



# **An Inspection of Removals**

October 2014 – March 2015



**David Bolt**  
Independent Chief Inspector of  
Borders and Immigration



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Presented to Parliament pursuant to Section 50 (2) of the UK Borders Act 2007

December 2015



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Any enquiries regarding this publication should be sent to us at

Independent Chief Inspector of Borders and Immigration,  
5th Floor, Globe House,  
89 Eccleston Square,  
London, SW1V 1PN  
United Kingdom

Print ISBN 9781474126656

Web ISBN 9781474126663

ID 10121502 12/15

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

## Our Purpose

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Write to us: Independent Chief Inspector  
of Borders and Immigration,  
5th Floor, Globe House,  
89 Eccleston Square,  
London, SW1V 1PN  
United Kingdom



# Contents

Foreword	2
Purpose and Scope	3
1. Key Findings	4
2. Summary of Recommendations	7
3. The Inspection	8
4. Inspection Findings - Operational Delivery	11
5. Inspection Findings – Safeguarding Individuals	33
6. Inspection Findings – Continuous Improvement	36
Annex A: Key Terms Used in This Report	39
Annex B: Role & Remit of the Chief Inspector	41
Annex C: Inspection Criteria	42
Annex D: Glossary	43
Acknowledgements	45

# Foreword

The enforced removal from the UK of individuals who have no legal right to remain is costly and complex. The Home Office therefore looks to encourage such individuals to leave the UK voluntarily, employing various incentives and reserving enforced removal for those cases where it has judged that voluntary departure will not work or is not appropriate. Individuals opting for voluntary departure are able to have their return paid for at public expense, although this will extend the length of time before they may apply to re-enter the UK. Enforced removals result in a ten-year re-entry ban.

The Immigration Act 2014 contained a package of measures aimed at maximising voluntary returns through the creation of a ‘hostile environment’ for individuals without the legal right to remain in the UK. New legislative measures included making it more difficult to open a bank account, to obtain rented accommodation and to apply for a driving licence.

This inspection found that there had been a significant increase in the number of individuals who had opted to depart voluntarily using the Home Office’s voluntary departure services. Advance passenger information (API) also identified an increased number of individuals with no right to remain departing without notifying the Home Office or availing themselves of such services, though the increase needs to be seen in the context of improved data collection.

Operationally, the inspection identified a disconnect between the work of the National Removals Command (NRC) and front-line enforcement teams, with at least some of the latter questioning the effectiveness of the NRC and arguing that enforced removals performance had deteriorated since it was created. The NRC argued that performance had varied from team to team. Irrespective of these arguments, the NRC and enforcement teams needed to align themselves better, not least to ensure that enforcement operations were cost-effective, and to reduce instances where immigration offenders were detained but had to be released because there were no available detention beds (and, in a significant number of cases, then absconded).

The removal of families was yet more complex and created additional challenges. The Home Office had introduced Family Engagement Managers (FEM) to encourage and assist with family removals, particularly those families who were resistant to the idea of departing. However, the inspection found that FEMs were too often engaged in minor administrative tasks in support of families who had indicated an intention to depart voluntarily. This was not the best use of their specialist training or grade.

**David Bolt**

**Independent Chief Inspector of Borders and Immigration**

# Purpose and Scope

This inspection examined the efficiency and effectiveness with which the Home Office removed or encouraged the voluntary departure of individuals and families who had no legal right to remain in the UK. It did so by:

- assessing whether individuals and families with no legal right to remain were subject to timely removal or return; and
- reviewing the causes of failed removals and the effectiveness of actions taken to mitigate them.

The inspection included in its scope refused asylum-seekers, and those who had remained beyond a period of limited leave or had breached the conditions of limited leave, for example by working without permission to do so.

It involved:

- a review of management information provided by Immigration Enforcement;
- an examination of Home Office staff guidance and documentary information provided by stakeholders;
- sampling of 374 files and electronic case working records;
- on-site interviews and focus groups with managers and staff; and
- meetings with key Home Office stakeholders, including Barnardo's, Refugee Action and Tascor.

The inspection did not consider deportation. The removal of individuals and families from the Migration Refusal Pool (MRP) was examined only from the point of detention by an Immigration Compliance and Enforcement (ICE) team or at a Reporting Centre. The contact management, removals casework and referral for enforcement action associated with MRP cases fell outside the scope of this inspection as it was examined in the 2014 *'An Inspection of Overstayers: How the Home Office handles the cases of individuals with no right to stay in the UK'*.<sup>1</sup>

On 24 March 2015, the Inspectorate provided feedback on high-level emerging findings to Immigration Enforcement.

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<sup>1</sup> <http://icinspector.independent.gov.uk/wp-content/uploads/2014/12/Overstayers-Report-FINAL-web.pdf>

# 1. Key Findings

## What worked well

- 1.1 Year-on-year increases in Notified Voluntary Departures since 2012/13 suggested that the Home Office's focus on voluntary departures was having an impact. In some cases, individuals met the costs of departure themselves. For others, part or all of the costs were met by the Home Office, but where this was the case it remained a significantly less costly, quicker and less resource-intensive option than enforced removal.
- 1.2 Advanced Passenger Information indicated increasing numbers of individuals without the right to remain in the UK were leaving voluntarily without entering the voluntary departures process or notifying the Home Office of their intention to depart. The introduction of exit checks with effect from April 2015 meant that data on departures should improve and a greater number of those departing without notification would be identified.
- 1.3 The Home Office had taken steps in December 2014 to clear the backlog of asylum cases with outstanding further submissions, by moving management of all further submissions to the Complex Casework Directorate, which had dedicated resources for this task.
- 1.4 Staff working within the Family Returns Process were following guidance in relation to safeguarding by seeking advice from relevant bodies before separating a family to enforce a return.
- 1.5 Based on file sampling and staff interviews, staff within the National Removals Command were fully compliant with relevant legislation and instructions in relation to detention, with the application of ministerial authority to differentiate between nationalities based on risk when prioritising removals, and with the law and departmental policies relating to the protection of personal data.
- 1.6 The National Removals Command was committed to continuous improvement. This included introducing measures aimed at removing or reducing the risks arising from non-compliance with the removals process, and with the disruption and delays created by late further submissions.

## Areas for improvement

- 1.7 Poor communication between different areas involved in the removals process was having an adverse impact on efficiency and effectiveness, and leading to misunderstandings and disagreements about priorities. For example, take-up of Assisted Voluntary Return was not maximised as staff in ICE teams and in Reporting Centres had poor awareness of the scheme and saw it as Refugee Action's responsibility to promote it and not theirs. ICE Teams pursued Voluntary Departure as the cheaper option and would consider AVR only if this was unsuccessful.
- 1.8 The National Removals Command (NRC) and the NRC Gatekeeper function were intended to optimise use of detention bed space, assist Immigration Enforcement (ICE) teams to prioritise their enforcement activities, and increase the volume of removals. The pressure on bed space was such that the NRC was obliged on occasions to operate on a 'one out, one in' basis, and to renege on agreements reached with ICE teams to 'ring-fence' beds for planned detentions. The NRC's daily email notification of available beds was of little use to ICE teams for operational planning purposes,

as operations were tasked and planned three weeks in advance, but could inform the pre-deployment briefing given by the officer in command of the operation immediately before deployment.

- 1.9 While there was no evidence to support their belief, as counting methods had changed and direct comparisons were not possible, some ICE team members believed they had achieved more removals before detained casework was centralised. However, NRC managers maintained that performance varied between ICE teams and legal requirements in relation to the handling of detainees were not always being met.
- 1.10 Limited detention bed space meant some individuals who had repeatedly failed to abide by the rules were not pursued or detained when encountered, because they did not fit the NRC's priority categories, the most important of which was that there was a reasonable prospect of early removal. Some of these individuals later absconded to evade removal.
- 1.11 Outstanding further submissions in relation to failed asylum cases had been allowed to build up over a period of years and resources had been moved away from this work in 2014/15. Separately, the inspection found a large number of cases (30,406 as at 30 September 2014) where the individuals had not been removed (or granted leave to remain) over two years after appeal rights had become exhausted or lapsed. Failure to deal with asylum cases in a timely manner was inefficient as well as ineffective. The more time an asylum case took to resolve, the more likely barriers to removal would arise from the formation of relationships, the birth of children and other community ties. It also meant individuals were left not knowing if or when the Home Office might take action to remove them.
- 1.12 File sampling identified that only a small proportion of absconders had been actively pursued by Immigration Enforcement, for whom tracing absconders was not a priority. While this may be operationally pragmatic in light of the limited detention bed space, it meant that absconders were not being dealt with effectively.
- 1.13 The single numerical target for returns used for the Family Returns Process was not a useful performance measure. It did not adequately capture either effort or achievement. In 2014/15, there had been a large increase in non-asylum cases and a decrease in asylum cases, which were generally more complex and time-consuming. The majority of families recorded as having returned had departed voluntarily, with minimal involvement from a Family Engagement Manager (FEM). We were subsequently told that EO and AO field officers completed the majority of this work, leaving the FEMs to concentrate on more complex cases. Nonetheless, the balance of effort devoted by FEMs to non-asylum cases did not represent best value from their specialist training and seniority.
- 1.14 The Home Office had yet to develop a policy determining how staff should deal with non-compliant children, despite this having been recommended by the Independent Family Returns Panel in 2012 and again in 2014. The absence of a policy and practical guidance created potential risks both for the children and for the staff required to deal with them.
- 1.15 Where legislation existed to support the NRC's aims, for example by prosecuting individuals who failed to comply with steps to acquire emergency travel documentation, the decision rested elsewhere and this avenue was not being used systematically. It was unclear whether the impact of not prosecuting on removals performance featured in the decision-making process.<sup>2</sup>

## Overall Finding

- 1.16 Enforced removals are difficult and costly, and the Home Office's efforts to encourage and support voluntary departures made good business sense. These efforts appeared to be increasingly effective in

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<sup>2</sup> Since October 2014 Criminal Casework has appointed two officers to pursue s35 prosecutions on high harm and difficult cases, and as at October 2015 this team had instigated ten prosecutions.

terms of numbers departing. Efforts to improve the efficiency and effectiveness of enforced removals had been less successful, in part because of a failure of internal communication and co-ordination so that different business areas had different views on what worked and, as a result, different priorities.

- 1.17 Notwithstanding these differences, some risks to a more efficient and effective removals process had not been managed, for example not resolving the casework barriers to removal in failed asylum cases in a timely manner and not systematically pursuing absconders. Some factors were not within the Home Office's control, such as last-minute further submissions, which disrupted planned removals including Ensured Returns of failed asylum families. While efforts were being made through the Family Returns Process, for example, to encourage reasons for non-removal to be raised at an earlier stage, in practice, families and individuals notified that they were about to be removed were unlikely to see it as in their interest to do so.

## 2. Summary of Recommendations

### The Home Office should:

1. Ensure that Immigration Enforcement (ICE) teams and Reporting Centre staff are aware of and promote all options for voluntary return.
2. In relation to Assisted Voluntary Returns (AVR):
  - incentivise AVR by including it in ICE team targets;
  - ensure that any policy changes around eligibility or the operation of AVR are discussed with the Scheme Administrator in sufficient time for them to be able to communicate the changes effectively to potential users of the scheme.
3. Improve communication between the National Removals Command (NRC) and ICE teams and Reporting Centres, ensuring it meets the business needs of all parties in terms of its timeliness and value to operational planning, and including feedback from NRC on referred cases where removal has occurred. Use a reduction in instances of individuals being arrested by ICE teams but not accepted into detention as a measure of improved communication.
4. Put robust monitoring of the new (as at 2015) arrangements for handling further submissions in place to ensure that the backlog of refused asylum further submission cases is cleared by the end of 2015/16 and that the five-day target for dealing with new further submissions is being met.
5. Review absconder guidance to ensure it is in line with what the Home Office considers appropriate in light of capacity, priorities and the impact of absconding on the effectiveness and efficiency of each part of the removals process. Promulgate and put assurance mechanisms in place to ensure the new guidance is followed consistently, and that decisions whether and how to pursue absconders are not left to local judgement.
6. Set an appropriate range of performance targets for the Family Returns Process (FRP), to include the balance of effort devoted by Family Engagement Managers (FEMs) to asylum and non-asylum cases, ensuring that sufficient effort is devoted to asylum cases to effect a reduction in the overall number of such cases in the FRP. Reallocate routine tasks not requiring HEO grade FEMs in order to make optimum use of their specialist training.
7. Ensure that it puts in place as soon as possible an appropriate policy covering how to deal with non-compliant children within the Family Returns Process (FRP), and issue practical guidance to those staff whose roles involve direct contact with children.

# 3. The Inspection

## Background

- 3.1 All individuals require leave to enter or remain in the UK, with the exception of British Citizens, EU citizens exercising treaty rights and those with the right of abode. Leave to enter or remain can be given for an indefinite or a limited period. A grant of limited leave to enter or remain can also have conditions attached, such as a requirement not to engage in paid employment. A breach of the conditions attached to a grant of leave to enter or remain could result in that leave being curtailed and removal action being instigated.
- 3.2 In cases of limited leave there is a requirement that the individual will depart the UK when their leave expires, unless an extension has been granted or an application for further leave has been submitted in time.
- 3.3 Where an individual has overstayed their period of leave, or their leave has been curtailed, or they were present in the UK without leave to enter, they can be served with a notice informing them of their liability for removal under section 10 of the Immigration and Asylum Act 1999. Where a decision to remove has subsequently been made, an individual can then be removed in accordance with directions given by an Immigration Officer.<sup>3</sup>

## Home Office removal strategy

- 3.4 Enforced removal is costly and resource-intensive and typically involves the arrest, detention and escorting of those removed, and the cost of travel. The Home Office therefore encourages those without a right to be in the UK to depart voluntarily. In addition, voluntary departures are more dignified and give individuals greater control over their return.
- 3.5 Voluntary departures were encouraged through the use of incentives to depart and disincentives to remain. For example, the Assisted Voluntary Return (AVR) Scheme provided failed asylum-seekers and certain other illegal migrants with a package of financial and other reintegration support, while the length of re-entry bans increased according to whether individuals departed voluntarily at their own expense (one to two years), departed voluntarily at public expense (two to five years), or were forcibly removed (ten years).<sup>4</sup>
- 3.6 The Home Office sought to encourage voluntary departures for those present without a legal right to be in the UK by creating a 'hostile environment' through a series of provisions included in the Immigration Act 2014, which, among other things reduced appeal rights and made it more difficult for illegal immigrants to live in the UK unlawfully by:
  - requiring private landlords to check the immigration status of tenants;
  - prohibiting banks from opening bank accounts for illegal migrants; and
  - creating powers enabling the revocation of driving licences for illegal migrants.

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<sup>3</sup> Since 6 April 2015 a person who requires, but does not have, leave to enter or remain in the UK is liable to removal. No separate removal decision is required.

<sup>4</sup> This depended on how long a period had expired since the notice of removal was given or since appeal rights became exhausted.

- 3.7 Where individuals and/or families refused to depart voluntarily, or were ineligible for voluntary departure, for example where removal directions were already in place, the Home Office told us that enforced departure would be pursued.
- 3.8 The Home Office recognised that many individuals who have no legal right to remain in the UK leave without notifying the Home Office of their departure. Since embarkation checks were discontinued in April 1998, data on departures was not routinely collected until 2005, when the Home Office started to collect Advance Passenger Information (API) from airlines in respect of arriving and departing passengers.<sup>5</sup>

## Home Office structures

- 3.9 Two Home Office Directorates, UK Visas and Immigration (UKVI) and Immigration Enforcement (IE), are involved with removals.
- 3.10 The remit of UKVI includes dealing with claims for asylum, including removals casework and making referrals for enforcement action where appropriate. Within UKVI, the Asylum Casework Directorate (ACD) is responsible for registering, deciding and concluding asylum protection applications. Its primary function is to make decisions on asylum cases and work with other parts of the Home Office to ensure effective immigration control.
- 3.11 Immigration Enforcement is responsible for preventing abuse, tracking immigration offenders and increasing compliance with immigration law.<sup>6</sup> It works with partners such as Border Force, the police and local authorities to support the government's commitment to reduce net migration.
- 3.12 The National Removals Command (NRC) is part of IE. It was launched in July 2013 to bring consistency and control to IE removals activities. Its overall objective is to increase the volume of removals by making the process more efficient, while reducing the costs involved. NRC is also responsible for administration of the AVR Scheme with its partner Refugee Action<sup>7</sup> and for a new centralised voluntary departures service to assist both detained and non-detained individuals to depart voluntarily.
- 3.13 Family Returns Teams (FRTs), part of IE, are responsible for facilitating the return of families, ensuring children are safeguarded throughout the family return process. In order for families to go through the process they should have:
- exhausted all appeal rights;
  - no entitlement to an in-country right of appeal; or
  - indicated that they wish to leave the UK voluntarily.

## Methodology

- 3.14 The inspection seven eight of the Chief Inspector's core inspection criteria,<sup>8</sup> which are set out at Annex B. Prior to the on-site phase of the inspection, we:
- reviewed management information concerning removals performance;
  - examined Home Office staff guidance;
  - examined documentary information provided by stakeholders; and interviewed

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<sup>5</sup> Data provided by commercial operators to the Home Office concerning passengers travelling to and from the UK.

<sup>6</sup> <https://www.gov.uk/government/organisations/immigration-enforcement/about>

<sup>7</sup> Refugee Action is an independent charity that supports refugees and asylum-seekers to resettle and build new lives in the UK.

<sup>8</sup> <http://icinspector.independent.gov.uk/wp-content/>

- key Home Office stakeholders, including Barnardo's<sup>9</sup>, Refugee Action and Tascor<sup>10</sup>.

3.15 We also randomly selected and sampled a total of 374 files and electronic caseworking records, broken down as follows:

- 184 electronic database records relating to failed asylum-seekers;
- 99 files of individuals accepted into NRC detention;
- 46 files of individuals not accepted into NRC detention; and
- 45 files where a Family Engagement Manager (FEM) had been involved.

3.16 The on-site phase of the inspection took place between 19 and 30 January 2015 across six locations. We interviewed managers and staff from NRC and ACD. We also interviewed staff from ICE teams in Manchester and London and the Family Returns Team in Leeds. In total we conducted interviews and focus groups with 154 Home Office staff – Figure 1 refers.

<b>Figure 1: Home Office Staff Interviewed</b>	
<b>Grade</b>	<b>Number</b>
Administrative Assistant (AA)	1
Administrative Officer (AO)	45
Executive Officer (EO)	31
Higher Executive Officer (HEO)	38
Senior Executive Officer (SEO)	25
Grade 7	10
Grade 6	3
Senior Civil Service (SCS)	1
<b>Total</b>	<b>154</b>

3.17 On 24 March 2015, we provided high-level emerging findings to the Home Office.

<sup>9</sup> A charity that provides a range of support, counselling, fostering, adoption, education and training services for children. It provides welfare and social care facilities to families accommodated at Cedars pre-departure accommodation.

<sup>10</sup> A company providing support services to public sector organisations, including secure transport and escorting in connection with immigration removals.

# 4. Inspection Findings - Operational Delivery

## Voluntary Departure

- 4.1 Voluntary departures are recorded by the Home Office either as Assisted Voluntary Returns (AVR), Notified Voluntary Departures or as Confirmed Voluntary Departures.

## Assisted Voluntary Return (AVR)

- 4.2 The first AVR pilot was carried out in 1999 in the wake of the programme dealing with Kosovan returns. The scheme for irregular migrants was added in 2004 and for families and children in 2010. Assisted Voluntary Return is funded by the Home Office and the European Union. It is administered on behalf of the Home Office by Refugee Action. The scheme is for non-EU migrants and is open to asylum-seekers and failed asylum-seekers, those granted humanitarian protection and discretionary leave to remain,<sup>11</sup> and those with no legal status i.e. irregular migrants and overstayers.
- 4.3 The scheme offered help with travel documents, support at the airport and free travel (flights and transport to the individual's final destination in their home country). It also provided help with planning for the future and in many countries non-governmental organisations provided support for up to one year post return. For asylum seekers and failed asylum-seekers the scheme additionally provided money to assist with return.<sup>12</sup> Individuals and families taking advantage of the scheme were subject to a two-year or five-year re-entry ban depending on the length of unlawful residence in the UK.
- 4.4 When approached by an individual or family about returning to their country Refugee Action will discuss all options with them, including AVR, in order to help them make an informed decision about whether or not to return. Refugee Action stated that in some cases, usually where irregular migrants were concerned, they would refer individuals to the Home Office voluntary departure service because AVR was not always the most suitable route for them. Refugee Action suggested an example would be an individual with the means to return at their own expense, who wanted the option of returning to the UK and did not want to be subjected to the same re-entry ban imposed on those returning at public expense.
- 4.5 Where an applicant wanted to apply for the AVR scheme, Refugee Action would assist with the completion of the necessary documentation and submit the application to the Home Office on the applicant's behalf. The application was then assessed by the Home Office for eligibility and either accepted or rejected. Where 'live' removal directions were set before the application date, Home Office guidance required that the AVR application be refused. We were told by the Home Office that around 90% of AVR applications received from Refugee Action met the eligibility criteria.
- 4.6 When an application was accepted, individuals/families were given three months to obtain travel documentation and make the necessary arrangements to leave the UK. During this period no enforcement action would be taken, and applicants could change their mind about returning at any time before the date of travel.

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<sup>11</sup> Humanitarian Protection and Discretionary Leave to Remain were introduced by the Home Office on 1 April 2003 to replace Exceptional Leave to Remain.

<sup>12</sup> £1500 for a single person or £2000 for each member of a family group including infants.

4.7 From 1 April 2014, those in detention ceased to be eligible for AVR, as the Home Office considered that offering AVR to detainees undermined the incentive to apply for it in the community. Given the significant costs it incurred in locating, arresting and detaining an individual, the Home Office considered it inappropriate that such individuals should benefit from the same level of assistance as individuals who had complied earlier in the process. Figure 2 shows the numbers returning via AVR in the three years prior to the policy change.

<b>Figure 2: Numbers returning via AVR</b>				
	2011/12	2012/13	2013/14	Total
Detained	905	1316	2167	4388
Non detained	2317	2411	2095	6823
<b>Total</b>	<b>3222</b>	<b>3727</b>	<b>4262</b>	<b>11211</b>

Note: Data provided by Home Office

- 4.8 Refugee Action's 2014/15 target for AVRs was set at 2,200, which was broadly in line with the number of non-detained returns achieved in 2013/14. However, both Home Office managers and Refugee Action told us that performance in 2014/15 was likely to fall short of this target. We were subsequently informed by the Home Office that the number of returns via AVR in 2014/15 totalled 1,820.<sup>13</sup>
- 4.9 Refugee Action believed ceasing AVR for detained persons had led to a perception amongst potential applicants that AVR had ceased completely. Refugee Action were given limited notice (approximately six weeks) of the policy change and no consultation took place prior to its implementation. Consequently, the opportunity to explain the changes within the communities likely to have been interested in AVR was limited.
- 4.10 Refugee Action told us it was concerned that front-line enforcement staff were failing to promote the scheme. It suggested that ICE teams and ROM staff were promoting Voluntary Departure instead, because:
- AVR was viewed as a 'soft' option compared with Voluntary Departure;
  - Voluntary Departure was quicker and regarded as a 'quick win';
  - Voluntary Departures counted towards ICE team targets, but AVR returns did not; and
  - AVR was seen as involving a continuing burden on the public purse, with the applicant able to change their mind up to three months after acceptance.
- 4.11 While they had received regular awareness and training sessions, staff in ICE teams and in Reporting Centres told us they did not see AVR as a priority. A senior manager in one of the ICE teams we visited said that AVR took too long, and once an individual had shown an interest in returning it was important to maintain momentum, so Voluntary Departure was the better option. Another told us that it was Refugee Action's responsibility to promote AVR, while a Reporting Centre manager told us that they were just too busy to promote AVR, although they did display AVR posters and leaflets in the public areas.
- 4.12 With many failed asylum-seekers regularly attending Reporting Centres for extended periods with little discernible progress towards removal, opportunities to promote AVR were being missed. This had financial implications, given the significant costs associated with enforced removal.

<sup>13</sup> The Home Office was unable to break this figure down into detained and non-detained returns.

4.13 In October 2013, in its report on Operation Vaken,<sup>14</sup> the Home Office estimated the average cost of a single enforced removal to be £15,000. This compares with the unit cost of £7,017 for the 1,653 (non-detained) AVR returns in 2014/15 and the anticipated unit cost of £6,616 for the 1,100 non-detained AVR returns in 2015.

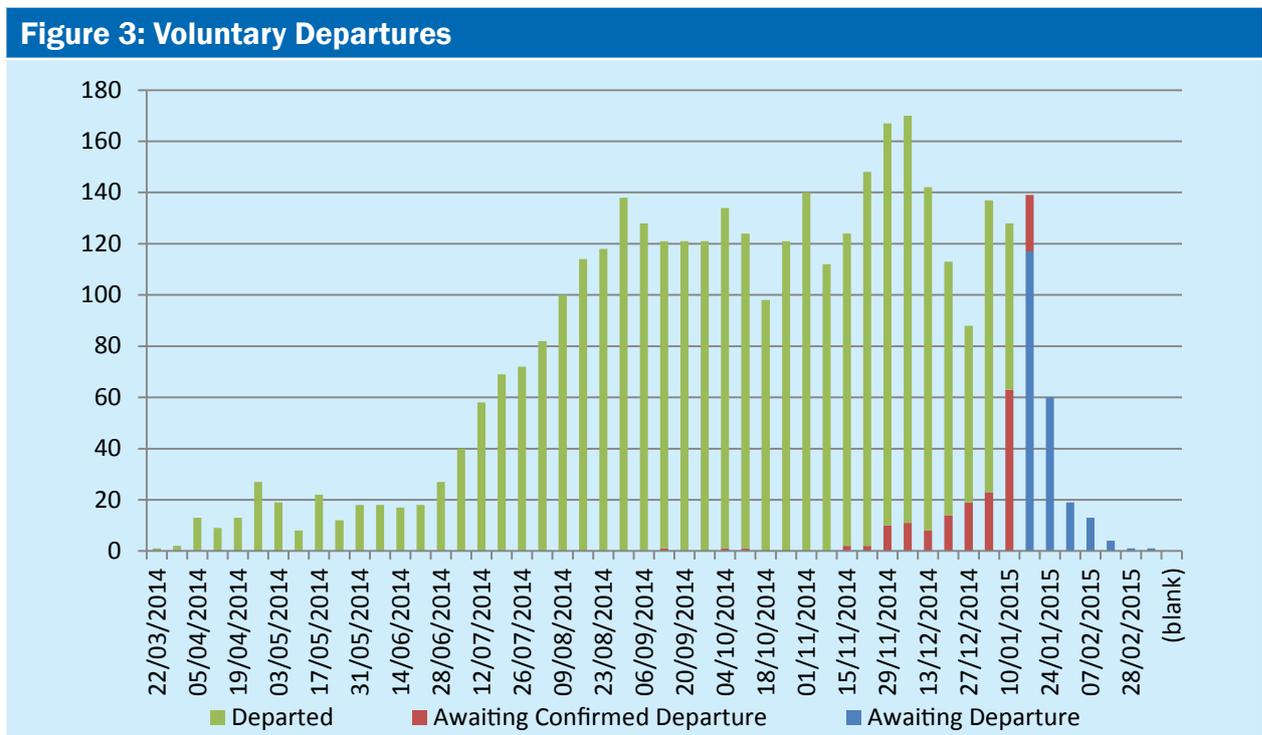
## Notified Voluntary Departure

4.14 Notified Voluntary Departure occurs when an individual or family group notifies the Home Office of their intention to leave the UK, or have approached the Home Office for financial assistance with their travel arrangements. Such assistance was open to individuals aged 18 or over who:

- had been refused leave to remain in the UK;
- had applied for an extension of leave but want to withdraw the application and depart; or
- were unlawfully in the UK.

4.15 Assistance was also available to family groups with at least one child under the age of 18, if that child was in the UK unlawfully. The service was piloted by the National Removals Command (NRC) in March 2014, with full national roll-out from June 2014.

4.16 For 2014/15 (10 full months) the Home Office set a target of 7,200 Voluntary Departures, an average of 120 per week, with the weekly target rising to 160 by the end of March 2015. For 2015/16, the annual target was raised to 12,000. These targets were split between the 19 ICE teams across the UK. Figure 3 shows actual performance between March 2014 and February 2015.



Note: Data provided by Home Office

4.17 Where a non-detained individual or family chose to depart voluntarily, removal directions<sup>15</sup> were set by the Home Office as in the case of enforced removals, unless they were departing at their own expense. However, the individuals/families concerned would travel to the airport unaccompanied and

<sup>14</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/254411/Operation\\_Vaken\\_Evaluation\\_Report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254411/Operation_Vaken_Evaluation_Report.pdf)

<sup>15</sup> Document issued to individuals whom the Home Office intends to remove setting out the date, time, method and destination of the intended removal.

check-in in the normal way. If the Home Office was in possession of their travel documents these were made available for collection at the airport prior to check-in.

- 4.18 Individuals in detention were also able to opt for Voluntary Departure, but this would not usually be allowed where removal directions were already in place, even where they were purchasing their own ticket. Where a detainee was given authority to purchase a ticket they would not automatically be released from detention, and in many cases remained in detention and were escorted to the airport on the day of travel.
- 4.19 While it promoted Voluntary Departure, one ICE team we spoke to did not always refer individuals who had indicated a wish to depart voluntarily to the NRC Voluntary Departures Team. The individuals concerned were worshippers at local temples and were often homeless. They sometimes needed help with obtaining clean clothing to give them a dignified return home. The Voluntary Departures Team based in Solihull was not able to provide such a personal service, while the ICE team had invested time in building trust with local communities in their outreach work and felt that these individuals were more likely to respond positively if the departure was arranged locally.
- 4.20 In these cases the ICE team completed the necessary administrative tasks themselves, for example arranging flight tickets. This helped to maintain the momentum which they believed was necessary once an individual had expressed an interest in Voluntary Departure. Senior NRC managers confirmed they were aware of and content with this approach, adding that the most important issue was to maximise the take-up of voluntary departure, regardless of who within the organisation facilitated it.
- 4.21 Cases for voluntary departure were also referred to NRC by Reporting Centres, legal representatives and by individuals themselves. Figure 4 shows a rise in the annual numbers of Notified Voluntary Departures between 2010/11 and 2014/15.

**Figure 4: Numbers of notified voluntary departures 2010/11 – 2014/15\***

Year ending June	Number of Voluntary Departures	% Change on Previous Year
2011	6618	-
2012	7519	+14%
2013	6715	-11%
2014	9766	+45%
2015	12266	+26%

\*Immigration statistics, April to June 2015

### Other Confirmed Voluntary Departures

- 4.22 Individuals with no legal right to remain in the UK can also leave the UK without informing the Home Office. Data on such departures was not collected until 2005 when the Home Office started to collect passenger information from airlines (known as API) on departing passengers. Managers said it was difficult to draw firm conclusions about trends in such departures since 2005, because any increases could be the result of improving and widening the collection of API data over time, rather than actual increases in departures.<sup>16</sup>
- 4.23 Figure 5 shows the numbers of confirmed Voluntary Departures via API data and embarkation checks in each year between 2009 and 2014.

<sup>16</sup> Full exit checks were introduced on 1 April 2015.

**Figure 5: Other Confirmed Voluntary Departures 2010/11 – 2014/15\***

Year ending June	Number of Confirmed Voluntary Departures	% Change on Previous Year
2011	15060	-
2012	18097	+20%
2013	20147	+11%
2014	17298	-14%
2015**	10976	

\*Immigration statistics, April to June 2015

\*\*The figures for confirmed voluntary departures for the latest period are subject to upward revision, as matching checks are made on travellers after departure so a comparison with 2014 has not been given.

## Enforced Removal<sup>17</sup>

4.24 Where an individual with no legal right to remain in the UK made no effort to depart voluntarily the Home Office would consider enforced removal.<sup>18</sup> Prior to 6 April 2015, removal could be enforced only when an individual had been served with a notice of liability to administrative removal under section 10 of the Immigration and Asylum Act 1999,<sup>19</sup> because:

- *having only a limited leave to enter or remain, he does not observe a condition attached to the leave or remains beyond the time limited by the leave;*
- *he has obtained leave to remain by deception; or*
- *directions ('the first directions') have been given for the removal, under this section, of a person ('the other person') to whose family he belongs.*

4.25 Where such a notice had been served and a decision to remove had been made, an individual could then be removed in accordance with directions given by an Immigration Officer.

4.26 Since 6 April 2015, an individual who requires, but does not have, leave to enter or remain in the UK has been liable to removal. No separate removal decision is required. Prior to that date the individual would be liable only once served with a notice under s.10 of the Immigration and Asylum Act 1999. This would happen only if the individual was encountered by Immigration Enforcement during the course of an enforcement operation. The change reduced the administrative burden on Immigration Enforcement staff and also aimed at speeding up the removal of those with no right to remain in the UK.

4.27 Where an individual posed a risk of absconding or of failing to comply with directions for removal, they could be detained for a period of time prior to departure. Generally, this would include being escorted to the airport. In some cases, for example where the individual was disruptive, they would be escorted as far as the destination country.

4.28 Since the detention of children for immigration purposes was stopped in 2010, family groups are no longer held in detention prior to removal. However, some families could be accommodated as a last resort for a short period of time in pre-departure accommodation (known as Cedars) following consultation with the Independent Family Returns Panel.

4.29 Enforcement action was carried out by ICE teams and Reporting Centres around the UK. ACD

<sup>17</sup> Also known as administrative removal, to distinguish from deportation.

<sup>18</sup> We were told by the Home Office that there are some countries to where removal cannot be enforced, either because of the general situation prevailing in that country or because of an unwillingness on the part of the country to document its own nationals, e.g. Iran.

<sup>19</sup> Removal in accordance with directions given by an Immigration Officer under s10 Immigration and Asylum Act 1999.

referred refused asylum applicants to them and Removals Core Casework (RCC) referred those refused further leave to remain or who had had leave to enter or remain curtailed.

- 4.30 ICE Team managers reviewed all proposed enforcement operations at regular tasking meetings. These included intelligence-led operations as well as detentions of named individuals for removal. At these tasking meetings, managers decided which operations to take forward based on Immigration Enforcement Directorate’s strategic priorities and the availability of resources. Figure 6 shows the numbers of enforced removals between 2010/11 and 2014/15.

**Figure 6: Numbers of Enforced Removals 2010/11 – 2014/15\***

Year ending June	Number of Enforced Removals	% Change on Previous Year
2011	14931	-
2012	15110	+1%
2013	14159	-6%
2014	12539	-11%
2015	12609	+1%

\*Immigration statistics, April to June 2015

## Re-entry bans

- 4.31 Chapter 62 of the Enforcement Instructions and Guidance<sup>20</sup> describes mandatory re-entry bans for individuals who have been subject to enforced removal or those who have departed voluntarily but at public expense – Figure 7 refers.

**Figure 7: Re-entry ban categories**

Voluntary departure at individual’s own expense.	One-year ban.
Voluntary departure at public expense, including AVR, within six months of being given notice of removal decision.	Two-year ban.
Voluntary departure at public expense, including AVR, later than six months after being given notice of removal decision.	Five-year ban.
Enforced removal.	Ten-year ban.

## NRC gatekeeper function and detained casework

- 4.32 Individuals detained during enforcement operations by ICE Teams or by Reporting Centre staff were referred to the NRC gatekeeper team for a decision on whether they could be accepted into detention. Managers explained that the role of the gatekeeper was to:
- decide whether to authorise detention based on Immigration Enforcement strategic priorities;
  - optimise use of detention bed space;
  - identify barriers to removal not identified by ICE teams or Reporting Centres, e.g. difficulty of obtaining travel documents, or complex medical issues;
  - ensure the correct paperwork had been served on detained persons; and
  - ensure that detention was lawful.

<sup>20</sup> <https://www.gov.uk/government/publications/chapters-46-to-62-detention-and-removals>

- 4.33 Managers told us that sham marriage and illegal working had for some time been the top priorities for enforcement activities. We were provided with a copy of the Strategic Tasking Board – Immigration Enforcement Priorities Matrix, valid for the period 7 December 2014 to 7 February 2015. It stated that cases involving high harm, foreign criminals, charter nationals<sup>21</sup> and individuals with travel documents had to be prioritised. It also listed eight tasking categories in order of priority. The removal of failed asylum-seekers was in third place behind responding to clandestine entrants and targeting and disrupting sham marriage. However, managers told us that the removal of failed asylum-seekers would be given a higher priority by the next Strategic Tasking Board.
- 4.34 NRC sent out a daily email to ICE teams and Reporting Centres setting out:
- detention capacity;
  - removable and non-removable nationalities; and
  - headline priorities for acceptance into the NRC detention estate.
- 4.35 NRC management told us that this allowed ICE teams to tailor their activity and not detain individuals when there was no prospect of NRC allocating them a detention space. We were told that ICE teams should speak to the gatekeeper prior to an enforcement operation to discuss if detention beds were available and to ring-fence them.
- 4.36 Since the summer of 2014, Reporting Centre staff had also been encouraged to contact the gatekeeper before detaining an individual on reporting to ensure that there was a detention bed available.
- 4.37 ICE team managers and staff told us that the NRC daily email did not help them plan their enforcement activities because tasking was agreed and activities planned three weeks in advance, although the email could inform the team briefing given by the officer in command immediately prior to deployment. A senior NRC manager told us that going forward he wanted gatekeepers to ‘reach in’ to the ICE team tasking process so that ICE team operations were better aligned with NRC criteria for detention.
- 4.38 When the gatekeeper did not accept an individual into detention, they would be released and either detained when they next attended a Reporting Centre, again subject to detention space, or referred to RCC to clear any barriers to removal.

## Cases rejected by NRC Gatekeeper

- 4.39 Our file sample included 46 cases that had been rejected by the NRC gatekeeper. Of these two were detained on reporting and the remainder were detained when encountered by ICE teams during enforcement operations. Figure 8 records the main reasons for rejection.

<b>Figure 8: Rejected by Gatekeeper</b>	
<b>Reason for rejection</b>	<b>Number rejected</b>
Subject could not easily be documented <sup>22</sup>	27 (59%)
Not strategic priority or charter flight national	6 (13%)
Lack of detention space	5 (11%)
Outstanding police interest	4 (9%)
Appeal rights not exhausted	4 (9%)
<b>Total</b>	<b>46</b>

<sup>21</sup> Nationals of countries to which the Home Office charts regular flights for the purposes of removal e.g. Albania.

<sup>22</sup> For example where a migrant's country of nationality did not issue emergency travel documents.

4.40 The available evidence supported the reason for rejection by the gatekeeper in all of these cases. Our sample of 46 contained 11 cases where a potentially removable individual was not accepted into detention on the grounds that there was insufficient detention space or because the individual did not fit a priority category. Of those individuals rejected by the gatekeeper, 17 (37%) subsequently absconded. The case studies in Figure 9 and 10 provide examples of the latter.

**Figure 9: Case study – Undocumented migrant rejected by the NRC Gatekeeper.**

**The Individual:**

- In August 2011, entered the UK on a six-month Family Visit visa which expired;
- Failed to leave the UK or regularise their status after the expiry of the visa and took employment without permission to do so;
- In February 2014, was encountered during an Immigration Enforcement illegal working operation, and arrested as an overstayer;
- Was not accepted into NRC detention as they did not hold a valid travel document and was released with a requirement of regular reporting;
- In May 2014, was circulated as an absconder after they failed to report as required.

**Figure 10: Case study – Individual rejected by the NRC Gatekeeper due to a lack of IRC detention space.**

**The Individual:**

- In August 2006, entered the UK on a student visa which was valid until May 2007 and subsequently applied for and was granted extensions to their leave to remain as a student until June 2011;
- In November 2011, was refused a final application for leave to remain as a student;
- In February 2014, was encountered during an enforcement visit and arrested as an overstayer, but was not accepted into NRC detention as there were no detention spaces available;
- Was not detained in a police station, despite authority being given, because the arrest team had no transport available, and was subsequently released on temporary admission with a requirement for regular reporting;
- In November 2014, was circulated as an absconder after failing to report at the end of September 2014.

4.41 The ICE team managers and staff we saw were generally critical of detention decisions made by the NRC gatekeepers. They believed the previous system worked well and did not understand why the NRC had been set up. They said that when they managed their own bed space allocation they achieved more removals, although we found that data was not available to substantiate this as the method of counting removals had changed. Most ICE team staff and managers we interviewed considered it had been a mistake to centralise the detained casework function and believed removals performance had deteriorated as a result.

4.42 ICE teams sometimes contacted the gatekeeper in advance of an operation to tell them what the expected number of arrests would be and to request that beds be ‘ring-fenced’. Where possible the gatekeeper would keep those beds available, but they could be filled by higher priority cases as NRC was not the only Home Office area involved in managing bed space allocation. For example, both Detained Fast Track (DFT) and Criminal Casework Directorate managed their own allocations. When NRC beds were full the gatekeeper would often seek to utilise unoccupied beds from the allocation of one of these other areas.

- 4.43 ICE teams told us it was not unusual for them to be told that the provisional bed spaces that had been agreed were no longer available because they were now occupied. Managers in NRC said that they tried to honour provisional arrangements agreed in advance of ICE team operations and were constantly looking for opportunities to make better use of bed space allocations controlled by other Home Office business areas. However, they accepted that on occasions they had to operate a 'one out, one in' rule.
- 4.44 NRC managers told us that some ICE teams had been very good at clearing barriers and making efficient use of detention bed space, but performance had been inconsistent and legal requirements, such as detention reviews, were too often not completed on time or at all. The rationale for the creation of NRC was to address this lack of consistency and control which the Home Office viewed as detrimental to removals performance. Its aim was to increase the volume of removals by making the process more efficient, at the same time reducing the costs involved.
- 4.45 Both Reporting Centre staff and ICE team staff were critical of the lack of feedback from NRC about whether cases it had accepted resulted in removals. Both thought it was important to know the outcomes of their work.

### Cases accepted by NRC Gatekeeper

- 4.46 Our file sample contained 99 cases where detention was authorised by the NRC gatekeeper during the first six months of 2014. Of these cases, 62 individuals had been removed by the time of our file sampling in November 2014. A further six individuals remained in detention with removal pending. Thirty-one individuals had been released from detention. Figure 11 details the reasons for their release.

**Figure 11 Reasons for Release from Detention**

Reason for release	Number released from detention
Further submissions or Judicial Review application lodged.	19
Difficulty obtaining travel document.	8
Asylum claimed.	3
Voluntary Departure requested.	1
<b>Total</b>	<b>31</b>

- 4.47 It was common for barriers to removal to arise between acceptance into NRC detention and the planned removal date, often shortly before the planned removal date. In many cases, the only option was to defer or cancel removal until the barrier could be resolved and to release the individual from detention. Figure 12 provides an example of a case where an individual in NRC detention was released following the submission of a late asylum claim, despite leave to remain having expired many years earlier.

**Figure 12: NRC accepted case granted temporary release from detention due to asylum claim.**

**The Individual:**

- In December 2002, was granted leave to enter as a visitor for six months and was subsequently granted leave to remain as a student until September 2004;
- Failed to leave the UK or regularise their status when this leave expired and was subsequently encountered during an enforcement visit in May 2014 and was arrested as an overstayer;
- In November 2014, claimed asylum after removal directions had been served and was released from detention;
- In December 2014, was refused asylum and refused again on reconsideration in February 2015.

4.48 Figure 13 provides an example of a case where barriers to removal were resolved and the individual was removed.

### Figure 13: Barriers to removal resolved and individual removed

#### The Individual:

- In 2012, entered the UK on a six-month visit visa valid until December 2012, but failed to leave when the visa expired.
- In May 2013, made an unsuccessful claim for asylum and had exhausted all avenues of appeal by December 2013.
- In January 2014, was detained and after removal directions were set made further submissions, which were later dismissed.
- In April 2014, was released from detention due to delay in obtaining an Emergency Travel Document (ETD) and placed on reporting restrictions.
- In November 2014, was detained again when an ETD had been obtained.
- In December 2014, became disruptive on the planned day of removal, causing the removal to fail; and subsequently submitted an application for leave to remain under Article 8 ECHR, which was refused.
- In February 2015, was removed.

### The removal of failed asylum-seekers

- 4.49 When the Home Office refuses an application for asylum and gives directions for removal, a failed asylum-seeker can lodge an appeal against the decision on the grounds that their removal would be in breach of the UK's obligations under the 1951 Convention Relating to the Status of Refugees, as amended by the 1967 Protocol Relating to the Status of Refugees, or under the European Convention on Human Rights (ECHR).<sup>23</sup>
- 4.50 A notice of appeal must be received not later than 14 days after an applicant was sent the notice of the decision against which the appeal is brought.<sup>24</sup> Successful appeals, if not challenged by the Home Office result in the applicant being granted limited leave to remain. Where an applicant failed to exercise their right of appeal, or where an appeal was unsuccessful, a failed asylum-seeker would have no right to remain in the UK.
- 4.51 We requested data for the number of failed asylum claims as at 30 September 2014, where appeal rights had lapsed at least two years earlier, and where the claimants had still not been removed or granted any form of leave. There were 30,406 such cases.<sup>25</sup> In 17,225 cases the appeal rights became exhausted after an unsuccessful appeal. In the remaining 13,181 cases the claimant had not appealed against the Home Office decision to refuse asylum.
- 4.52 We sampled 184 failed asylum cases where appeal rights were exhausted in the last quarter of 2012 to determine the proportion of cases where removal had taken place and where removal had not taken place, what had prevented it. Forty-two had been dealt with under the Detained Fast Track (DFT)<sup>26</sup> process. Removal had taken place in 41 of the 42 DFT cases (one individual had been granted leave to remain). Of the other 142 non-detained cases:

23 Formerly the Convention for the Protection of Human Rights and Fundamental Freedoms.

24 Paragraph 19(2) The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014.

25 This figure does not include dependants.

26 Used by UKVI to manage asylum applications that have been identified as ones where a decision to grant or refuse asylum can be made quickly. In the case of a refusal, fast-track appeal procedures also apply.

- 67 had had no action taken to commence the removal process;
- 63 had concluded in removal or voluntary departure;
- 9 were granted leave to remain; and
- 3 were in the process of being removed.

## Further submissions

- 4.53 Of the 67 refused asylum cases where removal action had not commenced two years after appeal rights had become exhausted, 28 had made further submissions which had not been dealt with. Figure 14 provides an example of one such case.

### Figure 14: Case study – Failed Asylum-Seeker – Further Submissions

#### The Individual:

- In May 2011, had their Tier 4 student leave curtailed for failing to attend studies.
- In July 2011, claimed asylum, which was refused.
- In December 2012, exhausted their appeal rights, but was not detained despite having a valid travel document.
- In January 2013, made further submissions, which remained to be considered as at 8 September 2015.

#### Chief Inspector's comments:

Removal action against this individual should have begun in December 2012 when their appeal rights became exhausted following the refusal of asylum; Immigration Enforcement was unable to explain why the applicant was not detained on reporting following the conclusion of their claim, but stated that the further submissions were not dealt with by Asylum Casework because resources had been redeployed to initial decision-making.

- 4.54 Referral to an ICE team or Reporting Centre for detention and removal had to wait until any further submissions had been decided. Asylum casework staff told us there were approximately 7,700 refused asylum cases with outstanding further submissions, some of which were up to four years old and some of which were likely to be straightforward to deal with.
- 4.55 During 2014/15, 30 full-time equivalent (FTE) staff in the Asylum Casework Directorate (ACD) had been transferred internally to handle the initial consideration of asylum claims, which was judged to be the priority, leaving just five FTEs to deal with cases where there was a barrier to removal, including further submissions. The Home Office planned to transfer barrier casework to the Complex Casework Directorate (CCD) in December 2014 in order to deal with further submission cases. In parallel with dealing with the backlog of outstanding further submissions cases, CCD also aimed to decide new submissions lodged in person in Liverpool within five days of receipt. This change would also allow ACD to focus exclusively on initial decision-making.
- 4.56 In April 2015, following delivery of our emerging findings, the Director of CCD wrote to inform us that the management of all further submissions was now CCD's responsibility and that resource had been dedicated to clearing the backlog of further submissions and deciding new submissions within five days of receipt. We were informed that despite the reallocation of resources to initial decision-making in 2014/15, more referrals of failed asylum-seekers for removal had been achieved than in 2013/14.

## Absconders

- 4.57 Chapter 19(a) of Enforcement Instructions and Guidance<sup>27</sup> details the actions to be carried out by staff where an individual fails to report to a pre-set reporting event. Paragraph 3.2 (Contact management action) provides that *‘In order to prevent non-compliance, reporting centre staff and decision-making units must inter alia make sure that:*
- *steps are taken to regain contact with the person as soon as possible in the event that they fail to report;*
  - *a review of the contact management arrangements is made following any non-compliance or breach to determine whether alternative arrangements, such as increased reporting or compliance or arrest visit, should be made;*
  - *in the event that the person absconds steps are taken to suspend or terminate support, circulate on the police national computer (PNC) and, if applicable, progress the asylum claim; and*
  - *prosecution, in line with current policy, should be considered for all absconders and those who persistently fail to comply with the terms of their temporary admission or temporary release.*
- 4.58 In this inspection, of the 67 refused asylum seekers where removal action had not commenced two years after their appeal rights had become exhausted, 22 had been recorded as absconders. There were no recorded enforcement visits in any of these cases but details had been circulated on PNC in 16 cases.
- 4.59 Asylum casework managers told us that there were approximately 10,000 asylum claims where the claimant and dependants were not in contact with the Home Office or had absconded. While ICE teams could conduct residential visits to attempt to trace absconders they were reluctant to do so as this work was not a priority and was considered a drain on resources.
- 4.60 Reporting Centre staff told us that their resources were becoming increasingly stretched due to the number of individuals on reporting restrictions, which stood at around 47,000 in December 2014. Managers said that the numbers reporting placed pressure on back office administrative functions, such as taking action against individuals who had failed to report.
- 4.61 From our file sample of 338 cases, 48 individuals were recorded as absconders. Of these, an attempt to locate the individual had been made in nine cases, five of which involved ICE team compliance visits to the last known address, and four involved database checks with other government bodies. As at 21 April 2015, 35 of the 48 cases had been circulated on PNC as absconders.
- 4.62 In the 39 cases where no attempt was made to locate the individual, six records indicated there was either no ICE team resource available to conduct a compliance visit or the type of case did not meet enforcement team priorities at that time. In the remaining 33 cases, there was no recorded explanation as to why no attempt had been made to locate the individual. Figure 15 refers to one such case.

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<sup>27</sup> <https://www.gov.uk/government/publications/chapters-19-to-22a-restrictions>

### Figure 15 :Case study – Poor absconder management

#### The individual:

- In 2009, entered the UK illegally.
- In December 2013, was arrested on suspicion of cannabis cultivation (later dropped), and was detained as an illegal entrant.
- In April 2014, was granted temporary release following a delay in obtaining an Emergency Travel Document (ETD) and absconded.
- In June 2014, was listed as an absconder, but no attempts were made to trace them.
- In July 2014, made contact with UKVI via a third party stating they wanted to return to Vietnam and provided a UK mobile phone number, and was advised via the third party to attend the Reporting Centre but was not contacted directly on the telephone number provided.

#### Chief Inspector's comments:

- As of 8 September 2015, there was no recorded progress on this case.

### Removal action not instigated

- 4.63 In a further eleven out of the 67 cases where removal action had not been instigated it was not clear why from the records. Figure 16 illustrates one such case.

### Figure 16: Case study – Failed Asylum Seeker – No removal action

#### The Individual:

- In 1994, entered the UK illegally.
- In 2008, requested leave to remain but was refused.
- In September 2012, claimed asylum and was placed on reporting restrictions.
- In October 2012, absconded with no further action being taken to trace him.
- In April 2014, submitted a fresh asylum claim.
- In May 2014, was refused asylum, but reporting restrictions were not imposed despite the previous absconding history.

#### Chief Inspector's comments:

- Prior to the Immigration Act 2014, the service of an immigration decision which left the applicant without leave to remain did not constitute notification of liability for removal, which could be served by Immigration Enforcement only when they subsequently encountered the individual. The 2014 Act closed this 'enforcement gap';
- Nonetheless, in this case IE failed to make any attempt to locate the individual and had not recorded him as an absconder on the PNC, leaving the prospect of any encounter entirely to chance.

## Emergency Travel Documents (ETDs)

4.64 In six of the 67 cases removal could not be pursued because an ETD had yet to be obtained. Figure 17 refers to one of these cases.

### Figure 17: Case study – Failed Asylum Seeker – Awaiting ETD

#### The Individual:

- In May 2012, claimed asylum as a member of a particular persecuted minority.
- In November 2012, was refused asylum based on language analysis which indicated they were of a different nationality to the one they claimed.
- In December 2012, completed an application for an ETD from the true country of origin but the application was not sent to the relevant embassy as the case owner misunderstood the guidance and believed the case could not be progressed.

#### Chief Inspector's comments:

- In March 2015, the matter having been raised during our inspection, IE submitted the application to the embassy. A periodic review of such cases would have revealed the error in this case much sooner.

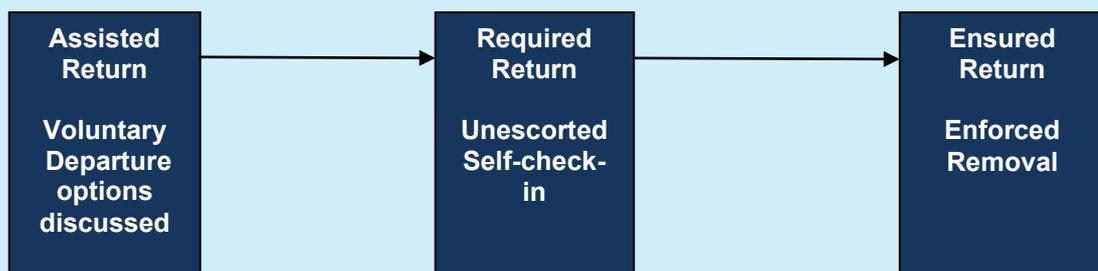
## Family Returns Process (FRP)

4.65 A new Family Returns Process (FRP) for removing families who had no legal right to remain in the UK was piloted in 2010 and rolled out nationally on 1 March 2011. A Home Office evaluation report identified the aims of the process, which were to:

- *increase family take up of Voluntary Return and Assisted Voluntary Return (AVR);*
- *ensure that any enforcement action considered the welfare interests of children and the wider family;*
- *better prepare families for return and give them the opportunity to take responsibility for their return; and*
- *give families the opportunity to make further representations and seek judicial reviews before enforcement action commenced.*<sup>28</sup>

4.66 Specially-trained HEO grade Family Engagement Managers (FEM) were expected to engage with resistant families and encourage them to comply with instructions to depart from the UK at an earlier stage in the process. The FRP sought to give families more control over the circumstances of their departure so they could leave the UK in a dignified manner. Figure 18 sets out each stage of the FRP.

### Figure 18: Stages of the Family Returns Process (FRP)



(Source: Home Office)<sup>29</sup>

28 'Evaluation of the new family returns process', Research report 78.

29 Evaluation of the new family returns process', Research report 78. p. 4.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/264658/horr78.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264658/horr78.pdf)

- 4.67 A family was liable to be referred for acceptance into the Family Returns Process when appeal rights had become exhausted. The acceptance criteria employed by the Family Returns Team were that;
- there was at least one child under the age of 18 years;
  - the family was either imminently removable or there was a realistic prospect of removal within a reasonable time period; and
  - the family held valid travel documents, or there was a realistic prospect of obtaining them.
- 4.68 Once a family was accepted into the FRP, the case was tasked to one of 30 FEMs to progress to removal.

## Assisted Return

- 4.69 The Assisted Return stage involved the FEM holding a family returns conference with the family to explain the options for return. The meeting also discussed any barriers that may prevent return and was followed by a ‘Family Departure Meeting’ two weeks later, which gave the family an opportunity to discuss their thoughts on how they wished to return.

## Required Return

- 4.70 Where the family was unwilling to depart voluntarily, with or without financial assistance, they would be served with removal directions. The family was not liable to be detained at this time and were expected to check-in for the flight unescorted. The notice period was typically a minimum of two weeks in order to allow the family to prepare for return. In some cases, for example where the risk of absconding was assessed as high, the Required Return stage could be skipped.

## Ensured Return

- 4.71 Where a family failed to leave at the Required Return stage, the final stage of the process, the so-called Ensured Return stage, involved the enforced removal of the family. This could involve the family being accommodated for up to 72 hours or in exceptional cases, with ministerial approval, up to one week in Cedars pre-departure accommodation.

## Independent Family Returns Panel (IFRP)

- 4.72 Section 54A of the Borders, Citizenship and Immigration Act 2009 provides that:

*(1) The Independent Family Returns Panel is established.*

*(2) The Secretary of State must consult the Independent Family Returns Panel—*

- a. in each family returns case, on how best to safeguard and promote the welfare of the children of the family, and*
- b. in each case where the Secretary of State proposes to detain a family in pre-departure accommodation, on the suitability of so doing, having particular regard to the need to safeguard and promote the welfare of the children of the family.*

- 4.73 The IFRP comprised an independent chair and pool of other members with safeguarding and medical experience. It described its role as having, in practice, ‘*extended to advice and challenge on matters of policy and practice, performance and contract management*’.<sup>30</sup> We saw examples where the IFRP had challenged planned enforcement actions, for instance requesting that the Home Office obtain additional information relating to health concerns of family members before proceeding.

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<sup>30</sup> The escorting of families subject to enforced removal is carried out by a third party contractor.

4.74 During the returns process FEMs must present a return plan to the IFRP for consideration. No removal action should take place until the IFRP provided independent advice on the return plan. The IFRP helped to ensure that proposals for return took full account of the welfare of the children, and that the Home Office fulfilled its responsibilities under s.55 of the Borders, Citizenship and Immigration Act 2009 (duties regarding the welfare of children).

## Performance

4.75 The Home Office advised us that as of 4 January 2015, 2,666 families had entered the FRP since the pilot in 2010. Of these:

- 985 families had been returned;
- 601 cases had been concluded (either granted leave to remain or no longer having a child under 18 and therefore no longer eligible for the FRP); and
- 1,080 cases were categorised as Work In Progress (WIP) awaiting removal action, of which 718 cases had outstanding barriers to removal and 298 cases had been allocated to a FEM.

4.76 Staff and managers in the Family Returns Process told us it was likely that not all families who met the FRP criteria were referred to them, because UKVI and IE did not have the tools to interrogate their databases properly to identify them. Instead, responsibility rested with the caseworker who last dealt with the family. If no referral was made, the family returns team had no way of knowing about the case. However, we were told that work was underway with ACD to make it easier to identify all families who fitted the criteria for entry into the FRP.

4.77 The FRP's target for the financial year 2014/15 was 252 returns. By February 2015, it had already achieved 535 returns, comprising:

- 466 Voluntary Departures;
- 42 Assisted Voluntary Returns, using Refugee Action's Choices Service;
- 20 Ensured Returns; and
- 7 Required Returns.

## Voluntary Departures and Assisted Voluntary Returns via the FRP

4.78 Although not a performance measure, one of the FRP's aims was to increase the uptake by families of Voluntary Departure and Assisted Voluntary Return (AVR). Figure 19 shows the breakdown of the different types of returns since the creation of the FRP.

**Figure 19: Breakdown of returns via FRP from financial year 2011/12 to 2014/2015**

Return Type	2011/12	2012/13	2013/14	2014/15	Total
Voluntary Departure	21	47	160	608	836
Assisted Voluntary Return	20	45	40	46	151
Required Return	8	21	10	7	46
Ensured Return	48	66	39	22	175
<b>Total</b>	<b>97</b>	<b>179</b>	<b>249</b>	<b>683</b>	<b>1208</b>

(Source: Home Office)

- 4.79 AVR numbers had not increased since 2012/13, but there had been a significant increase in the number of families departing voluntarily, and in 2014/15 voluntary departures accounted for 89% of all family returns.
- 4.80 We examined 45 family return cases where a FEM had been involved. Of these, 31 had resulted in return; of which 30 were via Voluntary Departure or AVR. One case was an Ensured Return. Managers in the Family Removals Team (FRT) attributed these high rates to the work carried out by the FEMs and support staff in encouraging families to depart voluntarily.
- 4.81 However, only two of the 30 AVRs were clearly the result of work done by a FEM (in the remaining case it was not possible from the file to determine if the FEM had been responsible for the family's return). In 27 of the 30 cases the family had decided to return before entering the FRP, and had contacted either the Voluntary Departure hotline, managed by Capita, or the Home Office, stating their wish to return. They were then routed to the FRT to facilitate their return.
- 4.82 The FRT assisted some families to obtain passports or Emergency Travel Documents. However, in most cases they simply ensured that where the Home Office held a travel document it was provided to the family at the airport upon departure. The case study at Figure 20 is a typical example.

#### Figure 20: Case study – Family Return - Voluntary Departure

##### The Family:

- In January 2010, entered the UK as a Tier 4 student and dependants;
- In November 2011, was granted a further two-year period of leave to remain as a Tier 1 highly-skilled worker and dependants;
- In 2012, the main applicant and their partner had a child born in the UK;
- In October 2013, and again in March 2014, submitted applications as the extended family members of an EEA national (the child) exercising Treaty Rights, which were refused on both occasions, the most recent being 14 May 2014. No appeals were made and the family's passports were placed in storage at the Home Office;
- In June 2014, contacted the Home Office to advise that they wished to return home and would purchase their own tickets, and were allocated to a FEM who provided information about voluntary departure;
- On 12 June 2014, departed the UK voluntarily, collecting their passports at the airport.

- 4.83 We questioned whether the work of the FRP was too heavily focused on dealing with straightforward return cases (typically non-asylum families) at the expense of more complex failed asylum-seeking family cases, where the family was more likely to be resistant to leaving or to lack the necessary travel document. In particular, we questioned whether it required specially trained HEO grade FEMs to facilitate straightforward returns. Staff and managers informed us that asylum cases made up 70-75% of the intake into the FRP.
- 4.84 Figure 21 shows the breakdown of asylum and non-asylum family cases recorded as having been returned via the FRP.

**Figure 21: Breakdown of asylum and non-asylum family cases recorded as returned via the FRP**

	2011/12	2012/13	2013/14	2014/15	Total
Asylum cases	76	139	101	97	413
Non-asylum cases	21	40	148	586	795
<b>Total</b>	<b>97</b>	<b>179</b>	<b>249</b>	<b>683</b>	<b>1208</b>

(Source: Home Office)

## Further submissions in Family Cases

- 4.85 In our file sample of 45 cases where a FEM had been involved, 14 had not been removed. In eight of these cases this was because further submissions had been raised after the case had been accepted into the FRP. Figure 22 describes the oldest case of outstanding further submissions in our sample.

**Figure 22: Case study – Asylum case in the FRP with outstanding further submissions**

### The Family:

- In November 2011, lodged a claim for asylum at the Asylum Intake Unit (AIU).
- In November 2013, the claim was refused.
- In February 2014, exhausted their appeal rights and were accepted into the Family Removals Process, with removal directions set for April 2014.
- In March 2014, made further submissions leading to the cancellation of removal directions and the allocation of the case to the Complex Casework Directorate.

### Chief Inspector's comments:

As at 8 September 2015 the further submissions had still not been considered. When the case was raised with the Home Office it was unable to say when this would be done.<sup>31</sup>

- 4.86 We found other cases in our file sample where little or no progress was being made towards clearing barriers to removal. We also found that delays in dealing with further submissions affected the flow of failed asylum family cases into the FRP. For example, in our sample of failed asylum-seekers, we identified 20 family cases which had not been referred to the FRP because there were outstanding further submissions, the oldest dating from February 2013.
- 4.87 The Home Office told us that, as at January 2015, there were 718 cases in the FRP that had outstanding barriers, including those requiring an ETD. Based on our findings, and the number of asylum cases entering the FRP and the proportion of these with barriers, it is reasonable to assume that a large percentage of the 718 were further submissions relating to failed asylum families.
- 4.88 The Home Office estimated that the return of 53 families who were in receipt of asylum support before their departure resulted in savings in 2014/15 of £962,000 in asylum support costs.

## Failure rate of Ensured Returns

- 4.89 FRP managers and staff told us that nine out of every ten Ensured Returns failed for one reason or another, commonly because the family made further submissions at the last minute or had absconded. FEMs visited the family more frequently closer to a planned arrest date to check

<sup>31</sup> We were subsequently informed that the further submissions were rejected on 8 October 2015.

that they were still residing at the address and to reduce the risk of having to abandon an arrest operation at the last minute where a family has absconded. Where a family resided in asylum support accommodation, checks were made with the provider to ensure that they were there.

- 4.90 We asked managers and staff what action was taken when a family absconded. Some told us there was an option to mount observations to try to locate the family. Others stated that once a family had absconded it was not routine to try to locate them, but FEMs would record the family as absconders and circulate their details on the PNC.
- 4.91 The Independent Family Returns Panel told us of its concerns about the impact on children, in terms of education and access to healthcare, when families absconded. It also told us of its frustration with repeated abortive attempts at Ensured Return due to last-minute legal challenges, as this was often not in the best interests of the children involved. Refugee Action, on the other hand, told us that such last-minute challenges by way of Judicial Review were successful on a regular enough basis to vindicate the decisions of families exercising that option.
- 4.92 An aim of the FRP was to encourage families to raise any reasons why they should not be returned before enforcement action commenced. However, further submissions and applications for Judicial Review were being routinely submitted late in the process. Staff in the FRT believed they had seen a trend in last-minute further submissions being lodged outside normal working hours which could make it difficult for the HO to respond. This had resulted in some Ensured Returns being deferred.
- 4.93 The Operational Support and Certification Unit (OSCU) provided support to removals casework when last-minute submissions or applications for Judicial Review were received in cases where removal directions were in place. OSCU considered the further submissions and grounds for Judicial Review and decided whether removal directions could be maintained or needed to be deferred. It prioritised its work according to the proximity of the planned removal, always making a decision in advance of the planned removal. Owing to the frequency with which family cases resulted in last-minute further submissions and applications for Judicial Review, OSCU was informed in advance of all Ensured Returns, so it was aware of planned enforced removals.

### **Pre-departure accommodation (Cedars)**

- 4.94 The family unit in Yarlswood Immigration Removal Centre was closed in 2010 following the government's decision to end child detention. New pre-departure accommodation for families was created at 'Cedars',<sup>32</sup> which opened in August 2011 and can accommodate up to nine families at a time in self-contained apartments.
- 4.95 Cedars operates on a multi-agency basis, with the Home Office having overall responsibility for it. Barnardo's (under a grant funded agreement) provides welfare and social care services to help families to prepare for and come to terms with their departure from the UK.
- 4.96 Cedars is used only as a last resort at the end of the removal process. Families are accommodated for up to 72 hours, or in exceptional cases up to a maximum of one week with ministerial approval.
- 4.97 We asked the Home Office for the total running costs of Cedars in each year of operation since opening. These costs are shown in Figure 23. In February 2015, the Home Office responded that *'there is work on-going to identify ways of cutting the costs of running Cedars and this work remains a key priority in the next financial year'*.

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<sup>32</sup> Responsibility for inspection conditions at Cedars rests with HM Chief Inspector of Prisons for England and Wales.

**Figure 23: Cost to Home Office of Cedars since it opened**

Year	Cost (£)
2011/12	6,414,733
2012/13	7,626,078
2013/14	5,556,939
2014/15 (forecast)	6,398,869
<b>Total</b>	<b>25,996,619</b>

- 4.98 We heard from Home Office staff, Barnardo's and the IFRP that Cedars was under-used and had been since it opened. In the first nine months of 2014/15, only 14 families had been accommodated at Cedars.
- 4.99 Managers considered Cedars played an important role in helping families and children deal with the stress involved in being removed from the UK to what, for some children, was an unfamiliar environment and culture. However, they recognised that it was underused. As a consequence, discussions were taking place about the future use of Cedars<sup>33</sup>.

## Conclusions

- 4.100 Year-on-year increases in Notified Voluntary Departures since 2012/13 suggested that the focus on voluntary departures was having an impact. However, there were no reliable figures for voluntary departures as a whole. Advance Passenger Information (API) provided an indication of individuals who had left without informing the Home Office, but, while API data collection had improved, it was not comprehensive and it relied on carriers to check the identity of passengers. The introduction of full exit checks from 1 April 2015 will have further improved data collection in relation to departures of individuals with no legal right to remain in the UK and is likely to result in a further rise in recorded voluntary departure numbers.
- 4.101 Poor communication between different areas involved in the removals process was having an adverse impact on efficiency and effectiveness, and leading to misunderstandings and disagreements about priorities. For example, take-up of Assisted Voluntary Return (AVR) was not maximised as staff in ICE teams and in Reporting Centres had poor awareness of the scheme and saw it as Refugee Action's responsibility and not theirs to promote it. They promoted Voluntary Departure as the cheaper option for those who had shown an interest in returning and would consider AVR only if this was unsuccessful.
- 4.102 The National Removals Command (NRC) and the NRC Gatekeeper function were intended to optimise use of detention bed space, assist ICE teams to prioritise their enforcement activities, and increase the volume of removals. The pressure on bed space was such that the NRC was obliged on occasions to operate on a 'one out, one in' basis, and to renege on agreements reached with ICE teams to 'ring-fence' beds for planned detentions. The NRC's daily email notification of available beds was of little use to ICE teams for planning purposes as the latter's operations were planned three weeks in advance, but the email could inform team briefings given by the officer in command immediately before deployment.
- 4.103 While there was no evidence to support their view, as counting methods had changed, some ICE team members believed they had achieved more removals before detained casework was centralised. NRC managers maintained that prior to the inception of NRC performance had varied between ICE teams and legal requirements in relation to the handling of detainees were not always being met.

<sup>33</sup> This inspection did not examine the efficiency and effectiveness of Cedars. However, in view of the issues it highlighted, this will be revisited in the planned 2015/16 Inspection of Contractors, providing outsourced services to the Home Office.

- 4.104 Limited detention bed space meant individuals who had repeatedly failed to abide by the rules were not pursued or detained when encountered because they did not fit the NRC's priority categories, the most important of which was that there was a reasonable prospect of early removal. Some of these individuals later absconded to evade removal.
- 4.105 Although the Home Office had taken steps in December 2014 to transfer the backlog of asylum cases with outstanding further submissions to the Complex Casework Directorate, it had not set a target date for the completion of this work. These cases had been allowed to build up over a period of years and resources had been moved away from this work in 2014/15. Separately, the inspection found a large number of cases (30,406 as at 30 September 2014) where the individuals had not been removed (or granted leave to remain) over two years after appeal rights had become exhausted or lapsed. Failure to deal with asylum cases in a timely manner was inefficient as well as ineffective. The more time an asylum case took to resolve, the more likely barriers to removal would arise from the formation of relationships, the birth of children and other community ties. It also meant individuals were left not knowing if or when the Home Office might take action to remove them.
- 4.106 The 2014 *'Inspection of Non-Suspensive Appeals'*<sup>34</sup> made the point that *'the failure to take effective action against absconders is likely to hinder the Home Office's ability to remove them at a later stage should they come to the attention either of its own enforcement staff or the police.'* File sampling for the current inspection identified that only a small proportion of absconders had been actively pursued by Immigration Enforcement, for whom tracing absconders was not a priority. While this may be operationally pragmatic in light of the limited detention bed space, it meant that absconders were not being dealt with effectively.
- 4.107 The single numerical target for returns used for the Family Returns Process (FRP) was not a useful performance measure. It did not adequately capture either effort or achievement. In 2014/15, there had been a large increase in non-asylum cases and a decrease in asylum cases, which were generally more complex and time-consuming. The majority of families recorded as having returned had departed voluntarily, with minimal involvement from a Family Engagement Manager (FEM). We were subsequently told that EO and AO field officers completed the majority of this work, leaving the FEMs to concentrate on more complex cases. Nonetheless, the balance of effort devoted by FEMs to non-asylum cases did not represent best value from their specialist training and seniority.
- 4.108 Last minute further submissions disrupted planned removals, including Ensured Returns of failed asylum families. Efforts were being made, for example through the Family Returns Process (FRP), to encourage reasons for non-removal to be raised earlier. However, in practice, families and individuals who had been notified that they were to be removed were unlikely to see it as in their interest to do so.

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34 <http://icinspector.independent.gov.uk/wp-content/uploads/2014/07/NSA-report-FINAL-WEB.pdf>

### **Recommendations: The Home Office should:**

Ensure that Immigration Enforcement (ICE) teams and Reporting Centre staff are aware of and promote all options for voluntary return.

In relation to Assisted Voluntary Returns (AVR):

- incentivise AVR by including it in ICE team targets;
- ensure that any policy changes around eligibility or the operation of AVR are discussed with the Scheme Administrator in sufficient time for them to be able to communicate the changes effectively to potential users of the scheme.

Improve communication between the National Removals Command (NRC) and ICE teams and Reporting Centres, ensuring it meets the business needs of all parties in terms of its timeliness and value to operational planning, and including feedback from NRC on referred cases where removal has occurred. Use a reduction in instances of individuals being arrested by ICE teams but not accepted into detention as a measure of improved communication.

Put robust monitoring of the new (as at 2015) arrangements for handling further submissions in place to ensure that the backlog of refused asylum further submission cases is cleared by the end of 2015/16 and that the five day target for dealing with new further submissions is being met.

Review absconder guidance to ensure it is in line with what the Home Office considers appropriate in light of capacity, priorities and the impact of absconding on the effectiveness and efficiency of each part of the removals process. Promulgate and put assurance mechanisms in place to ensure the new guidance is followed consistently, and that decisions whether and how to pursue absconders are not left to local judgement.

Set an appropriate range of performance targets for the Family Returns Process (FRP), to include the balance of effort devoted by Family Engagement Managers (FEMs) to asylum and non-asylum cases, ensuring that sufficient effort is devoted to asylum cases to effect a reduction in the overall number of such cases in the FRP. Reallocate routine tasks not requiring HEO grade FEMs in order to make optimum use of their specialist training.

4.109 This inspection did not examine the efficiency and effectiveness of Cedars. However, in view of the issues it highlighted, Cedars will be included in the 2015/16 Inspection of Contractors.

# 5. Inspection Findings – Safeguarding Individuals

## Safeguarding children and family removals

- 5.1 A key aim of the Family Returns Process was to ensure that any enforcement action took into account the welfare of children and the wider family, in accordance with Section 55 of the Borders, Citizenship and Immigration Act 2009. All the staff whom we interviewed had completed the mandatory safeguarding training and understood their responsibilities under s.55.
- 5.2 Staff said there were occasions when separating a family was necessary to enforce a family return. In such cases, full consideration was given to the impact this would have on the family and the children involved. This included seeking advice from the Independent Family Returns Panel (IFRP) and from the Office of the Children's Champion<sup>35</sup> before authorising a family separation involving children.
- 5.3 Home Office policy stipulated that all plans to separate family members had to be approved at Assistant Director Level (Grade 7). In our file sample we found two cases where a family had been separated. In both cases the reasons for the family separation had been authorised in accordance with Home Office guidance.

## Non-compliant children

- 5.4 The IFRP expressed concern to us about the failure of the Home Office to develop a policy for dealing with non-compliant children who frustrated enforced family removals. They recognised that physical intervention should be used only as a last resort and in exceptional circumstances. However, IFRP added there may be occasions where it was necessary and in the best interest of children to use a limited form of physical intervention, for example, to avoid a situation where there were repeated attempts to remove a family forcibly, which could have a deep psychological impact on the children involved.
- 5.5 IFRP pointed to other organisations that interacted with children, such as schools, hospitals and children's homes, which had behaviour management policies for non-compliant children. IFRP was critical that the Home Office had not developed a similar approach and that an IE officer was not even permitted to take the hand of a young child to guide him or her safely to a waiting vehicle. It therefore stood by a recommendation in its Annual Report 2011–12,<sup>36</sup> which stated that:  
  
*'the UK Border Agency develops a behaviour policy which includes as a last resort the use of physical intervention with children underpinned by a thorough training programme for officers and stringent guidelines for its use. It is important to stress that the Panel recommends that physical intervention with children should form part of a broader behaviour management policy and be used only in exceptional circumstances'*.
- 5.6 The Panel's 2012–2014 report<sup>37</sup> noted that *'There has been very little progress made on this recommendation over the past two years'*. The Home Office responded to this, stating:

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<sup>35</sup> Senior Home Office official responsible for promoting the duty to safeguard and promote the welfare of children and offering advice and support to Home Office staff in issues relating to children.

<sup>36</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257175/ifrp-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257175/ifrp-report.pdf)

<sup>37</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/360431/Independent\\_Family\\_Returns\\_report\\_2012\\_to\\_2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360431/Independent_Family_Returns_report_2012_to_2014.pdf)

*In light of a Judicial Review challenge in the case of Chen in February 2013, the Home Office republished guidance which clarified the circumstances when physical intervention can be used in relation to children. This makes clear that physical intervention on children by staff working in enforcement or detention roles is limited to harm situations only – where a child behaves in a way that poses an immediate risk to themselves/others/property. The position is under review and any changes will be the subject of public consultation.*

5.7 The position was still under review at the conclusion of our inspection.

## **Detention**

5.8 Chapter 55 Enforcement Instructions and Guidance<sup>38</sup> states that ‘*the power to detain must be retained in the interests of maintaining effective immigration control. However, there is a presumption in favour of temporary admission or release and, wherever possible, alternatives to detention are used. Detention is most usually appropriate:*

- *to effect removal;*
- *initially to establish a person’s identity or basis of claim; or*
- *where there is reason to believe that the person will fail to comply with any conditions attached to the grant of temporary admission or release’.*

5.9 In our file sample of detained cases we found decisions to detain, maintain detention, or release from detention were based on the factors set out in the Enforcement Instructions and Guidance. Individuals accepted into NRC detention had regular detention reviews which were authorised at the appropriate level. The average time an individual spent in detention after being accepted into the NRC was 39 days although the range was wide (4 days to 199 days). Where no barriers to removal were raised or the detainee requested to depart voluntarily detention was usually for much shorter periods.

5.10 Some individuals were detained for longer periods, for example where there was a delay in obtaining an ETD, or where further submissions were being considered. We found one instance in our file sample where the individual had been detained for over five months. This individual, a previous absconder, was detained for 166 days due to a delay in securing an ETD, but due to the individual’s poor record of compliance continued detention was justified under the guidance.

## **Ministerial Authorisation**

5.11 The Home Office uses Paragraph 17 of Schedule 3 of the Equality Act 2010<sup>39</sup> to depart from Section 29<sup>40</sup> of the Act, in order to authorise that certain nationalities be treated differently when carrying out immigration functions. A list of such nationalities is authorised by the Immigration Minister and is based on an assessment of the risk to immigration control posed by different nationalities. The authorisation allows UKVI and IE staff to differentiate by nationality when prioritising cases for removal.

5.12 Our file sampling showed that nationalities on the ministerial authorisation list were prioritised by ICE teams and NRC for removal. We did not find anything in our file sample to indicate that staff or managers were operating outside the parameters set by ministerial authorisation.

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38 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/442253/Chapter55\\_v19\\_1.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/442253/Chapter55_v19_1.pdf)

39 <http://www.legislation.gov.uk/ukpga/2010/15/schedule/3>

40 <http://www.legislation.gov.uk/ukpga/2010/15/section/29>

## Data handling and storage

- 5.13 All staff we spoke to had a good awareness of their responsibilities regarding the treatment of personal data and had completed the mandatory e-learning course in respect of information security and data protection.
- 5.14 A clear desk policy was in place in all the sites we visited. Files were stored away in a secure area at the end of each day and there were processes for the logging and storing of passports and travel documents, which limited the risk of documents being misplaced.
- 5.15 The removals process requires the sharing of personal data with airlines for the purposes of booking tickets. We did not see any examples from our file sample of the Home Office providing personal data to airlines over and above that which was required for this purpose.

## Conclusion

- 5.16 Staff working within the Family Returns Process were following guidance in relation to safeguarding by seeking advice from relevant bodies before separating a family to enforce a return. However, the Home Office had yet to develop a policy determining how staff should deal with non-compliant children, despite this having been recommended by the Independent Family Returns Panel (IFRP) in 2012 and again in 2014. The absence of a policy and practical guidance created potential risks both for the children and for the staff required to deal with them.
- 5.17 Based on file sampling and staff interviews, staff within the National Removals Command (NRC) were fully compliant with relevant legislation and instructions in relation to detention, with the application of ministerial authority to differentiate between nationalities based on risk when prioritising removals, and with the law and departmental policies relating to the protection of personal data.

### Recommendations: The Home Office should:

Ensure that it puts in place as soon as possible an appropriate policy covering how to deal with non-compliant children within the Family Returns Process (FRP), and should issue practical guidance to those staff whose roles involve direct contact with children.

## 6. Inspection Findings – Continuous Improvement

### National Removals Command Enhancement and Continuous Improvement Programmes

- 6.1 The National Removals Command (NRC) became operational in July 2013. Since then there has been an emphasis on continuous improvement. Initially, the NRC Enhancement Programme delivered the changes required to create the NRC. The Enhancement Programme formally closed in December 2014, and was superseded by a continuous improvement programme with governance provided by a programme board. This meets monthly to measure progress against risks and to identify areas for improvement. We saw examples of the NRC's commitment to continuous improvement in the programme board reports and action plans created by the thematic leads.
- 6.2 The NRC emphasised staff inclusion to promote best practice and improve processes. The introduction of career pathways informed NRC staff which mandatory and developmental courses they needed to complete and to what timescales.

### NARRATE (National Removals Recording and Tracking Emulator)

- 6.3 A bespoke IT system, NARRATE, had been developed to support the production of accurate data to measure NRC performance. This database replaced locally produced spreadsheets and provided more accurate and consistent management information. NARRATE was used across the NRC both operationally and as a management information tool. This ensured that senior managers had sight of any dips or peaks in performance and were able to reallocate resources as necessary.

### ETD Process

- 6.4 One of the main barriers to removal was the lack of a valid travel document. ICE Teams told us about the productive relationships they had built up, prior to the implementation of NRC, with High Commissions and Consulates in their regions. This had enabled them to secure a quick turnaround in Emergency Travel Document applications and carry out larger-scale targeted documentation exercises. NRC confirmed that they had allowed these local initiatives to continue where they were previously beneficial.
- 6.5 Some individuals fail to comply with the documentation process. Section 35 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 provides that:
- (1) *The Secretary of State may require a person to take specified action if the Secretary of State thinks that—*
    - a. *the action will or may enable a travel document to be obtained by or for the person, and*
    - b. *possession of the travel document will facilitate the person's deportation or removal from the United Kingdom.*
  - (2) *In particular, the Secretary of State may require a person to—*
    - a. *provide information or documents to the Secretary of State or to any other person;*
    - b. *obtain information or documents;*

- c. *provide fingerprints, submit to the taking of a photograph or provide information, or submit to a process for the recording of information, about external physical characteristics (including, in particular, features of the iris or any other part of the eye);*
- d. *make, or consent to or cooperate with the making of, an application to a person acting for the government of a State other than the United Kingdom;*
- e. *cooperate with a process designed to enable determination of an application;*
- f. *complete a form accurately and completely;*
- g. *attend an interview and answer questions accurately and completely;*
- h. *make an appointment.*

(3) *A person commits an offence if he fails without reasonable excuse to comply with a requirement of the Secretary of State under subsection (1).*

6.6 Staff were aware of the provision of s.35, but told us that prosecutions using this legislation were rarely taken forward by Criminal and Financial Investigation Teams (CFI), located across the UK, which were responsible for all prosecutions under the immigration acts.<sup>41</sup>

## Further Submissions

6.7 Further submissions are one of the main reasons why removals are delayed or fail. Croydon NRC had introduced an initiative of pre-emptive resolution of submissions based on Article 8 European Convention on Human Rights.<sup>42</sup> This aimed to reduce the delay in caseworking should an Article 8 claim be submitted after removal directions had been set. Senior managers told us that consideration would be given to rolling this out across other case working locations, although some might be more appropriate than others dependent on the relative prevalence of Article 8 submissions.

6.8 From 30 March 2015, failed asylum-seekers who wish to lodge further submissions, irrespective of when their claim for asylum was made, are required to do so in person by appointment in Liverpool unless there are medical, welfare or other extenuating circumstances. Previously this process applied only to asylum-seekers who claimed asylum prior to 5 March 2007. Senior managers stated the aims of this approach were to:

- deliver a more effective service with decisions being made more quickly;
- allow for those not already on reporting restrictions to be assigned to a reporting centre; and
- disincentivise unfounded further submissions which are often used to frustrate removals.

## NRC resource in Detention Centres

6.9 Managers told us that, where resource allowed, NRC staff were embedded within detention facilities. They said this helped to facilitate removals by building a rapport with detainees in the removal process, identifying at an early stage potential issues which might affect a removal and working with the detainee to resolve them. They were able to provide an early assessment of detainees whose behaviour indicated they were likely to be disruptive during removal, and to plan for an escorted removal, thereby avoiding costly failed unescorted removals.

<sup>41</sup> Since October 2014 Criminal Casework has appointed two officers to pursue s35 prosecutions on high harm and difficult cases and have instigated ten prosecutions.

<sup>42</sup> <http://www.legislation.gov.uk/ukpga/1998/42/schedule/1/part/1/chapter/7>

## **Conclusion**

- 6.10 The National Removals Command (NRC) was committed to continuous improvement. This included introducing measures aimed at removing or reducing the risks arising from non-compliance with the removals process, and with the disruption and delays created by late further submissions.
- 6.11 The Complex Casework Directorate had also introduced a measure that required failed asylum applicants (from 30 March 2015) to lodge further submissions in person by appointment in Liverpool. However, the Immigration Law Practitioners Association (ILPA) considered this was unreasonable because it failed to take account of the practical difficulties it presented for individuals who might wish to make further submissions.
- 6.12 Where legislation existed to support the NRC's aims, for example by prosecuting individuals who failed to comply with steps to acquire emergency travel documentation, the decision rested elsewhere and this avenue was not being used systematically. It was unclear whether the impact of not prosecuting on removals' performance featured in the decision-making process.

## **Recommendation**

- 6.13 None.

## Annex A: Key Terms Used in This Report

Absconder	Individual who has been informed of the requirement to report to the Home Office but has failed to do so.
Advance Passenger Information (API)	Passenger data provided to the Home Office by commercial operators in respect of arriving and departing passengers.
Asylum	Protection given to a refugee as defined by the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol.
Asylum Casework Directorate (ACD)	The Home Office Directorate responsible for the consideration of claims for asylum.
‘Barrier to removal’	Term used by the Home Office meaning a legal or other impediment to removal and requiring further work before removal can proceed. Examples include further submissions and the lack of a valid travel document.
Curtailment	The cutting short of a migrant’s leave to remain following a breach of the conditions attached to the grant of leave.
Emergency Travel Document (ETD)	A document issued by an Embassy or High Commission in place of a passport to allow an individual to return to their own country.
Further Submissions	The term given to asylum or human rights grounds submitted to the Home Office by those who have already made an unsuccessful asylum or human rights claim, and who ask for their claim to be re-considered.
Immigration Compliance and Enforcement teams (ICE Teams)	Regionally-based teams who undertake arrest and enforcement action against immigration offenders within their local area.
Illegal Entrant	A foreign national who enters the UK clandestinely or through the use of deception.
Irregular Migrant	A foreign national who does not have the right to remain in the UK. The term incorporates overstayers and illegal entrants.
Judicial Review (JR)	Judicial Review is a process by which individuals can challenge the lawfulness of decisions or actions of the Executive, including those of ministers, local authorities, other public bodies and those exercising public functions.

Overstayer	A foreign migrant who has remained in the UK beyond the time period for which they were granted leave to enter or remain. A migrant who submits a valid application for an extension before their leave expires is not an overstayer until, and if, their extension application is refused and any associated appeal is determined.
Pre-action protocol (PAP)	A pre-action protocol is normally a letter sent to the Home Office which challenges an action taken, or in some cases a lack of action indicating that a JR will be lodged if a satisfactory response is not received within a certain timescale, normally 14 days. This gives the parties an opportunity to settle the matter without recourse to the courts.
Reporting Centre	Home Office site at which persons on temporary admission or release (see below) are asked to report periodically. The full title is Reporting and Offender Management Centre but for ease the term Reporting Centre is used throughout this report.
Reporting event	An appointment at a Reporting Centre. These usually form part of a reporting regime (e.g. weekly or monthly events) imposed upon individuals who do not have permission to reside in the UK. This enables ongoing contact and in some cases facilitates detention.
Temporary Admission/Release	Temporary permission to reside in the UK following a period of detention. Often used to enable an application for leave to remain in the UK to be considered or to obtain an emergency travel document.
Voluntary Departure	This refers to the departure from the UK of an individual without leave to remain, voluntarily and either at their own expense or with assistance from the Home Office. Where the departure is at public expense either a one or two year re-entry ban is applied depending on the circumstances.

## **Annex B: Role & Remit of the Chief Inspector**

The role of the Independent Chief Inspector ('the Chief Inspector') of the UK Border Agency (the Agency) was established by the UK Borders Act 2007 to examine and report on the efficiency and effectiveness of the Agency. In 2009, the Independent Chief Inspector's remit was extended to include customs functions and contractors.

On 26 April 2009, the Independent Chief Inspector was also appointed to the statutory role of independent Monitor for Entry Clearance Refusals without the Right of Appeal as set out in section 23 of the Immigration and Asylum Act 1999, as amended by section 4(2) of the Immigration, Asylum and Nationality Act 2006.

20 February 2012, the Home Secretary announced that Border Force would be taken out of the Agency to become a separate operational command within the Home Office. The Home Secretary confirmed that this change would not affect the Chief Inspector's statutory responsibilities and that he would continue to be responsible for inspecting the operations of both the Agency and the Border Force.

On 22 March 2012, the Chief Inspector of the UK Border Agency's title changed to become the Independent Chief Inspector of Borders and Immigration. His statutory responsibilities remain the same. The Chief Inspector is independent of the UK Border Agency and the Border Force, and reports directly to the Home Secretary.

On 26 March 2013 the Home Secretary announced that the UK Border Agency was to be broken up and brought back into the Home Office, reporting directly to ministers, under a new package of reforms. The Independent Chief Inspector will continue to inspect the UK's border and immigration functions, as well as contractors employed by the Home Office to deliver any of these functions. Under the new arrangements, the UK Visas and Immigrations department (UKVI) was introduced under the direction of a Director General.

# Annex C: Inspection Criteria

The criteria used in this inspection were taken from the Independent Chief Inspector's Inspection Criteria, revised and updated in August 2013. Figure 24 refers.

**Figure 24: Inspection criteria used for this inspection**

## **Operational Delivery**

1. Decisions on the entry, stay and removal of individuals should be taken in accordance with the law and the principles of good administration
2. Customs and immigration offences should be prevented, detected, investigated and, where appropriate, prosecuted.
3. Resources should be allocated to support operational delivery and achieve value for money

## **Safeguarding Individuals**

5. All individuals should be treated with dignity and respect and without discrimination in accordance with the law
8. Personal data of individuals should be treated and stored securely in accordance with the relevant legislation and regulations.

## **Continuous Improvement**

9. The implementation of policy and processes should support the efficient and effective delivery of border and immigration functions.
10. Risks to operational delivery should be identified, monitored and mitigated.

## Annex D: Glossary

Term	Description
<b>A</b>	
Assistant Director	Senior manager within the UK Visas and Immigration equivalent to a civil service Grade 7 position.
<b>B</b>	
Biometrics	All applicants are routinely required to provide ten digit finger scans, a digital photograph and signature when applying for settlement or an extension of stay.
<b>C</b>	
Complaint	Defined by the UK Border Agency as ‘ <i>any expression of dissatisfaction about the services provided by or for the UK Border Agency and/or about the professional conduct of UK Border Agency staff including contractors</i> ’.
Customer	Defined by the former UK Border Agency as ‘anyone who uses the services of the Agency, including people seeking to enter the United Kingdom, people in detention and MPs’.
Customer Service Excellence	The Government’s customer service standard, replaced the Charter Mark initiative.
<b>D</b>	
Data Protection Act 1998	The Data Protection Act requires anyone who handles personal information to comply with a number of important principles. It also gives individuals rights over their personal information.
Director	Senior UK Visas and Immigration manager, typically responsible for a directorate, region or operational business area.
Director General	Senior Civil Servant at the head of UK Visas and Immigration.
<b>E</b>	
e-Learning	Computer-based training course.
<b>H</b>	

Home Office	The Home Office is the lead government department for immigration and passports, drugs policy, crime, counter-terrorism and police.
<b>I</b>	
Immigration Rules	The Rules laid before Parliament by the Home Secretary about the practice to be followed in regulating the entry into and stay in the UK of people subject to immigration control.
<b>L</b>	
Leave to remain	Permission given to a person to reside within the UK for a designated period.
<b>R</b>	
Regional Director	Senior manager responsible for one of the former six Immigration Group regions
<b>S</b>	
Settlement	Application to settle in the UK on a permanent basis, also known as indefinite leave to remain.
<b>U</b>	
United Kingdom Border Agency (UKBA)	The Agency of the Home Office formerly responsible for enforcing immigration and customs regulations. Its Agency status was removed on 31 March 2013 and its functions returned to the Home Office to form two new bodies.
UK Visas and Immigration	One of the two operational commands set up under the direct control of the Home Office in place of the UK Border Agency which was broken up on 26 March 2013. From 1 April 2013 this department handles all overseas and UK immigration and visa applications.

# Acknowledgements

We are grateful to the Home Office for the help and co-operation throughout the inspection and appreciate the contributions of all staff and stakeholders who participated in the inspection process.

Assistant Chief Inspector: **Garrett Cullen OBE**

Lead Inspector: **Cliff Buckley**

Inspection Officers: **Foizia Begum**

**Collette Green**

**Hilary Brown**

**Paul Walker**

**Steve Embrey-Jones**

If you would like further information about this inspection, please contact the Independent Chief Inspector of Borders and Immigration.

Email: [chiefinspectorUKBA@icinspector.gsi.gov.uk](mailto:chiefinspectorUKBA@icinspector.gsi.gov.uk)

Website: [www.independent.gov.uk/icinspector/contact](http://www.independent.gov.uk/icinspector/contact)

ISBN 978-1-4741-2665-6



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