



Family Removals: A Thematic Inspection

January – April 2010



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Independent Chief Inspector of the UK Border Agency



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Foreword from John Vine CBE QPM



The removal of families who do not have permission to remain in the United Kingdom is one of the most challenging and sensitive areas of work undertaken by the UK Border Agency. The obligation that the UK Border Agency now has to carry out its functions having regard to the need to safeguard and promote the welfare of children requires a fundamentally new approach to managing families in the immigration system from start to finish.

It is vital that the detention and removal of families is handled effectively and sensitively, taking into account the individual circumstances of each case. I am concerned therefore to have found significant weaknesses in current procedures, specifically no clear individually tailored plans for families throughout their contact with the UK Border Agency, poor compliance in the completion of health and welfare documentation and, should an arrest be necessary, where and when this should be carried out. In addition, based on the evidence in this report, I consider that the UK Border Agency could be more effective in ensuring families are encouraged to return voluntarily.

I consider it unacceptable that the UK Border Agency has no system or process in place to capture and publish with confidence data on families. Given the potential stress experienced by families who are detained, together with the significant cost to the taxpayer both of detention and supporting families in the community, I would expect to see more comprehensive information collected, analysed, produced and published by the UK Border Agency.

Finally, clear records need to be maintained in each and every family case and appropriate information on how the UK Border Agency exercises its powers of arrest and detention should be placed routinely in the public domain. Transparency in this area is important – the public should have confidence that the UK Border Agency is meeting its obligation to have regard to the need to safeguard and promote the welfare of children while still being effective in removing families who have no right to remain in the United Kingdom.

A handwritten signature in black ink that reads 'John Vine' followed by a period.

John Vine CBE QPM
Independent Chief Inspector of the UK Border Agency

1. Executive Summary

1. The UK Border Agency not only has responsibility for securing the border but also for identifying and removing those who have no right to be in the United Kingdom. This inspection focussed on the effectiveness and efficiency of the UK Border Agency's approach to removing families, taking account of its obligations to carry out its functions having regard to the need to safeguard and promote the welfare of children.
2. There was limited evidence that an individual action plan existed for each family which took account of the family's welfare needs and arrangements for them to return home. In particular, there were no performance measures by which case owners were assessed in this regard and no evidence that reporting requirements, outreach work, information on voluntary return or plans for enforced removal were co-ordinated.
3. Staff and managers demonstrated a clear awareness of the advantages, both in financial and welfare terms, of families with no right to remain returning home voluntarily. However, there were no consistent standards for promoting the option of voluntary return, no consistency in where, when and by whom the discussions with the families should take place and no plans for national analysis of pilots being undertaken in different regions.
4. The Family Welfare Form – an audit trail of the planning and decisions on how to progress each case – was the primary mechanism for managing the welfare of families. However this was not completed effectively on a consistent basis. There was a lack of consistent understanding about the purpose of the form and responsibility for its completion.
5. Arrests of families occurred primarily at the family home between 6.30am and 7.00am. While there were reasons for arresting at this time of day, there was no evidence that an assessment had been made of each family's individual circumstances to decide if this was the most effective or proportionate approach. Alternative arrangements had been made in Glasgow where families were arrested at a reporting centre but there was no evidence that the pros and cons of this approach had been considered on an individual basis in other parts of the UK.
6. Reviews of detention were conducted at different levels of authority at different times without a clear rationale. While 'enhanced' reviews by one part of the UK Border Agency and individual regional managers provided greater assurance that the family's welfare was being actively considered, there was no indication of why such enhanced reviews should not take place routinely in all parts of the UK Border Agency dealing with children.
7. Individual regions had developed some innovative approaches to managing family cases but there was no national collation or analysis of management information to identify trends or best practice.
8. There was poor file management and retrieval with incomplete audit trails and important details of cases held in different files or databases.

2. Summary of Recommendations

We recommend that the UK Border Agency:

1. Develops a clear action plan for each family with whom it comes into contact, involving all relevant agencies and ensuring that frequency of reporting, outreach work, information about health and welfare, options for returning voluntarily, and options for arrest and detention (if appropriate) are co-ordinated with clear timescales and responsibilities
2. Clarifies how voluntary return should be offered to families, identifies the skills necessary to do this and trains members of staff accordingly
3. Ensures that Family Welfare Forms are completed in full and from initial contact through to the family's departure
4. Ensures that all alternatives, including self check-in, are exhausted before enforced removal is considered
5. Ensures that medical consent forms are requested from every family and full medical information obtained from those families who provide their consent
6. Provides appropriate interpreting services during any family arrest
7. Ensures that the time and number of officers involved in any arrest reflects clearly the individual circumstances of each family
8. Reviews the level of seniority required to maintain the detention of families, ensures there is a clear rationale for the level at each detention review and ensures that each review takes full account of the family's circumstances
9. Strengthens its arrangements for the storage of and facility for the timely retrieval of files
10. Ensures that a clear audit trail is maintained in every family case and clarifies the information that should be stored on the file and the Case Information Database
11. Reviews its training requirements for staff to ensure they are aware of cultural issues when engaging with families
12. Publishes and analyses a clear set of management information in respect of families with dependent children to provide greater transparency and to fully inform policy and practice

3. The Inspection

3.1 The terms of reference for this thematic inspection were:

To inspect the effectiveness and efficiency of the UK Border Agency in removing families who do not have permission to remain in the UK; and in particular to inspect how the UK Border Agency is meeting its duty to have regard to the need to safeguard and promote the welfare of children.

3.2 The terms of reference did not include any examination of the conditions within Immigration Removal Centres as this is outside the remit of the Independent Chief Inspector of the UK Border Agency.

Methodology

3.3 The inspection was carried out against a selection of the Chief Inspector's Core Criteria¹ covering the following four themes:

- High level outcomes of the business;
- Processes and procedures including quality of decision-making and consistency of approach;
- Impact on people subject to UK Border Agency services and
- Management and leadership.

3.4 A copy of the specific criteria used for this inspection can be found at Appendix A.

3.5 The inspection was conducted in two phases from January to April 2010. The initial phase involved an assessment of policy and procedural documentation, data analysis and a sample of case files selected at random. The second phase involved interviews with staff in three of the six Immigration Group regions, namely London & the South East, the North East, Yorkshire & the Humber, and Scotland & Northern Ireland. We interviewed a range of staff including senior and regional management teams, case owners, case workers, arrest teams and staff from the corporate centre. We also held focus groups in all three regions. In addition, we observed an arrest of a family at their home, a recording of a family arrest and the weekly conference call to discuss the cases of children approaching and detained beyond 28 days.

3.6 Prior to and during the inspection, we spoke to stakeholder groups with particular expertise in children's issues and three families with experience of the arrest process. A full list can be found at Appendix B.

¹ Core Criteria of the Independent Chief Inspector of the UKBA can be found at: http://icinspector.independent.gov.uk/wp-content/uploads/2010/03/Criteria_for_core_programme.pdf

4. Background

Section 55 of the Borders, Citizenship and Immigration Act 2009

- 4.1 Section 55 of the Borders, Citizenship and Immigration Act 2009 brought in a statutory duty for the UK Border Agency to carry out its functions having regard to the need to safeguard and promote the welfare of children. The duty came into force on 2 November 2009 and replaced an earlier statutory Code of Practice. The duty applies to all members of staff of the UK Border Agency and contractors exercising immigration, nationality or customs functions including those exercising border revenue functions.
- 4.2 The duty brought the UK Border Agency into line with the police, probation service and other public bodies who have a similar duty under Section 11 of the Children Act 2004. To safeguard children, all agencies should be alert to potential indicators of abuse or neglect, be alert to risks which abusers may pose to children, share and help analyse information so that an informed assessment can be made of the child's needs and circumstances and contribute to whatever actions are needed to safeguard the child and promote his or her welfare.
- 4.3 The statutory guidance issued by the UK Border Agency and the Department for Children, Schools and Families in November 2009 set out the overall arrangements for safeguarding and promoting the welfare of children. It noted that different public bodies would have different contributions to make depending on their specific responsibilities. For example, the main contribution of some agencies – including the UK Border Agency – would be to identify and act on concerns about the welfare of children with whom they come into contact. For other agencies, their key contribution would be to support a child once concerns had been identified.

Family removals

- 4.4 Where a family does not have permission to remain in the UK², they may choose to leave voluntarily and can do this either at their own expense or by requesting the UK Border Agency to purchase travel tickets. Airline or ferry companies may be required to pay the costs of return travel where a family were refused entry or, in certain cases, where a family entered illegally.
- 4.5 Families can also apply to the International Organisation for Migration (IOM) for assistance. The IOM was established in 1951 and works to promote humane and orderly migration by providing services and advice to governments and migrants. It operates three assisted voluntary return programmes which provide practical assistance to those wishing to return to their country of origin. The Voluntary Assisted Return and Reintegration Programme (VARRP) is for people who have at any point made an asylum application; the Assisted Voluntary Return of Irregular Migrants (AVRIM) is for people who have overstayed in the UK or been smuggled or trafficked into the country but have not applied for asylum; and, from April 2010, the Assisted Voluntary Return for Families and Children (AVRFC) which has been designed specifically for that group. Under all programmes IOM arranges flights and onward transportation to the home country but, under the scheme for asylum seekers, IOM also provides reintegration assistance in the country of return.
- 4.6 A family which does not leave the UK voluntarily may have their removal enforced. This will involve the arrest of the family and, normally, a period in detention.

² A person in any of the following categories will become liable for removal along with their dependants: persons who have entered the UK illegally; persons who have remained beyond the time limit of any leave to enter or remain; persons who have breached their conditions of leave (such as working without permission); persons who have gained, or attempted to gain, leave by deception; persons subject to deportation orders; persons refused leave to enter.

- 4.7 The overall cost of asylum support in 2008 was £485 million. Annually, 20% of asylum support applications come from families and 80% from singles but families account for 60% of the total spend – £291 million. This is because families with dependant children under 18 as part of their household who have been refused asylum remain eligible for support under the Immigration and Asylum Act 1999 until they leave the UK and because of the higher unit cost of their support. Both accommodation and subsistence can be provided. In 2008, 3,570 family groups applied for support (although this definition of family includes any principal applicant with a dependant.³ Figures are not available to show the number of family groups with dependants under 18). The level of cash support provided to families as of July 2009, is £69.57 per week for a qualifying couple with an additional £50.81 per week for each person aged under 16.⁴
- 4.8 According to UK Border Agency management information 1,168 children left detention in 2008/09 with 539 removed and 629 released. The estimated cost of detention per person per day is £130 with the detention of a family of four for between four and eight weeks costing up to £20,000.⁵
- 4.9 A flow chart illustrating the process of family removals is overleaf:

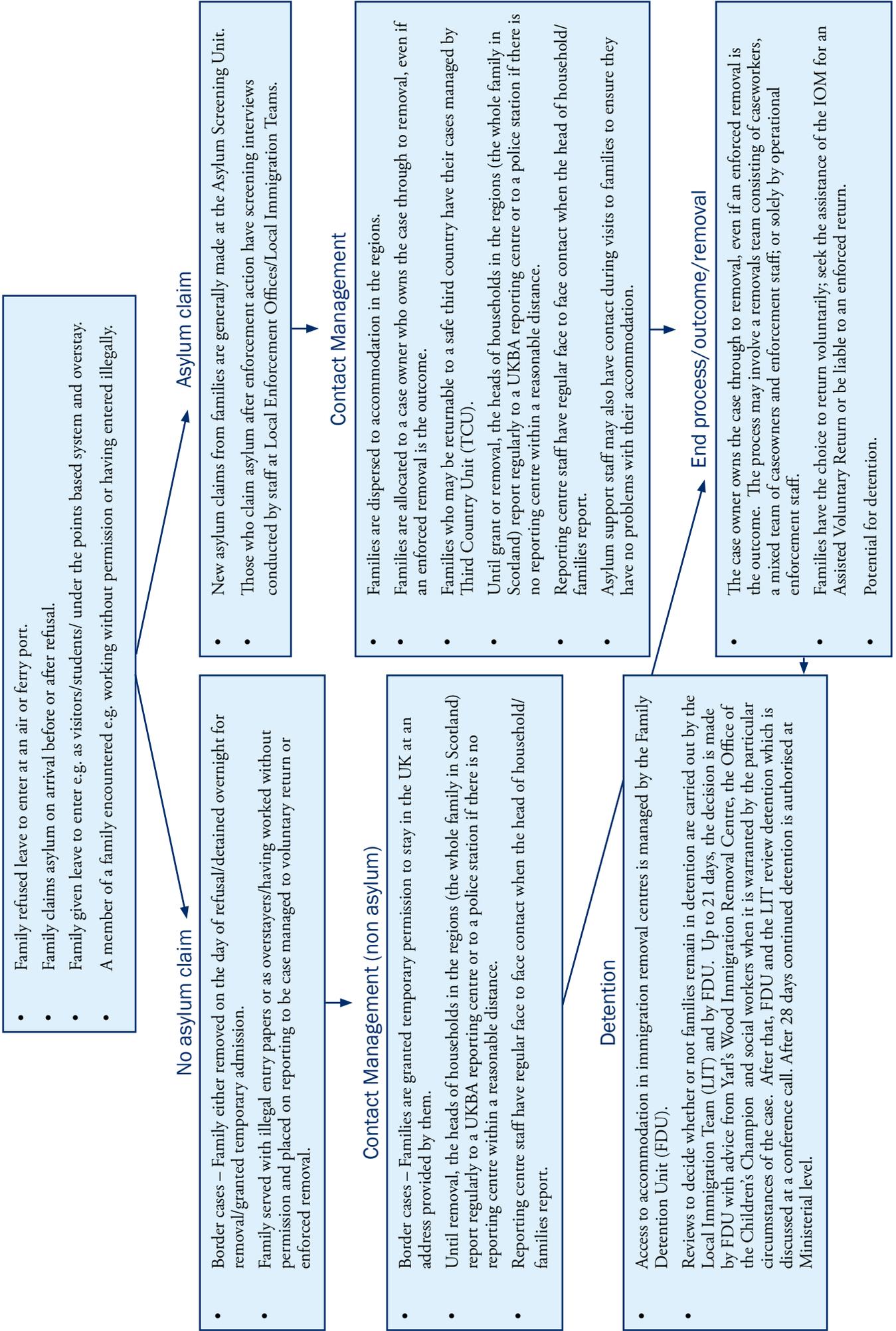
3 Control of Immigration Statistics, 2008

4 Asylum Support (Amendment) Regulations 2009

5 Home Affairs Committee: Detention of Children in the Immigration System

FAMILY REMOVALS FLOWCHART

Initial contact with UKBA



5. Inspection findings – Processes and procedures including quality of decision making and consistency of approach; and Impact on people subject to UK Border Agency Services

We considered how the UK Border Agency maintained contact with families, how the welfare of the family was addressed, how and whether options of voluntary return were explored with families, the arrest of families and issues arising following detention. In light of our file sampling, we also set out at the start of the chapter our findings on information management.

Information management

- 5.1 We requested a sample of 112 files for the period April – September 2009. Within this sample, there were 100 cases where a family had left the UK, 10 of whom had left under the Assisted Voluntary Return scheme and 12 unaccompanied children who were returned to a third country. We were extremely disappointed to receive only 67 of the 100 family removal files requested.
- 5.2 We were told that 25 of the remaining 33 files were listed as being ‘live’ cases with actions continuing despite our request for files where all actions had been concluded to minimise disruption to the UK Border Agency. The remaining eight files were either in transit or remained in storage despite being requested by one part of the UK Border Agency. We repeat our view expressed in the recent inspection of UK Border Agency operations in Wales and the South-West that the UK Border Agency should review their arrangements for the storage of and facility for the timely retrieval of files.

We recommend that the UK Border Agency:

- Strengthens their arrangements for the storage of and facility for the timely retrieval of files
- 5.3 Of the 67 family removal files received, we found that 25 did not consist of a family with dependent children where the removal was a direct result of action taken by the UK Border Agency. One case in particular was an application for British citizenship with no evidence of any enforcement action at any point. Figure 1 below shows the numbers of family cases within the sample with dependent children case managed by the UK Border Agency.

Figure 1 – Numbers of cases with dependent children case managed by the UK Border Agency of the total cases sampled

| | Number of cases sampled | Percent of total cases sampled |
|----------------------------|-------------------------|--------------------------------|
| Cases within remit | 42 | 63% |
| Cases outside the remit | 25 | 37% |
| Total cases sampled | 67 | 100% |

Figure 2 – Reasons that cases were out of scope

| Reason out of scope | Number of cases |
|---|-----------------|
| Visa application from abroad | 6 |
| No dependents | 5 |
| Family encountered at a port leaving of their own volition | 2 |
| Children all present in UK in their own right, married to British citizens | 1 |
| Departure assumed as no contact since 2004 | 1 |
| Dependent child over 18 with no indication that left UK | 1 |
| Dependent child(ren) over 18 and no indication of vulnerability | 1 |
| Family granted discretionary leave till 2012 | 1 |
| Family split. Wife and children granted ILR | 1 |
| Not clear that family has departed because passports still in passport bank | 1 |
| Single adult removed to reunite with their family | 3 |
| Single, left of their own accord. No indication of family leaving | 1 |
| Wife and child of overstayer are EU citizens | 1 |
| Total | 25 |

Figure 3 – Type of removal for in-scope cases

| Type of removal | Number of cases | Percent of in-scope cases |
|-----------------------------|-----------------|---------------------------|
| Enforced | 29 | 69% |
| AVR | 8 | 19% |
| Voluntary | 5 | 12% |
| Total in scope cases | 42 | 100% |

- 5.4 We found that there was no clear definition of what constitutes a family case which would assist the UK Border Agency in the collation and analysis of data. We were told, from an enforcement perspective, that a family can be considered as any closely related group comprising of at least one adult and one child under 18. For the consideration of asylum cases, dependents are defined as *'A spouse, civil partner, unmarried or same-sex partner, or minor child accompanying a principal applicant.'* We acknowledge the difficulties in establishing a precise definition that will cover the varying needs of different parts of the UK Border Agency. However we consider that the UK Border Agency should collate data where there are children under 18 to provide greater assurance that the welfare of children is safeguarded.
- 5.5 Notwithstanding the absence of a definition of a family, we were also told of a difficulty in capturing information as family removals data is obtained from the Case Information Database using a family "tick box" which is not routinely completed. The Directorate of Central Operations and Performance, which is responsible for analysing data, informed us that they were aware that data on family removals was not sufficiently accurate and, consequently, were addressing this.

- 5.6 With regards to the files we sampled, we were concerned to find consistent evidence of poor data management. The information was recorded in a variety of files including a case working file for the Local Immigration Team (usually relating to the family's concluded case details and removal arrangements), a main case working file containing the family's full immigration history and arrest folder containing a record of the actual family arrest. These were stored in separate places. Although guidance existed for staff on the completion of databases – the Casework Information Database and the National Operations Database – we could find no evidence that, in practice, a consistent approach was taken as to what information was to be stored on manual files and what was to be stored on databases. This hampered our efforts to retrieve information relevant to our inspection and must also act as a barrier to the efficient case management of families by the UK Border Agency itself.
- 5.7 Of the cases sampled, we received some but not all of the files/folders for each case. While we accept the UK Border Agency attempted to retrieve relevant files from different locations for the inspection team, the absence of all records for each case made it difficult to ascertain if there was a clear audit trail of decisions taken, what (if any) was the rationale behind decision-making and whether or not the correct levels of authority had been obtained. Given the sensitive nature of decisions involving the detention and removal of families with children, this was unacceptable and should be rectified forthwith. The issue of poor data management had previously been raised across a range of our reports.

We recommend that the UK Border Agency:

- Ensures that a clear audit trail is maintained in every family case and clarifies the information that should be stored on the file and the Case Information Database

Contact management

- 5.8 We could find little evidence, either at a regional or national level, of a coherent or consistent contact management strategy with a clear rationale for dealing with family cases. While we did see a strategy agreed at senior management level in one region, we did not see clear plans for utilising the different staff who would be engaging with families throughout their contact with the UK Border Agency. We noted that a case owner was assigned to each family case and was designed to be the family's single point of contact throughout the process. However, a range of staff had direct contact with the family at different times with the consequent difficulty of establishing a personal rapport with them. The range of staff included case owners, reporting centre staff, asylum support workers and staff from family arrest or removal teams. The contact management was not tailored or co-ordinated to achieve a clear outcome within clear timescales for each family.
- 5.9 In one region we spoke to a number of asylum support staff who undertook home visits to asylum-seeking families. They fundamentally saw their role as a pastoral one, in terms of the family's accommodation, and did not consider that they should be involved in the active promotion of Assisted Voluntary Return (AVR) or any other voluntary returns scheme. Neither did they consider that their current remit should include collecting information such as medical concerns that might potentially be used to inform the planning of an enforced removal of the families that they visited.
- 5.10 The variety of staff involved in direct contact with the family and the lack of a clear contact plan in each case meant that the family may not fully understand where they were in the process, the choices open to them should their application be refused, the benefits of opting for an Assisted Voluntary Return and the consequences of an enforced removal.

- 5.11 We did find some examples of a more developed approach to managing family cases which included work with organisations outside the UK Border Agency. In particular, the Family Returns Project in Glasgow which started in July 2009 was an example of an approach which sought to promote voluntary return and limit time spent in detention. The Project was set up in collaboration with Glasgow City Council and developed in partnership with organisations across public and voluntary sectors to ensure that families understood their options for return. It provided clear evidence of close working with Glasgow City Council and regular involvement of social workers through the 12 week timescale during which families are accommodated in specific accommodation. This comprises four flats; each with five bedrooms which can house a maximum of six families at any one time.
- 5.12 A full evaluation was in preparation although, at the time of inspection, we did note that none of the nine families involved in the project had chosen to return voluntarily. We also noted there were inconsistent accounts from staff of what success looked like for this project and limited evidence of on going evaluation and adjustment in light of experiences gained. At the time of the inspection two were in detention and one had been the subject of an enforced removal after leaving the project and coming to light in a different location.
- 5.13 We found further strong evidence in one region of working with external stakeholders to manage families from the legacy of unresolved asylum cases. These were families who claimed and were refused asylum prior to December 2006 and who may not have been in recent contact with the UK Border Agency. This involved the development of a team comprising a qualified social worker and others with a good understanding of the work of education, social work and health to provide a detailed report on the families in the case resolution process to inform how the UK Border Agency would progress each case.
- 5.14 The combination of the UK Border Agency's safeguarding obligations, the need to provide families with certainty about their status in the UK, the cost of supporting a family in the community and, potentially, of detaining a family, and the clear human rights that families will develop the longer they remain in the UK makes it essential in our view that greater focus is given to the management of family cases from start to finish.
- 5.15 Given the complexity of family cases, the UK Border Agency should ensure that active management of these cases should begin when families first come into contact with and throughout their contact with the UK Border Agency. To that end, we believe there should be a clear action plan for each family, taking into account welfare and medical needs, frequency of reporting, relevant contact with children's services and promotion of voluntary return from the outset and a clear standardised audit trail of the planning and action taken to progress each case which is the same across the organisation.

We recommend that the UK Border Agency:

- Develops a clear action plan for each family with whom it comes into contact, involving all relevant agencies and ensuring that frequency of reporting, outreach work, information about health and welfare, options for returning voluntarily and options for arrest and detention (if appropriate) are co-ordinated with clear timescales and responsibilities.

Case Owner Allocation

- 5.16 We found no evidence of family cases at the start of the process being allocated to individuals or teams of case owners with specialist knowledge or experience relevant to the complexities of family cases. This was in contrast to the removal process which tended to be progressed by caseworkers or teams specialising in family removals. Distributing family cases equally amongst case owners within the regions had the potential effect of lessening the chances of forming and maintaining lasting and trusted operational stakeholder contacts such as Children's Services and local education authorities.

5.17 However within the Third Country Unit (TCU), unaccompanied asylum seeking children's cases were only allocated to and overseen by a team which had a responsibility for children's cases as part of its remit. Staff informed us this was due to the exceptionally sensitive nature of these cases, the need for liaison with Children's Services and the particular planning of each removal.

Voluntary return

- 5.18 Assisted Voluntary Return (AVR) is both a more cost-effective way for families to return home and one which avoids the potentially damaging effects for families of arrest and detention. The National Audit Office highlighted in its report of enforcement in 2009 that the estimated cost of a family returning home through AVR was up to £14,600 less than for an enforced removal.
- 5.19 We heard consistent evidence from staff and managers that they understood these cost and welfare benefits. We did find consistent evidence that staff were increasingly aware of the importance of promoting AVR and that families should not be considered for arrest and detention until this had happened. We noted the role of the case owner included the need to explain options to the family throughout the process. However there was a lack of clear guidance as to what constituted an AVR offer, lack of consideration as to which staff were best placed to engage the family in discussing their options, how the options should best be promoted and training on how to do this effectively.
- 5.20 This meant there was no consistent approach across the UK Border Agency and a lack of certainty as to whether an offer of AVR consisted simply of providing a family with a leaflet or whether it required a succession of face-to-face conversations. The need to engage families in greater discussion of their options was acknowledged by the majority of staff and managers that we spoke to and two of the regions we visited had introduced pilots to test an approach which involved specific discussion with families. We noted that it was the responsibility of an Assistant Director in each region to confirm that an AVR offer had been made prior to the authorisation of an enforced removal. However, we did not find consistent evidence of how this decision would be made in the absence of a clear approach to what constituted an offer of AVR.
- 5.21 There was also no consistent approach in selecting the most appropriate member of staff to discuss voluntary return options with the family. Depending on location and availability of resources, this might be a case owner, an officer in a reporting centre, an outreach worker or a member of an arrest team conducting a pastoral visit. The different skills and responsibilities that these members of staff possessed governed how voluntary return options were discussed with families. Furthermore, these different groups of staff had all received different types of training. While we were satisfied that the members of staff we spoke to had all received the necessary factual information about voluntary return to pass on to the families, we did not see any evidence that training or guidance existed on how to engage with families.
- 5.22 We could find no link between contact management and consistent or scheduled offers of assisted voluntary return being made to families, despite the UK Border Agency having guidance that an offer should be made at some point prior to enforced removal. While families could obtain advice from legal representatives about their options, we were concerned that the lack of a clear and consistent approach to how AVR was offered could mean that families may not receive all the information they needed to make a fully informed decision or understand the full implications of accepting or refusing any such offer. A poorly promoted or non-existent offer could have a considerable negative impact on a family for whom the consequence would be an enforced removal.

We recommend that the UK Border Agency:

- Clarifies how voluntary return should be offered to families, identifies the skills necessary to do this and trains members of staff accordingly.

- 5.23 More positively, we did see evidence of AVR being promoted in reporting centres in the form of posters and leaflets in a selection of the most commonly encountered languages. We also noted the provision of video-based information and free telephone helplines. In addition, staff from the IOM attended reporting centres regularly to speak directly to individuals and families. The IOM had also provided training to UK Border Agency staff to keep them informed of the latest information on voluntary return packages.
- 5.24 We were also informed by managers that, since April 2009, the UK Border Agency had counted those families returning home through the AVR scheme as a removal towards the overall performance targets. Prior to this date, successful applications for AVR from families part-way through the removal process resulted in the loss of a 'removal statistic' towards targets for the UK Border Agency.
- 5.25 We considered this had been, in effect, a disincentive to staff to promote AVR over an enforced return and hope to see the UK Border Agency focussing on increasing the number of families taking up this option. We welcome the move to giving regions the credit for carrying out the work involved in securing a successful family AVR and we found some evidence of action plans to increase the take-up of AVR. We were, however, concerned to note that not all of the regions were equally aware that successful AVR applications counted towards removal targets; nor did they have similar action plans in place.
- 5.26 During the latter part of our inspection, we also noted that a family and children specific 'package' had been launched on 1 April 2010 as part of the overall promotion of AVR. The UK Border Agency had set itself an informal target for 600 families to take up this offer over the next year. We were concerned that there was no clear sense of whether and how this would be achieved and that staff had limited knowledge of the amended package despite the then imminent launch.

Welfare of the family

- 5.27 It is absolutely critical that the welfare of the family is considered by the UK Border Agency at all stages of the process. The importance of complying with section 55 of the Borders, Citizenship and Immigration Act 2009 is reflected in Chapter 45 of the UK Border Agency's Enforcement Instructions and Guidance.⁶
- 5.28 The guidance required staff to complete a Family Welfare Form. Its purpose was to inform the key operational decisions needed for each family case and consisted of three parts. The first part was to be completed during the contact management process by the case owner responsible for any application including asylum. It required any known information regarding the health, welfare and education of each member of the family to be recorded and for an offer of AVR to be noted along with the family's response.
- 5.29 The second part was to be completed by the family arrest team and must include **all** operational planning and any additional post-detention information. The third part of the form was to be completed by the Immigration Removal Centre (IRC) and should list any health / welfare concerns and any behaviour that had arisen during detention. This was designed to inform any future arrest and detention should the family be released.
- 5.30 We found inconsistent use of the Family Welfare Form by case owners as a living document to map the progress of each family case in the three regions we inspected. In one region there was limited knowledge of it; in another region one of the managers told us that case owners were aware but that completion was inconsistent. They told us that case owners included brief information when the file was passed to enforcement staff instead of using it to record information throughout their contact with families. Managers said there was no quality control of the document to ensure it had been completed fully before it was passed from case owners to operational staff to plan an enforced removal.

⁶ The guidance is available at www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/oemsectione/

5.31 In the regions where it was used, asylum case owners told us that they were aware of the importance of building up a rapport with families through contact management; obtaining and recording information on medical concerns and having meaningful discussions with families on the benefits of AVR. However, they were required to complete four ‘key events’ each week (notably interviews of applicants and final decisions on cases) and did not believe this allowed sufficient time to engage fully with families. As a result, they were not capturing all the relevant information to be included on the Family Welfare Form. This mirrored our finding in our report “Asylum: Getting the Balance Right”, that the quality and frequency of contact management was inconsistent.

5.32 We looked at the quality of completion of Section 2 of the form by operational staff. The guidance states that the following alternatives must always be considered before an enforced removal can be authorised:

- Voluntary Returns;
- Self check-in removal directions; and
- Detention of head of household but with consideration given to the impact on children and guidance on splitting families.

Guidance also says that the detention of families with children should be used only as a last resort and full consideration as to why it is considered the only option to effect removal must be recorded on Section 2 of the Family Welfare Form. A record of decisions and reasoning for action taken/action planned, together with the correct levels of authority, the reasoning behind the number of officers and the time of day planned for the visit should also be noted.

5.33 We found that some operational staff showed a lack of understanding of the purpose of the Family Welfare Form. One member of staff told us:

‘It is a tool used to bullet point basic information – a simple checklist.’

Another told us:

‘The Family Welfare Form is generated so that at the point of detention, the history of the family is known.’

5.34 The lack of understanding of the need to keep a clear audit trail of planning and decision-making in each individual case was confirmed by the file sampling. We found a clear record of why a family was to be removed but a lack of an audit trail of the planning of how each case was actively managed prior to removal. From our file sample of 28 cases where an arrest took place at a family home or at a reporting centre, we found only three cases where a Family Welfare Form had been completed in full. We judged the Family Welfare Form to be completed if information had been recorded clearly in each of the sections with a clear explanation of the actions taken. Examples of the omissions included:

- the lack of a clear audit trail of when Assisted Voluntary Return had been offered to the family, how the offer had been made and the reaction of the family;
- no consistent record of self check-in removal directions having been set or considered; and
- lack of a clear summary setting out the options for removal in order to justify the decision to detain before removal.

5.35 We conclude therefore that the absence of a clear audit trail meant there was a lack of evidence to justify the arrest and detention of a family despite the policy of detention as a last resort with the consequent significant implications for families. This was more likely to lead to complaints or successful challenges in respect of unlawful detention and had the potential to impact on the resources of UK Border Agency in addition to potential detrimental consequences for families.

We recommend that the UK Border Agency:

- Ensures that Family Welfare Forms are completed in full and from initial contact through to the family's departure
 - Ensures that all alternatives, including self check-in, are exhausted before enforced removal is considered.
- 5.36 In the three cases where the Family Welfare Form had been completed in full we identified one case in particular where all relevant sections had been completed and there was a very clear audit trail of all actions relating to the removal of the family. This included clear evidence of the reasons for detention, clear advice from the Office of the Children's Champion (OCC) and a detailed assessment of the options for removal.
- 5.37 The case above illustrated the consistent evidence we found that the OCC was used as a source of advice by each region. There was also a consistent understanding by staff of the need to refer to the OCC in any case where it was proposed to split the family for the purpose of detention and removal. This may occur where one of the parents has had no contact with the children or where one of the parents is no longer in contact with UK Border Agency.
- 5.38 However we found a lack of evidence that health and welfare concerns that had arisen while in detention were being fed back to Local Enforcement Offices/Local Immigration Teams. We were given conflicting information as to whether this information was fed through the Family Detention Unit or direct to local offices. We consider that the UK Border Agency should put in place a clear process when families are released, ensuring that information relating to the welfare of the family is passed promptly to the case owner. This should inform decisions on future contact with the family.
- 5.39 We found from our file sample that a medical consent form was requested in only four cases where an arrest took place. Staff told us that medical consent forms were not requested routinely. This was despite UK Border Agency's own guidance which states that "*medical consent forms will be obtained where possible together with details of any medication and special needs*". While it is clearly a matter for families to decide whether to provide their consent, we would expect the UK Border Agency to ask families in each case to try and obtain relevant medical information.
- 5.40 We considered there was a risk to the family if appropriate information had not been obtained on medical issues in advance of any arrest. While there must be a responsibility on the family to provide information which may be relevant to their case, the absence of full medical information would not enable the UK Border Agency to plan for an individual's needs while in detention and may result in the family having to be released immediately if the removal centre is unable to cater for those needs. We comment later in the report on the negative impact on children of being arrested, only to be released and re-arrested at a later stage. We consider that the UK Border Agency should follow its own guidance on seeking medical information in advance, although we recognise that families have every right to decline to sign medical consent forms.

We recommend that the UK Border Agency:

- Ensures that medical consent forms are requested from every family; and full medical information obtained from those families who provide their consent.
- 5.41 We noted that the guidance also states that Children's Services should '*have an in-depth knowledge of any child in their area that has needs over and above the norm*'. Their information is therefore crucial to planning an arrest, detention or removal'. We found that staff were aware of the need to safeguard the welfare of children.

- 5.42 However, from our file sample, we found that contact had been made with Children's Services in only 11 of the 28 cases where an arrest took place. We were extremely concerned that this percentage was not higher as we would expect this check to be conducted in 100% of cases. While we acknowledge that contact may have been made in a higher number of cases, it is essential that such actions are recorded clearly.
- 5.43 We found that contact with Children's Services at the removal stage did occur in 9 of the 10 files sampled where unaccompanied children had been removed to a third country. We were extremely concerned to note one case where there was no record of this occurring despite the particularly vulnerable nature of this group.
- 5.44 We also found evidence of comprehensively completed TCU Child Check Sheet/Social Services Liaison Forms and of case conferences taking place with the child's social worker. We noted the practice of arresting unaccompanied asylum-seeking children at exceptionally early times of the morning given the policy of not detaining such children and to ensure they were received in the third country during the afternoon. We make no further comment about this issue at this stage given that the issue of same-day removals is the subject of an outstanding judicial review.

Family Arrests

- 5.45 It is essential that appropriate authorisation is obtained before a family is subjected to arrest and detention. As such, we noted that the UK Border Agency had recently increased the level of authorisation required to that of Assistant Director. All staff that we interviewed were aware of this requirement.
- 5.46 There has been considerable concern expressed by stakeholders about the UK Border Agency practice of arresting families at their home early in the morning. The Agency's own guidance stipulates that arrests at the home should not be carried out before 6.30am unless a specific risk assessment indicated that an earlier time was required and only then with the authority of an Assistant Director. We noted from our file sample that the majority of arrest visits were correctly authorised but there was a lack of an audit trail confirming the level of authorisation in two of the cases.
- 5.47 We found that arrests were carried out between 6.20am and 7.18am with appropriate authority for the one arrest carried out before 6.30am. Of the 42 cases within our remit, 23 involved arrests at the home but the time of arrest was only noted in 15 cases. Where the time of visit was noted, 14 were at or before 7.00am with the majority between 6.30am and 6.40am.
- 5.48 There were consistent explanations from staff as to the reasons for arresting at this time of day. It was believed to be the optimum time to find the family together before children went to school and to minimise any community reaction. But, although we found awareness that the time of the arrest could be tailored to each family's circumstances, there was no evidence of this happening in practice.
- 5.49 We are of the view that arrest at any time will undoubtedly be an unpleasant experience and have the potential to have a negative impact on the whole family, particularly the children. On the evidence it appears that early morning arrests have become the 'norm' with little, if any, consideration of other opportunities to arrest at different times. While there is never going to be an optimum time to arrest a family at their home, we were concerned that there was no individual approach to the timing of the arrest of each family given their particular circumstances. For example an arrest involving a parent with a child below school age could feasibly take place later in the day or in the evening.

- 5.50 We consider that it is important for arrest teams to have male and female officers when families are arrested to ensure that sensitivities around dressing and using bathroom facilities are appropriately addressed and note that the UK Border Agency's own guidance states all visits should, as far as is reasonably practicable, include both male and female staff. All staff that we interviewed were fully aware of this issue and confirmed to us that arrests would only take place with both male and female officers present. Two female officers were present in the arrest that we observed. From our file sampling we found that the gender breakdown was recorded in four cases, each of which confirmed that both female and male officers were present. We found that we were hindered by insufficient recording in the formal record of each arrest visit (the 'premises search book') of the gender of each arrest officer.
- 5.51 We also noted in the guidance that the number of staff conducting an arrest was to be determined through risk assessment and on information established through contact management. This was used to determine the roles that were required for each arrest and, consequently, the total number of officers needed. Figure 5 below shows the team numbers in the 14 cases where it was recorded on the file or arrest folder.

| Figure 5 – Number of people in an arrest team | | | |
|--|----------------|----------------|----------------|
| | Minimum | Maximum | Average |
| Number in arrest team | 5 | 9 | 7 |

- 5.52 To put these figures into context, we took into consideration what staff told us about the roles within the team. The team was managed by an 'Officer in Charge' supported by one person responsible for keeping a written record of the arrest in a 'premises search book'. One member of staff was allocated for each person due to be arrested with an additional officer deployed to ensure their safety. A further officer was deployed solely to look after the welfare of the children. Additional officers would be included where the arrest was due to take place in a multi-occupancy building in order to deal with any wider community issues that may arise.
- 5.53 While this did provide clear reasoning for the numbers of officers in an arrest team, we again found the absence of a clear rationale for the numbers and roles needed in each individual arrest to be of concern. While we think it is too simplistic to say that any arrest team should be limited to a set number of officers, evidence of greater individual consideration would provide assurance that resources were being used most effectively and that they were proportionate in each case. We recognise that staff safety needs to be considered fully and that it is feasible for additional adults to be present in a house at the time of the arrest which may necessitate a higher number of officers. Nevertheless, the UK Border Agency should assess carefully the specific requirements in each case.
- 5.54 During focus groups and interviews of operational staff responsible for carrying out family arrests, we were told that entry was not generally forced on family visits. We also found an understanding that control and restraint should not be used on parents in front of their family because of the negative impact on the children. We found a similar widespread understanding that force can only be used on children to prevent harm to them or to anyone else present and can not be used to enforce compliance with the removal without Ministerial authority. From the 10 TCU cases we sampled and the 23 family cases where an arrest occurred at the family's home, we found no evidence that control or restraint had been used on children.
- 5.55 Families clearly need to understand what is happening when officers arrive at their home to make an arrest. The UK Border Agency's own guidance sets out that officers should explain the reason to the adults in the family and ask them to explain to the children in simple terms. We found that interpreters were not routinely booked to be present at family arrests or detentions but interpreting services via telephone were available to UK Border Agency staff if the need arose.

- 5.56 On an arrest visit we observed, we noted the clear benefit of having staff present who spoke the language of the family being arrested both to explain the reasons for the arrest and for dealing with subsequent questions. The decision to contact an interpreter is left to the officer in charge of the arrest and what was not clear from our inspection was how often this was invoked. We noted that the Family Welfare Form includes a section on whether or not an interpreter is required but we found no evidence in practice of any assessment of whether an interpreter was likely to be needed.
- 5.57 There needs to be a greater assessment, based on contact with the family throughout the process, of whether interpretation at the time of the arrest would help reduce the potential stress for the family and also enable the arrest to be conducted as smoothly as possible.
- 5.58 On the same arrest visit, we noted that officers spoke in a reassuring manner to the children and made particular efforts to ensure, through the mother, that particular toys and clothes were packed. While the mother and children used the bathroom, the door was left slightly ajar. We were informed that this was to ensure that a member of the family did not lock themselves in or seek to hurt themselves. Officers explained calmly to the mother that the door should not be shut. We were satisfied that, in the context of an arrest at the home, the officers respected the privacy of the family.

We recommend that the UK Border Agency:

- Provides appropriate interpreting services during family arrests.
- 5.59 Four other planned arrests which we intended to observe were cancelled. The reasons included administrative error, the receipt of further submissions and the cancellation of flights given the volcanic ash difficulties. The UK Border Agency made every effort to arrange alternative observations but these were not possible in the timeframe for the inspection.
- 5.60 As families are transported from their home to be detained at an Immigration Removal Centre they need to be able to take their belongings with them, including clothes, medication and children's toys. The UK Border Agency's guidance states that a minimum of 30 minutes should be allowed which can be curtailed or extended subject to a risk assessment at the address and we found from our discussions with operational staff and from the one arrest we observed that packing clearly formed part of the planning and carrying out of arrests.
- 5.61 Records of arrests provide information on the total time taken from officers entering the house to departure from it. It is not possible therefore to isolate precisely how long was allowed for packing given the time that will also be taken to explain the reasons for the arrest. We noted that one arrest took only 27 minutes. There was no explanation for the packing period having been curtailed. Of the other 13 cases where we were able to identify the duration of visits, six took more than 30 minutes but less than 45 minutes. There was one case where the arrest lasted 111 minutes. In this case, the team went to a second address to locate the parent, having found the child alone.
- 5.62 We do not think there can be a set time for packing – it clearly depends on the number of children and adults in the family and how they react to being arrested. However, it is important that enough time is allowed, given the sensitivity of the situation and that 30 minutes does not become a default position when it is clear that more time is needed and there is no risk to anyone present by extending the period for packing. Figure 6 below shows the minimum and maximum length of time taken for the 13 arrest visits where the time was recorded.

Figure 6 – Length of time taken for arrest visit

| | Minimum (mins) | Maximum (mins) | Median ⁷ |
|--|----------------|----------------|---------------------|
| Time arrest team took to complete arrest | 27 | 111 | 43 |

We recommend that the UK Border Agency:

- Ensures that the time and number of officers involved in any arrest reflects clearly the individual circumstances of each family

- 5.63 There is clear value in conducting a debrief of every arrest. The UK Border Agency's own guidance sets out that this should take place and that a written record should be retained. We found consistent evidence of briefings taking place prior to an arrest but inconsistent evidence of debriefs being carried out afterwards. We found that this is not only contrary to guidance but also a missed opportunity of learning lessons, sharing best practice within the team and ensuring staff are given support in what is a difficult area of work.
- 5.64 We did observe one debrief which assessed carefully the arrest from start to finish, including the roles undertaken by each member of the team, the interaction with the mother and children and the response to the unexpected situation of an additional adult in the property. We consider this to be a very good model for the UK Border Agency to adopt following each arrest, particularly to highlight any concerns about safeguarding of children. There should be a debrief in every case and a record kept of lessons learned.
- 5.65 Currently the UK Border Agency undertakes the overwhelming majority of enforced removal action against families in two distinct manners; detention of the family at a reporting centre or arrest of the family at their residence. We noted that it was mainly the practice in Glasgow that detention occurred at a reporting centre and that this approach had developed due to public concern in Scotland about early morning arrests at family homes.
- 5.66 We were informed by staff in interviews and focus groups that an arrest at a reporting centre required less staff resource, particularly as concerns about safety of staff were reduced. In addition, the whole family could be required to report ensuring they were all together at the time of the arrest and it avoided families being arrested very publicly as happened with arrests at the home.
- 5.67 However, there were a number of potential disadvantages. Families would be under the impression they were simply reporting and would not usually bring with them personal belongings, documentation, children's toys and any medication. As a result there may be practical difficulties in retrieving the belongings before a family was transported to an Immigration Removal Centre. In addition, there were also practical issues for the UK Border Agency in addressing this. For example, not every area has a specific UK Border Agency reporting centre and in some locations the head of a household is required to report at a police station.
- 5.68 However, greater consideration should be given to the potential options for each individual family, taking account of the lessons learned in Scotland. There will not be an ideal solution but the geographical location of the family, the number of children and evidence collected consistently about medication issues would all provide evidence to make a fuller assessment of arrest options.

⁷ The median is calculated by ordering the arrest visit times from shortest to longest and selecting the middle value from these. This gives a value that approximates the average length of arrest visits. However, it is not the true arithmetic average [the mean] which would be skewed by one very long visit.

Detention

- 5.69 The treatment of people in detention is the responsibility of Her Majesty's Inspectorate of Prisons and issues relating to the detention of families were highlighted in the reports of her announced inspection and unannounced full follow-up inspection of Yarl's Wood Immigration Removal Centre on 4-8 February 2008 and 9-13 November 2009. However, as part of our file sampling we were particularly interested in confirming whether, and by whom, detention reviews were carried out following arrest to ensure that families were detained for the minimum time to effect removal and that the welfare of children was taken into consideration. We noted that family detention reviews were subject to a dual process. A review was conducted by a Local Enforcement Office/Local Immigration Team as follows:

| Period in Detention | Review Authorised by: |
|-------------------------------------|--|
| 24 hours | Senior Executive Officer (SEO)/Her Majesty's Inspector (HMI) |
| 7 days | Higher Executive Officer (HEO)/Chief Immigration Officer (CIO) |
| 14 days and every 7 days thereafter | Assistant Director (AD) |

'Enhanced' reviews were carried out by the Family Detention Unit (FDU). These assessed the time already spent in detention, the potential length of detention, case history, current status of the case, welfare issues and the reasons for detention and were carried out as follows:

| Period in Detention | Review Authorised by: |
|-------------------------------------|-----------------------|
| 7 days | HEO/CIO |
| 10 days | SEO/Inspector |
| 14 days and every 7 days thereafter | Assistant Director |

- 5.70 We were surprised to find different authority levels for conducting detention reviews through any period of detention. These ranged from Assistant Director for initial detention, 14, 21 and 28 days but dropped to HMI/SEO at 24 hours and to CIO/HEO level for reviews at 7 days. FDU has an additional review at 10 days at HMI/SEO. We found no rationale for this difference and no understanding amongst staff or managers as to why the difference existed. We also found a contradiction between Chapter 45 of the Enforcement Instructions and Guidance with AD as the authority level to detain families and Chapter 55 of the Instructions which referred to HMI/SEO but noted the UK Border Agency was continuing work to update the guidance.
- 5.71 We were unable to assess the quality of detention reviews conducted at local offices due to the lack of comprehensive records provided for the file sampling. We were told that in addition to the routine reviews, detention is also subject to 'event driven' reviews which allow for an immediate review of detention following a change of circumstances such as further representations or judicial review. However we found little evidence of this in the paperwork provided to us.

We noted from information provided to us following the inspection that the authority of a person in the Senior Civil Service – normally the Regional Director – was required to authorise the initial detention in all family cases. We welcome this development.

We recommend that the UK Border Agency:

- Reviews the level of seniority required to maintain the detention of families, ensures there is a clear rationale for the level at each detention review and ensures that each review takes full account of the family's circumstances.

- 5.72 FDU had the authority to deny detention space to local enforcement offices / local immigration teams and, more rarely, ports of entry, if it considered that a family case was not suitable for detention. Reasons for this included the fact that a family's immigration case was still unresolved, that suitable removal directions had not been set or the needs of the family could not be met in the Immigration Removal Centre.
- 5.73 We noted that, since December 2009, and reflecting the duties imposed to have regard to the need to safeguard and promote the welfare of children, FDU had the authority to require the release of any family with children on the basis of welfare grounds. Such authority took precedence over wider enforcement grounds for detention and FDU could compel the case owner to release the family from detention at the earliest available opportunity.
- 5.74 Any such decision would follow the 'enhanced' detention review that FDU undertook in addition to the reviews carried out by the local enforcement office/local immigration team. These took place on the seventh day of continuous detention and each subsequent seventh day with an additional review on the tenth day. Staff also informed us that they completed 'event driven' reviews, which are triggered by specific circumstances in individual cases. At any point in this process, the family would be released if their circumstances dictated that that was the correct course of action.
- 5.75 While we were pleased to see the increased authority that the FDU had to release families, the variety of detention reviews undertaken by different people at different times did not appear to be an efficient use of resources. Equally importantly, we do not see why there should be two apparent levels of detention review. The 'enhanced' review ought to be the minimum level for each review at whatever stage and recorded accordingly.
- 5.76 For any detention of a family beyond 28 days, the UK Border Agency required Ministerial authorisation and arranged a conference call to assess the reasons for continued detention and the welfare of the family. This was chaired by FDU and we observed one such call. All relevant officers involved in the family's case took part in the call:
- a representative from the local enforcement office / local immigration team or port of entry;
 - a consultant social worker from the Office of the Children's Champion within the UK Border Agency;
 - a representative from the company contracted to run Yarl's Wood which is the removal centre housing families in detention for extended periods;
 - a healthcare worker from Yarl's Wood; and
 - an independent social worker from Bedfordshire Children's Services, where Yarl's Wood is located.
- 5.77 We observed a discussion which included the likelihood of the family's imminent removal, their current physical and mental welfare and the likely impact, particularly on the children, of continued detention. This took account of the likely timescales for a judicial review application, healthcare issues and the behaviour of the families, including interaction with other detainees and the children's response to education in the removal centre. Without interviewing the families themselves we clearly could not confirm that all issues were addressed. However, on the basis of the call itself, we did find that those issues raised were discussed in detail and found the decisions taken to be based clearly on the evidence provided.

Release

- 5.78 Release from detention, as described by the two families that we spoke to, could be a very different experience. One of the families described how they were left at a train station, with tickets but not knowing what train to catch and feeling that they were not suitably dressed. The second family told us they were driven directly to their temporary accommodation on release along with their belongings.

- 5.79 It was also unclear from the inspection as to whether the UK Border Agency has a policy or expectation of returning detained families to their previously occupied accommodation. One of the regions stated that they did hold accommodation open for detained families but that this was time limited. This initiative appeared to be a local initiative rather than national policy. However one of the families we interviewed told us that they did not wish to return to the same accommodation as the thought of returning to the place where they had been arrested was too upsetting for them.
- 5.80 There was little evidence of any evaluation of welfare consideration being taken into account on release and passed to the relevant case owner or case worker, particularly where this occurred before the 28 day stage at which the weekly case conferences take place. There was conflicting evidence of whether the responsibility to provide information to the local enforcement office or local immigration team lay with the Immigration Removal Centre or with the Family Detention Unit.

Training

- 5.81 While all staff had completed, or were in the process of completing, mandatory diversity training, we could find no evidence of any tailored cultural awareness training. More training in this area would be beneficial given the importance we attach to the way contact is maintained with families, how options are discussed with them and to ensure that any arrests are carried out with both sensitivity and an awareness of risk.

We recommend that the UK Border Agency:

- Reviews its training requirements for staff to ensure they are aware of cultural issues when engaging with families
- 5.82 We heard consistent evidence that the majority of UK Border Agency staff had undertaken Tiers 1 and 2 of the 'Keeping Children Safe' (KCS) training courses. We were also informed by a significant proportion of those that we interviewed that they had had training in how to recognise suspected human trafficking and how best to report it. The vast majority of staff conducting family arrests had also received Tier 3 of the KCS training. However it was unacceptable that two members of the family team in one location had not received this mandatory training.

6. Inspection Findings – Management and leadership; and High-level outcomes of the business

We assessed in particular whether there was **evidence of diligent business planning** and whether **business risks were well managed**. We also considered whether there were clear and realistic performance targets and how effectively the UK Border Agency was working with delivery partners and stakeholders.

Overarching Family Case Strategy

- 6.1 From an assessment of the UK Border Agency's organisational structures and interviews with senior managers we found no evidence of a centralised or nationally co-ordinated 'end-to-end' strategy within the UK Border Agency for the progression and resolution of applications by families. In particular we noted that one UK Border Agency Board member had responsibility for its Public Service Agreement (PSA) removals targets and for procedures relating to contact management and case ownership. A different Board member had responsibility for detention. We also noted that one Regional Director had responsibility for operational enforcement issues, including the practicalities of arresting families. While this in itself need not undermine a co-ordinated strategy we believe that, in light of our recommendation in Chapter 5 for a clear action plan to be developed which involves all elements of the family's case, that any potential tensions in ownership are addressed.
- 6.2 We also noted that the UK Border Agency had no clear and consistent way of capturing data for families with dependent children and we encountered difficulty in obtaining accurate and reliable statistics in relation to family cases. With the exception of detained family cases, we found no evidence that the UK Border Agency has a clear and comprehensive understanding of the extent of family cases it has in the various stages of the application and resolution process. We were disappointed that information was not collected routinely given the consequences of detaining families. For example, we requested the following information in respect of families with dependent children under 18 but were told that it was not routinely collated:

For 2005 to 2010:

- Numbers who had left the UK categorised by those who had accepted an AVR package, voluntary departures where families have agreed to return either at their own expense or public expense and enforced removals.

For the period 4 April 2009 to 31 December 2009:

- Number of arrest visits cancelled after resources have been allocated broken down by reason;
- Numbers of families detained, released and re-detained;
- Length of time families detained on individual occasions and in total;
- Number of families released due to unlawful detention i.e. families awarded damages for unlawful detention;
- Number of cases where families won their judicial review against removal directions; and
- Number of cases where a family was no longer in contact with the UK Border Agency.

- 6.3 We found no evidence of uniform and systematic collation of management information relating to all aspects of family removals across the regions or nationally and no evidence of analysis of trends to drive improvement. This meant the UK Border Agency was unable to provide both reliable management information and to provide a transparent picture to stakeholders and the public of their progress in meeting their safeguarding responsibilities.
- 6.4 A greater amount of evidence was collected in respect of the number of families detained at any given point but we found no statistics were collated on the number of families detained, released and re-detained. We also found no analysis of the reasons for repeated periods of detention to seek to reduce these occurrences and the cumulative effects that this may have on the children. There was a consistent message from staff, managers and the families we spoke to that this ‘revolving door’ in and out of detention tended to happen with the resultant financial and resource cost to the UK Border Agency and emotional effect on the family.
- 6.5 We were informed that the AVR packages to be promoted to families from April 2010 onwards were to be enhanced in terms of reintegration assistance to encourage greater uptake of the schemes. While this would appear to be a positive step within the overall strategy of family removals / returns, we were concerned that we could find no evidence that expected uptake had been subject to any analysis. Nor did we find an awareness of the terms of the package among staff during our inspection despite its imminent launch.

Regionalisation

- 6.6 We noted that regions were encouraged to think innovatively to improve performance. The piloting of different approaches to AVR was an example of this. However we found a lack of any central co-ordination of the terms of reference or success criteria of the varying pilots and a lack of clarity as to how lessons learned or best practice would be captured and shared.
- 6.7 We also found evidence in two regions of a ‘Doubling up’ programme in reporting centres. This was an evaluation of the reporting patterns designed to reduce the frequency of reporting for those individuals and families reporting who are ‘difficult or unlikely to be removed’. We were given conflicting accounts as to whether the driver behind the programme was to improve the quality of reporting events to allow for a more focussed approach to the promotion of AVR or to meet targets for the throughput of people and the need to minimise waiting times.
- 6.8 Therefore, whilst regionalisation is providing the UK Border Agency with opportunities to innovate and respond flexibly to particular local circumstances there needs to be a better approach to capturing what may be working well. There is insufficient clarity at present about how far the UK Border Agency’s corporate centre can and should insist on the way certain things need to be done and how much should be left to individual regions.

Performance Targets

- 6.9 We noted there were no specific performance targets in respect of family removals. Families were, however, included in the UK Border Agency’s overall PSA target for concluding asylum applications (which require 90% of applications to be concluded within 6 months by December 2011); and its PSA target to increase the number of enforced removals and voluntary departures year on year⁸. This target is analysed by different groups and is prioritised according to the UK Border Agency’s ‘harm agenda’. The UK Border Agency therefore focuses its enforcement resources on removing Foreign National Prisoners, Failed Asylum Seekers, Non-Asylum Offenders and Detained Fast Track cases. Families were not made a specific target group for removal outside these general categories.

⁸ The year on year points to a 5% increase for 09/10 compared with 08/09.

- 6.10 We saw no advantage in the creation of a specific performance target for families and managers were firmly of the belief that an additional target for families would have little effect in driving up performance or significantly improve the way the UK Border Agency removed families with children. We did note the potential tension between the aim of concluding an asylum case within six months – which a number of staff and senior managers believed was unrealistic in respect of families – and the aim of encouraging families to return home voluntarily. As we have shown in Chapter 6, there is a need to engage actively with families over the course of their contact with the UK Border Agency. This requires an individual assessment to be made about the likelihood of the family returning voluntarily and, where progress is being made, there should not be a move to enforce a removal solely to achieve the six-month target.
- 6.11 We did not see specific evidence of this in any of the cases we sampled but note the potential tension, particularly as the UK Border Agency addresses how and whether it can achieve its 90% conclusion target as we commented in our asylum inspection.
- 6.12 While we were provided with information on the total number of enforced removals and voluntary departures the UK Border Agency did not analyse these by family units. We were, therefore, unable to establish the proportion of overall removals that were families with dependent children.
- 6.13 We noted that consideration was being given to setting ‘aspirational targets’ for average and maximum time for families to spend in detention although these had not been confirmed at the time of inspection.

Detention

- 6.14 At the UK Border Agency’s headquarters, across the regions and within each enforcement area, staff told us that the detention of families should be used as the last resort once all other avenues of removal had been exhausted. However, the UK Border Agency was not routinely seeking to use all other available options first. In addition to AVR (as set out in Chapter 5 of this report), the UK Border Agency had a further option open to them. Self check-in removal directions involves the UK Border Agency arranging a flight and giving written notification to the family that they should report to the airport voluntarily. While this may not be a suitable approach in every case, we found a lack of evidence that it was considered and no analysis of the situations where it may be appropriate.
- 6.15 We received data, see Figure 7 below from the Family Detention Unit (FDU)⁹ which showed 1,020 instances of children entering detention over the period from 2 Jan 2009 to 31 Dec 2009. We were, however, concerned that these figures do not tell us the extent to which, if any, children experience the ‘revolving door’ of detention. By this we mean detained, released and then re-detained with the consequent negative impact on children. Staff consistently told us that families may be detained on several occasions before removal. As well as having an adverse effect on children, we noted that this was an inefficient use of resources.

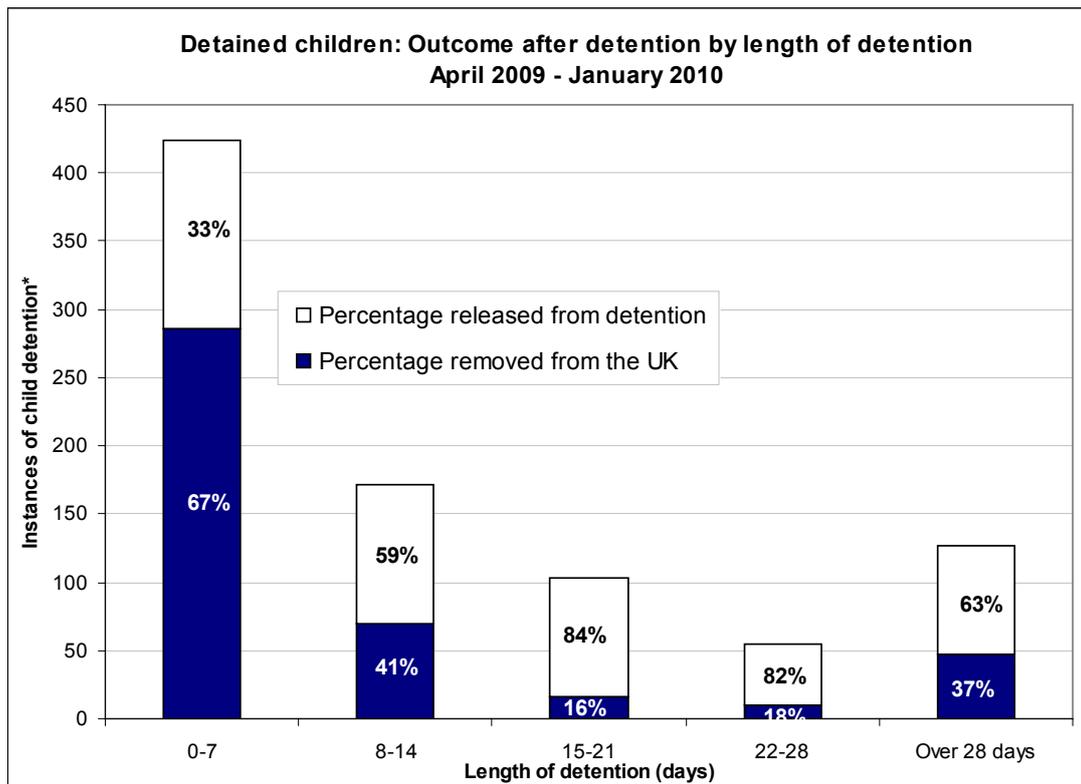
Figure 7 – Quarterly figures for children entering detention as at 21/01/10

| Period | Children entering detention |
|----------------------|-----------------------------|
| 02/01/09 to 02/04/09 | 215 |
| 03/04/09 to 02/07/09 | 236 |
| 03/07/09 to 01/10/09 | 300 |
| 02/10/09 to 31/12/09 | 269 |
| Total | 1020 |

⁹ Data collected by FDU is not subject to any rigorous analysis

- 6.16 We found a growing perception among staff that the ‘gate-keeping’ role of FDU coupled with the duty to have regard to the need to safeguard and promote the welfare of children, had led to a decrease in the number of families with dependent children being detained in Immigration Removal Centres. Quarterly figures for children entering detention covering the annual period January 2009 to January 2010 did not show a downward trend in the use of detention for families prior to removal. We noted, however, that the section 55 duty was only implemented on 2 November 2009, a third of the way into the final quarter for which we have figures.
- 6.17 We looked to see how effective detention was in achieving removal. Figure 8 below shows the length of time children spent in detention and the outcome following detention.

Figure 8 – Detained children: Outcome after detention by length of detention



* It is worth noting that those who are released after detention could then be re-detained, leading them to be counted more than once in these figures.

Total number removed in period: 429

Total number released in period: 451

Total number detained in period: 880

- 6.18 The graph shows:
- 48% of the instances of the detention of a child in this period were for 0-7 days;
 - Two-thirds of all those that were removed from detention in the period were removed after spending 0-7 days in detention;
 - The proportion of those that are released from detention increases with the length of time spent in detention, with the exception of those spending over 28 days in detention; and
 - Conversely the proportion removed from detention falls with the length of time spent in detention, with the exception of those spending over 28 days in detention.

- 6.19 We were presented with further evidence at FDU of the appropriate collection and use of management information to assess and inform current decision making and ongoing process analysis. It was also clear that information was being collated and utilised to try and appropriately influence future policy and strategy surrounding the detention of children. Some analysis had been done of recent trends in the average and maximum number of days that individual children were detained in the greater context of the UK Border Agency's overall targets, objectives and duties. This is referred to in Chapter 5 of this report.
- 6.20 We were informed that removal directions served on families were often cancelled. The UK Border Agency had begun to identify the reasons for this as Figure 9 below demonstrates in respect of families that had been detained (the data may include some families without children).

Figure 9 – Reasons for cancelled Removal Directions

| FDU's comments on whether the reason within the UKBA's control or not | Reason | Total instances family unit's RDs were cancelled for this reason | Percentage of the total number of instances family unit's RDs were cancelled |
|--|---|--|--|
| Outside the control of UKBA | Judicial Review | 231 | 41.3% |
| | Further Reps | 34 | 6.1% |
| | Medical | 27 | 4.8% |
| | Asylum Claim | 24 | 4.3% |
| | Flight cancelled or overbooked | 13 | 2.3% |
| | Appeal Submitted | 13 | 2.3% |
| | MP's intervention | 12 | 2.1% |
| | Yarl's Wood Quarantine | 8 | 1.4% |
| | Total outside UKBA control | 362 | 64.6% |
| Not fully within UKBA control | Disruptive behaviour | 83 | 14.8% |
| | Total not fully within UKBA control | 83 | 14.8% |
| May be within or outside of UKBA control but the recording process is not able to identify this | Admin failure – Local Enforcement Office at fault | 20 | 3.6% |
| | Documentation | 19 | 3.4% |
| | Escort failure | 18 | 3.2% |
| | Ticket/seat problem | 9 | 1.6% |
| | Transport | 6 | 1.1% |
| | Total possibly inside UKBA control | 72 | 12.9% |
| Not commented on by UKBA¹⁰ | Total not commented on | 42 | 7.5% |
| GRAND TOTAL | | 559 | 99.8%¹¹ |

10 This includes things like: "Third party disruption", "authority to use force not granted", "escorts were deemed necessary" and "voluntary departure". Each of these reasons had three or fewer instances recorded.

11 There are small discrepancies in totals throughout the table due to rounding.

- 6.21 We noted that FDU were collating and analysing the reasons for removals being cancelled; although we did not see evidence of how it was being used to drive improvement across the UK Border Agency. We noted in particular that 13% of cancelled removals were potentially fully within the control of the UK Border Agency such as administrative error, ticket or transport problems and failure to obtain escorts. This is clearly inefficient and we would expect the UK Border Agency to eliminate these.
- 6.22 We noted that many of the reasons for cancellation – including applications for judicial review which constituted the highest percentage – were described as being outside the control of the UK Border Agency. There will inevitably be situations which are completely outside the UK Border Agency’s control such as the cancellation of a flight or the sudden illness of a family member. However, we would expect to see greater analysis of issues such as the applications for judicial review and instances where further submissions are provided. The very clear view from all staff and managers was that the overwhelming majority of such instances are rejected. However, the absence of information relating specifically to families with dependent children under 18 makes this difficult to assess. We would certainly expect analysis of any case where a judicial review has been successful or where a case has been overturned following further submissions to inform future practice.
- 6.23 We found a large and worrying gap in the quantity and quality of management information and in the overall collation, analysis and monitoring of the family case management system from end to end. The absence of meaningful management information that has been through rigorous checks means that proper evaluation of current strategies and procedures in order to improve the family removal process is heavily hindered.

We recommend that the UK Border Agency:

- Publishes and analyses a clear set of management information in respect of families with dependent children to provide greater transparency and to fully inform policy and practice.

Appendix A

Inspection Core Criteria

The criteria applicable to the inspection of Family Removals were extracted from the core criteria of the Independent Chief Inspector of the UK Border Agency. They are shown below.

1. High level outcomes of the business

| | |
|--------|--|
| 1.1(a) | There are clear and realistic performance targets to drive improvement |
| 1.1(c) | There is effective joint working with delivery partners and stakeholders including enforcement and security agencies; commercial partners and relevant overseas stakeholders |

2. Processes and procedures (including quality of decision making and consistency of approach)

| | |
|--------|--|
| 2.2(d) | Decisions are made clearly based on all of the evidence and in accordance with current statutory requirements, published policy, guidance and procedures |
| 2.2(e) | Training and written guidance enables staff to make the right decisions (lawful and reasonable) |
| 2.3(a) | Decisions are taken within the timescales set out by the UK Border Agency |
| 2.4(c) | Risks, including protecting the public, are assessed and inform decision making |

3. Impact on people subject to UK Border Agency services

| | |
|--------|---|
| 3.1(b) | UK Border Agency staff are professional, courteous, and respectful when dealing with customers irrespective of their status |
| 3.1(c) | UK Border Agency staff can identify and sensitively support vulnerable and distressed customers especially children |
| 3.2(c) | The cultural needs of the diverse customer base are taken into account when deploying staff |

4. Management and Leadership

| | |
|--------|---|
| 4.1(a) | There is evidence of diligent business planning |
| 4.1(b) | Business risks are well managed |

Appendix B

List of stakeholders

During the inspection, we contacted and consulted with a wide variety of stakeholders using a variety of forms. The stakeholders are as follows:

- Bail for Immigration Detainees
- Children's Society
- 11 Million; Children's Commissioner for England
- Children's Commissioner for Scotland
- International Organisation for Migration
- Refugee Action
- Refugee Council
- Scottish Refugee Council
- Yarl's Wood Befrienders
- Families who have been through the arrest process.

Appendix 3

Glossary

| | |
|---------------------------------------|---|
| Assisted Voluntary Return | The generic term for the three voluntary return programmes provided by the International Organisation for Migration. One is for anyone who has been in the asylum system at any stage – applying, appealing, refused – (VARRP); one is for families with children whether they have applied for asylum or not (AVRFC); and a third is for irregular migrants – who have overstayed their visas or have been smuggled or trafficked into the country (AVRIM). Under all three programmes IOM arranges flights and onward transportation to the home doorstep but under the schemes for asylum seekers, families and young people IOM also delivers Reintegration Assistance in the country of return. |
| Asylum and Immigration Tribunal (AIT) | A tribunal where applicants with the right of appeal, can appeal against asylum and immigration decisions made by the UK Border Agency. It is independent of the Home Office and is part of the Tribunals Service. The AIT is presided over by an Immigration Judge. The UK Border Agency is often represented by Presenting Officers defending the decision of Case Owners. |
| Case Owner | The UK Border Agency term for an official within its New Asylum Model (NAM), responsible for processing an asylum seeker’s claim from start to finish. A Case Owner’s role includes deciding whether refugee status should be granted, refused or temporarily granted based on all the evidence presented. Case Owners also handle the latter part of the process including appeals, organising support, integration or removals from the UK. Case Owners are also found in the Case Resolution Directorate at Senior Executive Officer level and oversee several teams of case workers responsible for ‘Legacy’ cases. |
| Case Worker | The UK Border Agency term for an official, usually at Executive Officer level, responsible for processing both legacy and NAM cases that have not been concluded after six months. The term also applies to officials who assist in managing the end process of family removals, arranging flights and travel documentation. |
| Case Resolution Directorate (CRD) | Set up by the UK Border Agency to deal with ‘legacy’ asylum cases prior to April 2007. The UK Border Agency has stated publicly that the case resolution process to clear the backlog of cases (approx 450,000) will take until 2011 to complete. |
| Case Information Database (CID) | The Case Information Database is an administrative tool, used by the UK Border Agency to perform asylum tasks including recording all applications for asylum, with the related casework and decisions. |
| Conclusion of case(s) | An asylum application is concluded when, following a decision to grant an applicant a form of leave to remain in the UK, the decision is served or following refusal, an applicant is removed from the UK. |

| | |
|--|--|
| Enforced removal | A person or person(s) who has/have no leave to remain in the UK who physically leaves the UK through enforcement by UK Border Agency staff. |
| Family Welfare Form | The mechanism to log the process of each family through their dealings with UK Border Agency, providing an audit trail of medical or welfare concerns, offers of Assisted Voluntary Return and the planning of how to progress each case to removal should any applications to enter or remain in the United Kingdom be refused. |
| Harm agenda | The scale against which the UK Border Agency prioritises which cases should be removed first, putting more resources into removing those who may cause more harm to the public such as foreign national prisoners. |
| International Organisation for Migration (IOM) | An intergovernmental organisation which runs a number of return schemes for failed asylum seekers who voluntarily return to their country of origin www.iomlondon.org/ |
| Judicial Review (JR) | The means through which a person or people can ask a judge to review the lawfulness of public bodies' decisions. A JR cannot be used to challenge an asylum decision. See 'Asylum and Immigration Tribunal'. |
| Legacy Cases | Refers to approximately 450,000 asylum claims identified in 2006 as unresolved applications. Led to setting up of Case Resolution Directorate (CRD), responsible for processing the cases through to conclusion by December 2011. |
| Local Enforcement Office | An office consisting of case workers, reporting centre staff and operational enforcement staff whose role is to remove those with no right to remain in the United Kingdom. |
| Local Immigration Team | An office consisting of case workers, reporting centre staff and operational enforcement staff whose role is to remove those with no right to remain in the United Kingdom. |
| Medical consent forms | A form for families to sign voluntarily to afford UK Border Agency the opportunity to contact the family's doctor for information on prescribed medicine and any medical concerns to ensure these are taken into account. |
| New Asylum Model (NAM) | The end to end case management system for processing asylum applications made after 4 March 2007. See also 'Case Owners'. |
| Public Service Agreement (PSA) | Public Service Agreements detail the aims and objectives of UK government departments for a three-year period. Such agreements also describe how targets will be achieved and how performance against these targets will be measured. |

Acknowledgements

We are grateful to the UK Border Agency for its help and co-operation throughout the inspection. In particular we are grateful for the assistance across regions in providing case files and for arranging interviews with staff, sometimes at short notice.

We are grateful also to those organisations and individuals who gave up their time to provide us with their experience of family removals.

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