that between October 2009 and October 2010 there were 16 credible self harm threats made from family members detained at Yarlswood. Over the same period there was one threat in Dungavel and one threat in Tinsley House. All were subsequently placed on Assessment Care in Detention and Teamwork (ACDT) plan.

## Findings

35. Staff involved in the initial Family Return Conference were asked to make a subjective assessment on how the lead applicant reacted to the discussion (only the parents were invited to the first conference in the North West). As expected, from families who are being told they should leave the UK, in both pilot regions there was a general lack of interest at this stage.
36. As the second conference (where Removal Directions could be served) was conducted in the family home, children were present most cases (20 of the 29 cases). Staff in the North West reported that children reacted to seeing parents upset, but not to the conference itself. The team have also suggested that some parents cannot cope with a "timescale" to departure and this has contributed to a number of referrals to social services.
37. A decision was made to make a referral to social services in 10 North West cases (20% of all conferences) where the level of distress led to concerns over family well being. Only 1 of these cases made an actual attempt to self harm. In London 4 cases (15%) were referred. In 6 cases where this kind of referral was made the families progressed to Required Return; the remainder were put on hold pending further discussions with social services and consideration of the Ensured Return options.
38. The North West team have found the conference at which removal directions are set particularly challenging. Whilst families understand what is happening, some make

emotional appeals to remain in the UK. There may be issues in accepting the removal directions from enforcement officers who may not have worked with the family previously in this way. These officers are also discussing a difficult topic in the family home at a pre-planned visit which potentially exposes them to additional/different risks. The team have been helped when there are third parties present (such as friends, a representative, or other member of the community), but this has only happened in 3 cases and the data is insufficient to draw any further conclusions.

## ANNEX A – FURTHER BACKGROUND

NATIONALITY	LDN	NW
Nigeria	18	13
Pakistan	5	7
Mongolia	0	6
Other	12	16

LENGTH OF RESIDENCE	LDN	NW
Up to 1 Year	1	12
2 Years	5	7
3 Years	7	11
4 Years	5	4
5 Years	8	6
6 Years	4	4
7 Years	6	1
8 Years	4	4
9 Years	2	1
10 Years+	2	1

APPEAL RIGHTS EXHAUSTED	LDN	NW
Jul - Nov 2010	0	9
Jan - Jun 2010	8	16
Jul - Dec 2009	0	5
Jan - Jun 2009	2	6
2008	9	3
2007	5	2
Pre-2007	4	1
Other (e.g. Certified)	16	10

AGE	Under 5	5-11	12-16	17-18	Over 18
NW	38	30	15	9	5
LDN	28	35	11	3	8

CASE TYPE	LDN	NW
Failed Asylum Seeker	20	52
Non-Failed Asylum Seeker	24	0

IN CONTACT MANAGEMENT	LDN	NW
Yes	24	50
No	20	2

LONE CARERS	LDN	NW
Yes	18	32
No	26	20

NO. OF CHILDREN UNDER 18	LDN	NW
One	17	26
Two	17	17
Three or More	8	9

KNOWN MEDICAL CONDITIONS	LDN	NW
Yes	12	36
No	32	16

## LONDON

39. The London pilot is based in Becket House and was led by the Family Enforcement Team which covered a number of Local Immigration Teams (LITs) across London (18 London Boroughs). This team consists of 12 Immigration Officers (IOs) 2 Assistant Immigration Officers (AIOs) 2 Chief Immigration Officers (CIOs), supported by an Inspector (HMI). The team has no casework function itself and is reliant on casework functions within LITs to deal with casework and other barriers to removal that arise. During the course of the pilot, some work on non-pilot cases was conducted.
40. The London pilot did not apply any case selection criteria and took a sample of cases that were in the Enforcement Team when the pilot started. There is therefore a number of non-asylum families/cases where some barriers may be outstanding (such as further submissions or lack of travel documents for the whole family), families are not reporting, and cases which had been referred to the team for initial enforcement action (i.e. an enforcement decision had not been served). Due to operational difficulties, a Family Return Conference was only attempted in 44 cases.
41. Family Return Conferences were conducted by the Enforcement Team at a Reporting Event or as part of a pastoral visit to the family home. The visits to the family home were conducted by a team of at least two IOs (depending on the size of property they have to attend) in Personal Protective Equipment (PPE) wear. This team would ideally consist of male and female officers but on a few occasions the team has been exclusively male due to

a shortage of female officers. Where possible all members of the family are present at the visit. The conference takes approximately 30 minutes and the situation is discussed with the family and options discussed, the family are required to sign documents confirming what discussions have taken place and given at least two weeks to consider Assisted Return.

## NORTH WEST

42. The Asylum Family Team for the North West covers all asylum family work across the 6 LITs in the North West region which, in turn span in excess of 30 Local Authorities. It comprises 2 Enforcement IOs and 2 Asylum Case Owners, supported by an Assistant Director, all of whom have extensive experience in dealing with family cases in their region.
43. The initial cases selected were specifically chosen on the basis that they were FAS, appeal rights exhausted, with no known barriers, medical conditions or travel document issues to prevent removal. The decision to include the cases was a joint one between the enforcement officers and the Asylum Case Owners. Subsequent cases were added to the pilot on the same basis.
44. The initial Family Return Conference was conducted, following an invitation, by caseworkers within the asylum interviewing facilities within Reliance House in Liverpool. This usually only with the main applicant. Where the applicant failed to attend the Reporting Centre as requested, the enforcement team attempted to visit the family at home to conduct the conference. This is followed by a second Family Conference at least two weeks later. It is conducted by the two IOs, in PPE wear, in the family home at least two weeks later. At this point the family are served Removal Directions. Both Family Conferences take on average about an hour to complete.