

# ANNUAL REPORT

## INDEPENDENT FAMILY RETURNS PANEL

2012-2014

# Contents

CHAIRMAN'S FOREWORD.....	3
SUMMARY.....	4
OUR REMIT.....	6
INTRODUCTION AND OVERVIEW.....	7
The Family Returns Process.....	7
The Panel.....	7
Family Returns Process data.....	7
PROGRESS AGAINST KEY ISSUES IDENTIFIED IN THE 2011-12 REPORT.....	10
PROCESS ISSUES IDENTIFIED IN THE 2011-12 REPORT.....	16
RECOMMENDATIONS 2012-14.....	28
Key recommendations.....	28
Other recommendations.....	29
CHILDREN AND FAMILIES AT THE BORDER.....	32
CONCLUSIONS AND NEXT STEPS.....	34
ANNEX A: KEY RECOMMENDATIONS 2011-12 REPORT: A SUMMARY.....	35
ANNEX B: OTHER RECOMMENDATIONS 2011-12 REPORT: A SUMMARY.....	38
ANNEX C: KEY RECOMMENDATIONS 2012-14 REPORT.....	41
ANNEX D: OTHER RECOMMENDATIONS 2012-14 REPORT.....	42
ANNEX E: PANEL MEMBERSHIP.....	43
ANNEX F: QUARTERLY STATISTICS ON CHILDREN HELD SOLELY UNDER IMMIGRATION ACT POWERS IN CEDARS AND TINSLEY HOUSE.....	44

# CHAIRMAN'S FOREWORD

I was delighted to be offered the opportunity to fill the role as Chairman of the Independent Family Returns Panel ("the Panel") by Damian Green, then Minister of State for Immigration, in January 2012 following a year as Interim Chairman. This is the Panel's second report, but my first as substantive Chairman. My background as Director of Education and Children's Services for the previous 10 years in two separate local authorities gave me the confidence to take on this very important role on a more permanent basis.

My last appointment before taking up this, my most recent challenge, was as Director of Children's Services in the London Borough of Hillingdon. Hillingdon is the home of Heathrow, the world's busiest international airport, which brings with it enormous challenges. In 2005, Hillingdon was responsible for approximately 1,000 unaccompanied asylum-seeking children (UASC) and over half of the local Looked After Children population were, or had been, involved in the asylum process. Needless to say, with this backdrop the Home Office and I had not always seen eye to eye on a number of issues and I was involved in lobbying government on issues as diverse as the grant arrangements for UASC to age assessment on behalf of Hillingdon and, more widely, the National Association of Directors of Children's Services.

The membership of the Panel has evolved over the past two years and consists of some very talented individuals to whom I am grateful for their support and advice in writing this report. I am also grateful for their expert opinion and professionalism over the past two years in considering some very challenging issues. We all have a lifetime of experience in professions where the primary purpose is to keep children safe and promote their well-being. We have engaged in this difficult area of work because we believe we can improve things for children and their families at what is a very traumatic time in their life. As Anne Marie Carrie, former Chief Executive of Barnardo's has said, "If not us, then who?"

Over the past two years, I and other Panel members have continued to work hard at developing a positive relationship with a number of Non-Governmental Organisations (NGOs). I am hugely appreciative of the role they have played as critical friends and occasionally by offering sterner challenges to the family returns process. NGOs have continued to provide the Panel with useful questions and areas to research which have undoubtedly led to improvements in the system. It is my intention to continue to utilise the expertise and insight of a range of NGOs often gained through first hand experience of working with families in the returns process. The Panel is acutely conscious of the importance of retaining a balanced and objective view about issues as they relate to the family returns process and how this can be easily compromised when working as closely as the Panel does with the Home Office.

I would also like to offer my appreciation to Home Office staff in the family returns team based in Leeds who have offered thoroughly professional support to the Panel during the past two years. The new members of the Panel have had to learn a whole new language, get used to the cultural undercurrents of the Home Office and familiarise themselves with relevant policy and legal issues. The Panel has also had to keep apprised of all the internal changes within the Home Office which have taken place during the reporting period and how they impact on policy and procedure. This has only been possible because of the patience and hard work of the team at Waterside Court in Leeds.

# SUMMARY

The Government announced its plans for ending the detention of children for immigration purposes in December 2010.<sup>1</sup> In parallel, the family unit at Yarl's Wood Immigration Removal Centre was closed for the detention of families with children. Instead, a new process for returning families who had exhausted all rights to remain in the UK was designed. This process has now been in place for three years. It is a four-stage process of improved decision-making, the offer of assisted return, a required return stage and as a last resort an ensured return stage.

The role of the Panel is primarily and fundamentally to offer advice and challenge the Home Office when it has been determined that a family must return home and the family refuses to do so voluntarily. In such cases, the regional Family Engagement Managers (FEMs) and the Immigration, Compliance, and Engagement (ICE) team draw up a plan for ensuring that the family leaves and this plan is presented to the Panel for scrutiny. The Panel assesses the plan and directs questions to the case officers during a telephone conference. Plans are usually amended as a consequence of the challenge process and occasionally the plan to remove is deferred on the advice of the Panel.

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

Returning families to their country of origin against their wishes is a sobering endeavour. However, if one believes that the UK should retain its sovereign borders then we must find the most humane and supportive way of reaching this outcome through the development of a system which gives families the best possible chance of making a successful transition. While there are a few organisations who believe that families should never be returned home if they wish to remain in the UK whatever their status they are few in number. The majority view is that if families have to return then the process must be supportive to achieving positive outcomes for children and their families. By making the last few days in this country as practically helpful and emotionally supportive as possible we can help insulate the family from the disappointment and challenges of ensured return.

The Panel has played a significant part in system wide developments evidenced in this, and in the Panel's 2011-12 Report, which have improved the experience of children and their families within the returns process, albeit an experience they would prefer not to have. Families were returned to their country of origin more safely with the Home Office and their contractors operating in a way which demonstrates greater adherence to their statutory responsibility for children's safeguarding and wellbeing.<sup>2</sup>

There is still much to be done as evidenced by the review of recommendations made in the Panel's 2011-12 Report and the additional recommendations laid out in this report. While our achievements over the past three years have been significant, many challenges remain to ensure the best interests of children are served in full during the returns process. The Home Office is to be

---

1 <https://www.gov.uk/government/publications/review-to-end-the-immigration-detention-of-children-consultation-conclusion>

2 [www.legislation.gov.uk/ukpga/2009/11/section/55](http://www.legislation.gov.uk/ukpga/2009/11/section/55)

commended for inviting independent scrutiny of the family returns process and has been receptive to the recommendations in this report and the Panel's 2011-12 Report which augurs well for further improvement in the future. The Panel made 32 recommendations in its 2011-12 Report to which we looked to the Home Office and others in the process to respond; six of these were "key recommendations" which we considered to be of strategic importance and to which we attached particular priority. We also highlighted 14 Good Practice Principles which reflected existing policy and to which we paid careful attention during the current reporting period to ensure that the Home Office gave effect to them consistently. The body of this report is an evaluation of the Home Office and its partners and contractors response to those recommendations and other issues as they have arisen during the course of the last two years.

As was the case during the previous reporting period, some of the recommendations have already been implemented through a process of formative feedback and evaluation. The Home Office has, however, been slow to act on others. As mentioned in the Chairman's foreword, the Panel is aware of the significant organisational changes the Home Office has made during the reporting period and the inevitable pressures this brings, but is disappointed somewhat by the pace of change.

The Panel is conscious that enforcement is a priority for the Home Office<sup>3</sup>, and it, like the Panel has learned a whole new language and set of responsibilities. For the Home Office, those relate to the care and wellbeing of children and their families as set out in section 55 of the Borders, Citizenship and Immigration Act 2009.<sup>4</sup> The Home Office will need to ensure that this learning is undertaken consistently across the organisation and not left as the preserve of a specialist function. The Best Interests of children must become part of the organisational DNA when working with families as part of the returns process.

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

---

3 <http://transparency.number10.gov.uk/business-plan/5/81>

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

# OUR REMIT

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

# 1. INTRODUCTION AND OVERVIEW

## The Family Returns Process

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

## The Panel

- 1.3 The Panel was established on 1 March 2011 to coincide with the national roll-out of most other elements of the new process. Members of the Panel were appointed on an interim basis for the first 12 months of operation to enable the process to get up and running quickly. Permanent members of the Panel were appointed in May 2012. A full list of the current members of the Panel is at Annex E.<sup>5</sup>
- 1.4 All plans for ensured returns must be referred to the Panel for advice on how best to safeguard the needs of the children during that return. The Panel normally meets to consider cases each Tuesday and Thursday, usually by telephone conference. Face to face meetings are also held regularly for training and information exchange. In exceptional circumstances, the Panel can be convened at short notice to avoid unnecessary delay and uncertainty which would not be in the interests of the children. By necessity this happened on two occasions during this reporting period.
- 1.5 The Panel receives copies of the return plans to be considered in advance. The Home Office case owner responsible for the specific return plan is expected to attend the Panel telephone conference to present the proposal and answer questions on the case, but is not a member of the Panel. The Panel has also stated a preference for the Immigration Officer in charge of the arrest visit to be present.

## Family Returns Process data

- 1.6 From 1 April 2012 to 31 March 2014, 1,193 cases entered the family returns process<sup>6</sup>. 407 families returned through the process during the reporting period, but return was not pursued in 242 cases. 32 cases were identified as not including a child aged under 18. Of those who left the country, 76 per cent did so without the need for an ensured return. These figures are a significant improvement on the 51 per cent of families who were part of the family returns process who left without the need for an ensured return in 2011-12. These improved figures have built on the cautious optimism of the 2011-12 figures and

---

<sup>5</sup> After an open recruitment process, Chris Spencer was confirmed as the Panel Chair in January 2012. Other new members were appointed in May 2012.

<sup>6</sup> The point at which a family enters the family returns process is defined in chapter 45 of the Enforcement Instructions and Guidance - <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/familieschildren>

reflect one of the main aims of the family returns process which is to encourage families with no legal right to remain in the UK to leave without the need for enforcement action<sup>7</sup>.

<b>Family Returns Process: 1 April 2012 to 31 March 2014</b>	
Families entering the returns process	(1,193)
<b>Outcomes</b>	
Family removal not pursued	(242)
Returns	(407)
Not family with children <sup>8</sup>	(32)
Total outcomes	(681)
<b>Types of return</b>	
Voluntary	(195)
AVRFC	(76)
Required return	(40)
Ensured return	(96)
Total returns	(407)
Referred to Panel	(249)

- 1.7 The Panel considered its first case of the current reporting period on 2 April 2012 and 249 cases were referred to the Panel by 31 March 2014. 407 families left the UK during the reporting period, with 88 children removed via a stay in Cedars pre-departure accommodation.<sup>9</sup> The Panel is now embedded in the process and the process is enabling families to be returned more safely and with more dignity.
- 1.8 The figures highlight some on-going issues which are of concern to the Panel and which were reported in the Panel's 2011-12 Report. The Panel considered an average of two or three cases a week but these cases were again not spread evenly over the year or across the regions. There were fewer cancellations of Panel meetings than during the previous reporting period but the Panel still meets on too many occasions when there is only one or two cases to consider. The noticeable regional variation in the numbers of cases referred to the Panel in 2011-12 which appeared to be due, at least in part, to different levels of engagement in the family returns process by different parts of the Home Office is still apparent. This has improved with the creation of the FEM posts, but there remains room for further improvement.

<sup>7</sup> Family returns data is published as part of borders and immigration transparency data at [www.gov.uk](http://www.gov.uk) Archived figures for the family returns process can be accessed via [www.nationalarchives.gov.uk](http://www.nationalarchives.gov.uk)

<sup>8</sup> Families subsequently identified as not falling within the process, e.g. because a child turned 18.

<sup>9</sup> Figures on children entering and leaving Cedars can be found at [www.gov.uk](http://www.gov.uk). Figures on children entering Cedars and Tinsley House Immigration Removal Centre are also at Annex F.



- 1.9 In 2011-12, the Panel was concerned by the slow pace of some cases through the process and the fact that only 29 per cent of cases entering the system had reached a conclusion by the end of the year. The rate at which cases progress through the system is important to the well-being of children and young people in the returns process as prolonged exposure to uncertainty and the emotional upset caused by failed attempts to remove a family are additional risk factors to a child's mental health. Similarly, where family cases are either not being progressed, or are being progressed more slowly, there is a negative impact on children's well-being because the longer a family remains in the UK, the deeper their roots go and the more attached children become to their surroundings and their friends and the more dependent they become on the services available to them, making their departure more difficult. Indeed, children in families where casework has not been progressed in a timely way have often come to think of the UK as their home having lived a large proportion of their lives in this country. Some children within the family returns process have been born in this country and are therefore unfamiliar with the country to which they are returning. Priority should be given to such cases as children are generally more adaptable to major change the younger they are.
- 1.10 While 249 families were referred to the Panel during the reporting period, there were only 96 ensured returns. The two main barriers to removal continue to be family members not being present when Home Office Immigration Enforcement seeks to effect return and outstanding legal barriers to return such as judicial reviews and injunctions being lodged very late in the process. The Panel has experienced an increase in the use of last minute legal procedures to frustrate return along with an increase in the family absconding after removal directions have been set.
- 1.11 1,193 families entered the family returns process during the reporting period, but removal was not pursued in 242 cases. This calls into question the quality of Home Office initial decision making in placing a family in the returns process. This will be examined more closely during the next reporting period. Another explanation may be that the families involved do not exhaust all their legal options until faced with the real and imminent prospect of enforced return which comes with entering the family returns process.
- 1.12 The independent evaluation of the family returns process was published in December 2013.<sup>10</sup> The evaluation found that the family returns process has had a positive impact on family welfare and safeguarding children, in part through the work of the Panel. It also noted a higher quality of return planning because of the Panel's work

---

<sup>10</sup> <https://www.gov.uk/government/publications/evaluation-of-the-new-family-returns-process>

## 2. PROGRESS AGAINST KEY ISSUES IDENTIFIED IN THE 2011-12 REPORT

### **KR1a: Use of Cedars as part of the returns process**

The Panel recommended that the UK Border Agency should review the criteria for the use of Cedars and ensure that they are applied consistently.

- 2.1 The Home Office has made efforts to raise awareness of the criteria for the use of Cedars among staff who deal with family returns. Current guidance reflects that it be used only as a last resort when all other options have been exhausted and the Home Office considers the criteria to be appropriate. However, the experience of the Panel over the last two years has been that there is still inconsistency in the application of the criteria across ICE teams. The creation, in 2013, of a new team of Family Engagement Managers (FEM) centrally managed but dispersed around the country has brought greater consistency in the handling of families in the returns process and the use of Cedars, but more progress is required to fully meet this recommendation.

### **KR1b: Use of Cedars as part of the returns process**

The Panel recommended that Barnardo's should review the 10% "red line" and consider whether it supports the best interests of children and their families.

- 2.2 The 10% red line referred to above relates to one of the conditions Barnardo's set down for their involvement in the family returns process.<sup>11</sup> It stipulates that no more than 10% of families returned each year are accommodated and returned through Cedars. The Panel has always considered this condition to be somewhat arbitrary and unrelated to children's best interests so no attention has been paid to it in considering what recommendations to make when scrutinising a return plan. The 10% red line has not been exceeded during this reporting period. Barnardo's have reinforced their commitment to the 10% red line over the past two years in discussions with the Panel and the Home Office. The position of the Panel remains unchanged on this issue.

### **KR2: Managing non-compliant behaviour**

The Panel recommended 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.

- 2.3 There has been very little progress made on this recommendation over the past two years.
- 2.4 The management of a family during the family returns process is more challenging when the family does not comply or becomes disruptive. The range of behaviour experienced during ensured returns has ranged from co-operation through to violence, outright aggression and physical resistance in a small number of cases.

---

<sup>11</sup> [http://www.barnardos.org.uk/news\\_and\\_events/media\\_centre/press\\_releases.htm?ref=70802](http://www.barnardos.org.uk/news_and_events/media_centre/press_releases.htm?ref=70802)

The Home Office has a clear policy for physical intervention with disrupting adults which is supported by a thorough training programme for officers and clear guidance. No corresponding policy exists in relation to children and young people under 18 years of age. Up to February 2013, the Home Office was able, in exceptional circumstances, to apply in advance for ministerial authority to use force on a young person aged under 18, for example where there was evidence of previous violent behaviour. 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).<sup>12</sup>

- 2.5 This means that where a child refuses to leave their home or a vehicle, the return may have to be postponed. This happens very rarely but it does signpost the need for a policy which can accommodate under 18s. Clearly this is a very emotive subject and any behaviour policy which includes the use of physical intervention with children would require an appropriate system of intervention, thorough training of the officers and clear guidance about when it should and should not be used. Intervention of this kind with children should be used rarely and only after encouraging the parents to take responsibility for their children's behaviour. Where parents refuse to take parental responsibility or, as occasionally happens, even encourage the children to disrupt, officers should deploy a significant number of strategies and techniques to encourage or distract the child before using more intrusive forms of behaviour management. The Panel understands that Immigration Enforcement officers are already trained to manage such situations and de-escalate the situation before the need to resort to any physical intervention. Existing safeguarding and specialist training in communicating with children also plays a part in assisting officers where de-escalation is required.
- 2.6 It is not the decision of the Panel to approve the use of physical intervention strategies during the return of a family. However, once a decision is taken to remove a family there are strong arguments for ensuring that the return happens sooner rather than later given the sometimes traumatic nature of the event and the emotional impact on children of having to experience a number of return attempts. Policies for physical intervention with children are commonplace in schools, children's homes, and in secure units for young people. With greater knowledge and skills developed through a comprehensive training programme, Home Office enforcement officers and Tascor<sup>13</sup> escorts could minimise the need for physical intervention with all children and where it is used, this could be done with minimal risk.

### **KR3: Engaging children in the process**

The Panel recommended that the UK Border Agency always involves children in major decisions that affect their lives.

---

<sup>12</sup> See chapter 45 of the Enforcement Instructions and guidance which can be found at [www.gov.uk](http://www.gov.uk).

<sup>13</sup> Formerly known as Reliance (renamed Tascor on 14 January 2013).

- 2.7 The Home Office response to this recommendation is that FEMs now lead on engaging with children and families in the returns process. They discuss with families their options for return and any concerns they have about that. Children have the opportunity to express their feelings and concerns and ask questions directly to the FEMs. Training for FEMs includes engaging and talking with children about decisions which affect their lives. FEMs act as a lead contact for the family and provide a consistent touch point for families throughout the returns process. Home Office staff are not social workers so this recommendation involves a major cultural shift for those involved.
- 2.8 Every piece of major legislation pertaining to the safeguarding and well-being of children over the last twenty years emphasises the importance of involving them in major decisions that affect their lives. There can be very few decisions which have a greater impact on the lives of children than a decision about where they will live. It is therefore important that the Home Office takes steps to inform and involve children in an age and stage appropriate way about their future in the UK once a family has reached the ensured stage of the family returns process. The starting point of this process is to encourage the parents to take responsibility for preparing the children for what lies ahead but, given that a number of families believe for whatever reason that they will not be removed, parents are sometimes reluctant to engage in something that they consider may unsettle the children unnecessarily. In these circumstances, the difficult conversation still needs to happen and ultimately if the parents will not have the conversation with the children then Home Office officials should do so if the opportunity arises. The alternative of a family arrest and transport to a port of departure is too difficult to imagine for a child who has not been prepared for such a significant event. Such a surprise could also dramatically affect their resilience in dealing with the disappointment of having to return home.
- 2.9 Parents should be supported in this endeavour where needed with appropriate materials which have been designed with the age and stage of development of the child in mind. Where parents refuse to engage with children about return, officials should intervene in order to reduce the emotional impact of a surprise enforced return. Where possible and appropriate, this task could be undertaken by a professional with skills in working with children and who is known to the family such as a social worker. Where such a professional is not working with the family then a Home Office official should be in a position to impart the necessary information to a child.

#### **KR4: Managing the contract with Reliance (now known as Tascor)**

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

- Reliance staff have all completed foundation level training before being tasked to accompany families on returns and that at least one member of the Reliance team accompanying families has higher level training experience.
- There are appropriate escalation procedures and a whistle blowing process for Reliance staff in relation to safeguarding matters and that those are audited regularly by UK Border Agency staff.
- All escorts accompanying family returns should be CRB checked<sup>14</sup> and these checks are renewed every three years in keeping with best practice.

2.10 The Home Office response to this recommendation has been very comprehensive. Up to June 2013, a senior Home Office official was seconded to Tascor to ensure compliance with contract requirements. Tascor has since employed a specific child safeguarding manager. Enhanced safeguarding training has been rolled out and all family moves now include at least one staff member who has received this. Escalation and whistle blowing procedures are in place and escorts are checked every five years in line with security clearance guidance.

2.11 Tascor is the organisation responsible for providing in-country escorts to ensure that families are safeguarded and their best interests observed during the returns process, from the point where the family members are passed into their care following arrest, up to the handover to Tascor overseas escorts or delivery to Cedars depending on the plan for return. The overseas escort teams then travel with the family to their country of return. As it is providing services on behalf of the Home Office, Tascor is also subject to the same duty regarding the welfare of children under section 55 of the Border, Citizenship and Immigration Act 2009. Panel members raised a number of concerns in the Panel's 2011-12 Report which arose as a consequence of their own observations and reports from various groups of staff. Concerns included the following:

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

---

<sup>14</sup> Disclosure and Barring Service replaced CRB checks in December 2012.

2.12 As a consequence of the above, the Panel raised these concerns with senior management within the UK Border Agency who took the necessary steps to improve the performance of Reliance in relation to the family returns process. I am pleased to be able to report that there has been improvement witnessed by the Panel first hand during this reporting period, in particular the secondment described above at 2.10 had a very positive impact.

### **KR5: Family Returns Improvement Partnership**

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

2.13 The Home Office accepted this recommendation and set up what is now called the Family Returns Improvement Partnership (FRIP). The group has met quarterly since October 2012. The purpose of the group is to provide a common language and culture for those involved in the family returns process and an opportunity to hold each other to account. It also provides for constructive challenge where performance requires improvement. The FRIP is proving to be an effective forum which will bring strategic advantage and improved services for the families involved.

### **KR6: Children and Families held at the border**

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

2.14 The Home Office accepted this recommendation with Border Force and TASCOR agreeing to provide the Panel with a quarterly report, but work has been slow to progress.

2.15 The Panel's work over the past two years has been related to advising on return plans but the remit also includes considering the overall handling of families who are denied entry at the border to assess whether detention in such cases is being kept to a minimum. The Panel receives, on a monthly basis, a detailed case-by-case report of families who have been held in the family unit of Tinsley House Immigration Removal Centre. These are families who have been stopped at the border while enquiries are made as to whether they may be admitted to the UK and/or pending the availability of a return flight. 175 children entered Tinsley House during this reporting period, of whom the great majority had been intercepted at the border.<sup>15</sup> The Panel remains generally

---

<sup>15</sup> See Annex F.

satisfied that these border cases have been handled appropriately. However, the Panel did not receive information about the much larger number of families with children who are stopped at the border at ports of entry and held in non-residential short-term holding facilities (holding rooms), despite several attempts to access the information necessary to fulfil its original remit. The Panel expected this to be rectified during this reporting period. Data collection has begun but has yet to be provided to the Panel on a regular and consistent basis due to shortfalls in the data collection process used by Border Force. The reporting format currently under development should enable the Panel to deliver on its remit during the next reporting period.

# 3. PROCESS ISSUES IDENTIFIED IN THE 2011-12 REPORT

Issues arising from case presentation to the Panel.

## **Recommendation 1: Regional variation**

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

- 3.1 The Home Office has accepted this recommendation. Organisational transformation which has taken place during this reporting period, including changes to Immigration Enforcement, has introduced a centrally owned and managed family returns process with staff under a single line management chain.
- 3.2 The Panel has noted a discernible reduction in the amount of regional variation in the number of families being brought to the ensured stage of the returns process with cases being presented by FEMs and ICE teams who have not been removing families until recently. Structural and line management changes which have taken place during this reporting period mean there is less variation in the amount and quality of case work presented while accepting that some of this variation may be due to different caseloads in different parts of the country. These changes augur well looking forward and it means that the possibility of return is not determined by where a family is living.

## **Recommendation 2: Specialisation**

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

- 3.3 The Home Office has accepted this recommendation and specialist roles have been developed. FEMs now form part of the managed and owned process. Their specific role is dedicated to engaging with families to take them through the family returns process.
- 3.4 The level of decentralisation within the UK Border Agency meant that regional directors had latitude in the way they deployed their resources. While this was an effective way of dealing with local priorities, it led to different levels of specialisation in dealing with family cases. Some Regions developed specialist teams to work with families while others trained a pool of individual officers who could be tasked to work with families when necessary. Establishing a national team of dedicated FEMs has already led to more consistent levels of specialisation and quality of work across the UK.



### **Recommendation 3: Assisted Voluntary Return (AVR)**

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

- 3.5 The Home Office has committed to review tender specifications for the AVR programme years 2015 – 2018. The Panel recommendations will be incorporated into the new statement of requirements.
- 3.6 Refugee Action is contracted to raise awareness of AVR among parents who request it. It should be noted that the role of Refugee Action is not to persuade or encourage parents to take this option but to give impartial advice when parents ask for it. However, the Panel believes that families would be better served if they could be provided with the information in a form which provides a realistic picture of their chances of remaining in the UK. This would allow families to return home with a considerable resource at their disposal. The Panel has no doubt that at the point of departure the majority of families would in retrospect believe AVR to have been a good option.

### **Recommendation 4: Medical issues**

The Panel recommended that in areas where General Practitioners (GPs) are reluctant to share information about families where there are safeguarding concerns this is an issue that the UK Border Agency should raise through the Local Safeguarding Children Board (LSCB) or through local Health and Well-Being Boards. Ultimately, the UK Border Agency could raise this with the Care Quality Commission and the General Medical Council, reminding GPs of their statutory safeguarding duties to share information that is in the best interest of the child.

- 3.7 The Home Office has accepted the need to improve arrangements for sharing medical information. Evidence was collated in 2013 to identify where issues lie. It was noted in the sample of cases taken from 2010 to 2013 that a higher percentage of reports were received for the 2013 data set. The majority of GPs provided information within 21 days of the request. The transfer of the responsibility for requesting medical information to the Removals Casework Family Returns Unit in Leeds in 2013 has helped ensure systematic and timely requests for information from GPs and closer monitoring of individual responses.
- 3.8 The Panel has always considered medical information as crucial to planning the safe return of families. Yet some families do not give their consent for their records to be shared with the Home Office, apparently in the belief that it will delay their return - some are even advised not to give consent by their advocates. Where families refuse to give consent, and there is no other evidence to the contrary, the Home Office makes the presumption that they are fit to fly and there are no medical barriers to return.

3.9 Even where parents have consented to their medical information being shared, a small number of GP practices continue to fail to provide it or have asked for excessive payments to do so. Given that the information is being requested for the purposes of safeguarding children during the returns process, it is arguable that such GP practices are not meeting their responsibilities under the Children Act 2004, Working Together Guidance March 2010 or cross-Government guidance "Information sharing: Guidance for Practitioners and Managers". These GP practices may also not be observing local arrangements for sharing of information made through LSCBs of which the local Clinical Commissioning Group is a statutory partner

### **Recommendation 5: Parental responsibility in providing protective medication**

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

3.10 The Home Office has accepted this recommendation and reinforced the existing guidance. The guidance provides that the Family Welfare Form is the vehicle for promoting and evidencing discussion about the need for medication. FEMs are also dedicated to working with families and taking them through the returns process including encouraging the parents to help prepare their children for return. This includes stressing the need to protect children from any medical risks where they exist.

### **Recommendation 6: Access to legal aid**

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

- 3.11 The Home Office has accepted this recommendation. The family returns guidance in chapter 45 of the Enforcement Instructions and Guidance and the Family Welfare Form have both been updated to make it clearer to staff when and how they should be supporting families to access legal advice. Families are entitled to use any advocate they wish to during the returns process whether the return plan involves a stay at Cedars or a same day return.

### **Recommendation 7: Legal representatives**

The Panel recommended that legal representatives should consider the impact of their actions on the welfare of the children involved in the family returns process. In particular, injunctions and Judicial Reviews (JRs) should be lodged earlier in the process to avoid disruption to children's lives and the confusion this can cause when a JR is lodged at the last minute.

- 3.12 There has been no formal response to this recommendation. It remains apparent to the Panel that legal representatives are there to represent the interests of their clients, the parents and that those interests do not always coincide with the best interests of the child. Last minute injunctions or JRs may be an effective strategy to avoid a return but they are not always in the best interests of the children involved. For example, if one considers a child who has experienced the upset of an early morning arrest, witnessed the distress of their parents, been prepared for a return to country of origin by staff at Cedars and a trip to the airport only for this to be stopped at the last moment due to a late injunction or JR and then for this to be repeated at some point in the near future. A repeat of such scenarios cannot be in a child's best interests. On one occasion during this reporting period a family was removed from a plane minutes before take off and on others an injunction has been received while on route to the airport.

### **Recommendation 8: Independent audit**

The Panel recommended that the information presented to the Panel should be subjected to independent audit.

- 3.13 The Home Office has accepted this recommendation and agreed that return plans and supporting information presented to the Panel should be subjected to periodic independent audit. The Panel would now like to see this audit undertaken on an annual basis with a number of randomly selected cases. The first such audit was sent to the Panel on 20 March 2013. It concluded that the processes ensure that the information submitted to the Panel meets an acceptable standard.

## **Recommendation 9: Improving relations with Local Authorities**

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

3.14 The Home Office has accepted this recommendation in part only. The response to this recommendation was to stage the first national seminar for statutory agencies which took place on 25th March 2013. Mark Harper, the then Immigration Minister, was the main speaker. Other contributors included the Children's Commissioner for England and speakers from Barnardo's and Local Authorities. The national seminar was an undoubted success but should now be repeated in different parts of the UK.

## **Recommendation 10: Maintaining children on school rolls**

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

3.15 DfE did not accept this recommendation. The position adopted was that provisions are adequate as they stand. They give schools 20 days to make enquiries and inform the Local Authority. The DfE response suggests that the school is unlikely to know the immigration status of a family prior to "off rolling" a pupil so it would not be possible for DfE to advise schools to hold a place open for more than 20 days for children who are part of a family who have absconded. It is also possible that the absconding family may not return to the local area. The position of the Panel is that the DfE view is incorrect. Once families enter the family returns process it is very likely that the school will know the immigration status of the family as the Home Office increasingly involves the school in managing the process. Much better links between Home Office officials and Local Authorities have emerged over the last two years which means that communication about individual families is much improved. If places cannot be held open then it is advised that children who are part of absconding families should be given priority admission in the same way as looked after children or children with special educational needs. It is still the case that children in families who have absconded and then return to the local area are waiting several weeks or even months in a small number of cases for a new school place. Furthermore, it is the belief of the Panel that when the whereabouts of a child is known to the school then the school is not entitled to off roll the child.

## **Recommendation 11: Missing children**

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

- 3.16 The Home Office has accepted this recommendation. New guidance was published in November 2013 which sets out Home Office roles and responsibilities when a child or vulnerable adult goes missing, and which includes the roles of other agencies.
- 3.17 It remains apparent that some schools are not entirely familiar with their responsibilities when a child goes missing. It has not been consistently the case that schools report the children of absconding families as children missing education. This adds to the problem of children slipping below the radar of public services with all the consequent risks and vulnerabilities that brings. During this reporting period, the Panel has noticed a much better level of engagement between Home Office officials and schools in the returns process.

## **Recommendation 12: Children with an incomplete educational history**

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

- 3.18 DfE responded to this recommendation by advising that: “Where a pupil transfers from one school to another it is the legal responsibility of the old school or (where this has been agreed) the Local Authority, to transfer the pupil’s Common Transfer File to the new school within 15 days after the pupil ceases to be registered at the old school. The new school then informs their Local Authority Unique Pupil Number (UPN) contact. The UPN contact should then attempt to verify the UPN either through:
- a) The Local Authority internal database system (if the previous school is in the same Local Authority);
  - b) The Key to Success and/or Lost Pupil’s database; or
  - c) The UPN contact in the previous school’s Local Authority (if the previous school is in a different Local Authority)

If successful, the correct UPN is transferred to the new school and recorded in the normal manner. If unsuccessful the new school should be informed of the search failure and advised to allocate a new UPN.

In practice, it is quite unusual for a pupil to arrive with a partial history, particularly where families abscond and it is more likely for a pupil to arrive without a history at all. This

would be the case when the previous school has no idea where the pupil is. In these cases, the old school must input a particular code to show this is the case on the CTF. In all cases where the history should inform its Local Authority UPN contact, who will then try to locate the UPN through the Local Authority database or the Lost Pupil database."

- 3.19 It is the experience of the Panel that the assumptions built into the DfE response are not played out in practice. While most schools are following the recommended process of file transfer, it has become apparent that some Local Authorities do not have the assumed "UPN contacts" nor the established processes described in a) – c) above. It remains the case that when families have absconded from their home and settled elsewhere, they often attempt to secure a school place in the area. In securing information from parents about children's previous educational placements, schools should always contact the children's previous school in order to obtain their records. In a small number of cases, this procedure has not been followed and flimsy accounts of the children's educational history have been too readily accepted by the receiving school. For example, absconding families may offer the account that the family have only recently entered the country when the children seem very familiar with the educational process in this country or speak unusually good English for a new arrival. It has been previously reported that in one case the parents have enrolled children in different schools using alternative names. Where families do abscond and successfully achieve anonymity this can lead to children feeling isolated and stressed due to having to live a secret life.

### **Recommendation 13: Protective clothing**

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

- 3.20 The Home Office has accepted this recommendation. FEMs are non-uniformed and non-arrest trained staff. Home Office guidance on the wearing of Personal Protective Equipment on family visits is clear. The physical appearance of the officer must be taken into consideration and covert or overt body armour should only be considered in line with specific risk assessments. If handcuffs and batons are needed, visits to the family's premises should not take place; the meeting should take place in Home Office premises in order to reduce the risk. Handcuffs and batons must not be carried unless the intention is to arrest and this needs to be authorised at assistant director level. Staff have been reminded of generic risk assessments and safe systems of work for non-arrest-based operational visits.

## **Recommendation 14: Separating families**

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

3.21 The Home Office has given reassurances that the above is already existing policy and reflected in guidance for staff involved in family returns. The Panel has asked for retrospective reports where separation has been used when it was not part of the contingency plan presented but where officers on the ground felt that for reasons of safety such measures were considered necessary.

## **Recommendation 15: Reporting changes to plans approved by the Panel**

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

3.22 The Home Office has accepted this recommendation. Escorts are now provided with one hour pre-muster prep time to prepare team briefing. A feedback process is now in place to flag deviations from the plan and Tascor compiles a report each month which the Panel receives in arrears. The Panel received its first such report in March 2013.

## **Recommendation 16: Medical support during family returns**

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

3.23 The Home Office accepted the recommendation that this be reconsidered. The use of medics on family returns was monitored over a three month period and it was decided to retain the existing policy. It is still the view of the Panel that the presence of a medic on all family returns is neither necessary from a health perspective nor cost effective.

## **Recommendation 17: Availability of specialist medical services at Cedars**

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

3.24 The Home Office has accepted this recommendation. Work on this is ongoing. Midwifery and mental health services are sourced via the local hospital and psychiatric services as needed. A qualified paediatric nurse and registered mental health nurses have been appointed by G4S Healthcare to support Cedars in providing on-site specialist care and support when required. G4S Healthcare is continuing to scope further improvement in accessing these specialist areas.

## **Recommendation 18: Access to Skype facilities at Cedars**

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

3.25 This recommendation is being considered within a wider Home Office review of access to the internet and social networking sites. The outcome of that review is yet to be shared with the Panel.

## **Recommendation 19: Extending the role of Barnardo's staff for returns purposes**

The Panel recommended that it may help to reassure the family if their family support worker from Cedars travelled with them to the airport on the day of departure from Cedars.

3.26 The Home Office has not accepted this recommendation but recognises the importance of continuity of support to families. There is an on-going commitment to continue to look for ways to improve the returns experience. Barnardo's provides welfare and support to families accommodated at Cedars in order to help them prepare for their return and have no role in assisting with returns per se.



## **Recommendation 20: Her Majesty's Inspectorate of Prisons (HMIP) to include an individual with Children's Services experience in the inspection team when inspecting Cedars**

The Panel recommended that when Cedars is inspected, the team should include a member with experience of inspecting Children's Services, including Children's Social Care and the inspection of children's homes due to the unique nature of the provision. Consideration should also be given to including a representative of the Independent Chief Inspector of Borders and Immigration and other observers such as the Children's Commissioner for England.

3.27 Cedars has been inspected since the Panel's 2011-12 Report.<sup>16</sup> The provision inspected very well. HMIP accepted the recommendations of the Panel and the team which visited Cedars reflected the recommendations made.

## **Recommendation 21: Auditing the return plan**

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

3.28 The Home Office has accepted this recommendation in part. Escorts are now provided with one hour pre-muster prep time to prepare team briefing. A feedback process is now in place to flag deviations from the plan and Tascor compiles a report each month which the Panel receives in arrears. The Panel received its first such report in March 2013.

## **Recommendation 22: Holding facilities**

The Panel recommended that the UK Border Agency should try to resolve the issue of sub-standard facilities for holding families at the border through negotiations with operators such as Heathrow Airport Limited (HAL) who provide the facilities. This would mean that where families arrive early to catch their flight they can wait in comfort with appropriate facilities at their disposal. ICE teams in constructing their plans should also seek to minimise waiting times at airports for families.

---

<sup>16</sup> <http://www.justice.gov.uk/publications/inspectorate-reports/hmi-prisons/immigration-removal-centres/cedars-pre-departure-accomodation>

3.29 The Home Office has accepted this recommendation. Work on this is ongoing. Negotiations continue with airport and port operators to improve family facilities in all holding rooms. While some improvements have been made recently, in reality the experience of families held at the border has not changed significantly during the reporting period and further improvements to facilities are required.

### **Recommendation 23: Charter flights**

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

3.30 The Home Office has accepted this recommendation. Charter flights are no longer used for family returns.

### **Recommendation 24: Return support**

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

3.31 The Home Office has accepted this recommendation. Feedback on return support was provided for the evaluation of the family returns process published in December 2013 by one family who had returned via Assisted Voluntary Return.

### **Recommendation 25: Complaints**

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

3.32 The Home Office has accepted this recommendation. The Panel Chairman has continued to receive full reports of complaints made by families in the family returns process during this reporting period. Lessons learned are shared with the Panel and help in forming future advice to ICE teams and Family Returns staff.

## **Recommendation 26: Use of holding facilities at the border**

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

3.33 The Home Office has accepted this recommendation. Border Force has considered and arranged for the use of Tinsley House as an alternative to a holding room on a number of occasions during the past two years when there is sufficient time available between arrival and the planned departure of a family.

## 4. RECOMMENDATIONS 2012-14

- 4.1 The Panel sees no reason for change to the recommendations made in the Panel's 2011-12 Report. The Home Office has responded positively to the recommendations made. Some of the recommended changes are already embedded while other changes need to be sustained over the coming year. Support and challenge offered to the returns process by the Panel during this reporting period has, however, raised a number of additional practice and policy issues about which the Panel would recommend further change is required in order to secure continuous improvement.

### Key Recommendations

#### Medical consent

- 4.2 Families are asked for their consent to access their medical records once they enter the family returns process. The purpose of this request is so that the return plan can take into consideration any medical conditions the family may have. It is also to help establish whether it is advisable to include a medic as part of the arrest and escort teams. Usually consent is forthcoming but in a small number of cases it is not and the family prefers not to give consent. Where consent is not given, Home Office policy is to assume the absence of any relevant medical issues.
- 4.3 An issue has arisen for the Panel when consent has been given to access the family medical records but the medical information has not been provided to the Panel. This situation has arisen in a small number of cases. On occasion, the reason has been that the Home Office has not requested this information early enough and the expected timescale for turnaround of the information for very busy GP practices has not been sufficient. This problem is easily solved through more efficient casework management arrangements. On other occasions, the GP practice has been uncooperative. When this situation arises the Family Returns team should write to the practice manager reminding them of their responsibilities under the Data Protection Act, the General Medical Council guidelines to produce records within 21 days and where the provision of medical records has a direct relationship to the safeguarding of children then statutory responsibilities under the Children Act 2004 are also of relevance.

**KR1: Where a family has offered medical consent the case should not come to Panel until the information is available for consideration.**

- 4.4 Where consent has not been given it is considered best practice for the Family Returns team to contact the family GP and ask for a medical summary plus an opinion about fitness to fly. This is particularly important where there are safeguarding and welfare concerns about the children involved in the returns process. In this case, the GPs may well be reluctant to provide the information requested, but the Home Office will have taken all reasonable steps to accommodate any medical issues the family have in planning their return.

- 4.5 The provision of anti-malarial medication for families returning to areas of high risk has remained an issue for the Panel over the past two years. Recommendation 5 in the Panel's 2011-12 Report emphasised the importance of parental responsibility in providing protection for their children and that the GP at Cedars offers a last chance where children have not been protected in order for parents to do so prior to departure. The Home Office response to this recommendation has not been clearly dealt with and requires further clarification.
- 4.6 The cost of anti-malarial medication has also risen considerably. The cost of protecting a family of four can be close to £500 which is often beyond the means of returning families on modest National Asylum Support Service (NASS) support. Families may also be reluctant to invest such large sums of money due to their hope and belief that they will be able to remain in the UK despite entering the family returns process. The Home Office does, of course, provide mosquito nets free of charge to children under the age of 18 who are returning to malaria risk countries, which offers the family long lasting protection on their return.

**KR2: The Home Office should meet the cost of anti-malarial protection for returning families.**

## **Other Recommendations**

### Return Support

- 4.7 The Panel is aware that the Home Office's responsibility ceases at the point where the family sets foot on the soil of their home country and also that the Home Office has done a great deal to ensure that the first 24 hours after return is well supported with hotel accommodation, funds for onward journeys and information about where support from local NGOs can be sourced. Indeed, there is now a discrete section on return support included in the Family Welfare Form submitted to the Panel following recommendations made in the Panel's 2011-12 report for ongoing support for families beyond return. There has been good progress made by the Home Office with regard to return support but the Panel remains concerned about a small number of families who appear to be particularly vulnerable due to an apparent lack of emotional, financial, and practical resource at their disposal. It remains the case, that some form of ongoing follow up beyond the immediate post return period would inform future practice and provide essential learning for future successful return to country of origin.
- 4.8 Families often cite multiple reasons for not wanting to return to their country of origin but where it is on the grounds of safeguarding children then follow up takes on greater importance. The Panel is aware of the role of Migration Support Officers attached to the Foreign and Commonwealth Office overseas and to some British Consulates and would suggest that the Home Office should hold discussions with those officers and their managers about including a role for them in monitoring some families post return, especially the more vulnerable families. This would not be with a view of returning a family to the UK but to ensure that the family receives maximum support from local agencies following return.

**Recommendation 1:** The Home Office should consider extending post return follow up for a small number of vulnerable families in order to learn how similar families can be insulated from the risks which they face following return.

#### Families where there are potential victims of trafficking (PVoT)

4.9 During this reporting period, a small number of cases were presented to the Panel where members of the family had claimed that they had been the victim of trafficking to the UK. The Panel is also mindful that the exploitation of children through trafficking also occurs within the UK. In the UK, a system has been created to identify child and adult victims of trafficking. The National Identification process in the UK is known as the National Referral Mechanism (NRM). A small number of cases have been presented to the Panel where a young mother with a small child has been referred to the NRM by a First Responder for consideration by a Competent Authority. If a family enters the family returns process where a member of the family had been investigated as a PVoT, they will usually have already received a negative “reasonable grounds decision”. Where this has been the case, the Panel has not taken this to mean there are no safeguarding concerns which would place the child at risk. This is particularly important if the decision was taken prior to the recent improvements to the PVoT assessment process. The Panel is also mindful that even though a person could receive a negative decision under the Council of Europe Convention against the trafficking in Human Beings this may not mean a person has not been a victim of human trafficking. For the reasons above, it was considered appropriate that Home Office case owners consider this when preparing cases to put before the Panel. In order to clarify this matter, the Panel met with the regional NRM lead and officials from the Office of the Children's Champion within the Home Office.

**Recommendation 2:** In all cases where trafficking was suspected or where an individual was referred into the NRM for consideration by a competent authority, the Competent Authority's decision and reasoning should be included as part of the papers submitted to the Panel.

**Recommendation 3:** Case owners receive additional training in human trafficking risk mitigation and child safeguarding where human trafficking is suspected.

## Physical intervention and behaviour management of children

4.10 During the course of this reporting period, there has continued to be a small number of cases where a return was deferred due to the non-cooperation of a child. The Home Office still does not have a behaviour management policy which allows for physical intervention with children for the purposes of return, as it is guided by the JR challenge in the case of Chen referred to at 2.4. This means that a return can be frustrated by a child who refuses to leave a bus in order to board a plane or to leave their bedroom at the point of the family arrest. It is the view of the Panel that the current circumstances mean that increasingly children are put under pressure by their parents and their advocates to frustrate return by behaving in a non-compliant way at some point in the return process. This is clearly a very difficult situation for any child to find themselves in where the hopes of the family are dependent on them behaving in a particular way which is often uncharacteristic and perhaps even considered deviant by the child. At its worst, this could be construed as emotional abuse. The arguments for a behaviour policy which includes the use of physical intervention as a last resort were well rehearsed in the Panel's 2011-12 Report. They are still relevant.

**Recommendation 4:** Ref KR 2 2011-12 Report: UKBA (now the Home Office) should develop a behaviour policy which includes as a last resort the use of physical intervention with children underpinned by a thorough training programme for officers and stringent guidelines for its use. It is important to stress that the Panel recommends that physical intervention should form part of a broader behaviour management policy and be used only in exceptional circumstances. Physical intervention should perhaps only be used in circumstances where the family have frustrated a previous return by a child's non-compliant behaviour.

## 5. CHILDREN AND FAMILIES AT THE BORDER

- 5.1 There will always be a need to hold families with children at the border while enquiries are made as to whether they may be admitted and/or while they await a return flight. The power to hold families with children is in Schedule 2 of the Immigration Act 1971.<sup>17</sup>
- 5.2 Children are usually held at the border because officials believe that the children's best interests are served better by remaining with the family group until a decision on admission is made. However, detention is exceptional and can only be authorised by a senior Border Force official. The family is held for the shortest possible time, usually in a holding room at the port of entry. The maximum period that a family can be held in a holding room is 24 hours. Where possible, families are held separately from other passengers.
- 5.3 The Panel has again visited several of these holding rooms during this reporting period and still considers the use of some of them for anything more than a few hours to be inappropriate. They are not always family friendly. Often they are shared spaces with single adults. There is little available to keep children engaged in purposeful activity. Neither are there sufficient fixtures and fittings for rest and recuperation. It remains the view of the Panel that families would be more appropriately held at Tinsley House if the port of entry is either Heathrow or Gatwick. The alternative would be for the Home Office to renegotiate the leasing of more suitable space at the busier ports of entry with airport operators.
- 5.4 If a family is to be held overnight or for longer than 24 hours, they are normally moved to Tinsley House Immigration Removal Centre which has a separate family unit which has been refurbished to a high specification. This decision must be authorised by a Director and for a stay beyond 72 hours ministerial authority must be gained. Border Force claim these and other measures which have been in force since August 2010 have seen a fall in the numbers of children and families being held at the border and where families have been held they have been held for shorter periods. Unfortunately the Panel has no way of challenging or supporting this assertion as it has been provided with information relating only to Tinsley House. No data have been provided relating to the holding of children at the ports themselves (which make up the great majority of cases). The assertion that fewer families are being held for shorter periods at the border is supported by data about the number of families held at Tinsley House but beyond that the Panel has not been provided with the necessary data to support the assertion more broadly. This is particularly disappointing since data about families held at the border was a key recommendation of the Panel's 2011-12 Report (Key Recommendation 6).

---

<sup>17</sup> <http://www.legislation.gov.uk/ukpga/1971/77/schedule/2/part/1/crossheading/detention-of-persons-liaable-to-examination-or-removal>



- 5.5 The Panel has welcomed the changes implemented by Border Force such as the use of telephone interpreters to expedite the interview process and limit the time a family spends waiting, the tighter governance arrangements and the new provision for families seeking asylum who arrive late at night to be routed into the system without being screened provided biometrics are taken, thus reducing the time spent at the port. These changes have been embedded during this reporting period and this has been a major contributory factor in the improved performance data relating to Tinsley House.
- 5.6 In working to reduce the time a family with children spends in detention, port managers will explore different options for their earliest removal where they have been refused entry. This could mean that the family will depart from another port or on another carrier, or their removal could be via an acceptable transit location.

## 6. CONCLUSIONS AND NEXT STEPS

- 6.1 The Panel will continue to assure itself that the plans presented by FEMs and ICE teams are those that families experience on the ground during return. In order to do this, the Panel will continue to press for independent audit and directly observe returns in real time. Over the past two years, the Chairman and other members of the Panel have met frequently with a number of NGOs in order to hear directly about their concerns regarding the new family returns process. It is the intention of the Chairman and other Panel members to continue to meet with NGOs in order to hear about their ongoing concerns about the family returns process and hear about issues they feel are yet to be resolved.
- 6.2 The pace of change is important to the Panel. Many of the recommendations in the Panel's 2011-12 Report have been monitored with the Home Office during the past two years. Some have already been acted upon while others have not. Some recommendations have been met with a positive statement of intent by the Home Office, but with no consequent action. Where this is the case, the Panel will continue to press for change that will ultimately bring about improved outcomes for children and young people who are part of the new family returns process and which will enable the Home Office to meet its safeguarding and wellbeing responsibilities under section 55 of the Borders, Citizenship, and Immigration Act 2009. Over the next 12 months, the Panel will continue to challenge the Home Office to fully implement the recommendations in this report and in the Panel's 2011-12 Report some of which are yet to be fully implemented.
- 6.3 The Panel will continue to offer advice in relation to value for money issues. The number of escorts at times seems excessive and the need for a medic to accompany every family is not considered a good use of public money. Cedars offers families high quality, last minute support but currently it is still operating at well below capacity and as such, while a necessary and highly effective resource, it remains very expensive.
- 6.4 At times during the past two years as during the first 12 months of the new process, the Panel has felt the absence of a Home Office strategy to deliver the wider responsibilities of the organisation in relation to section 55 safeguarding responsibilities. The Panel will continue to press for this in order that safeguarding becomes part of the fabric of Home Office embedded in everyone's role not just those officers who have lead responsibility or the Office of the Children's Champion.
- 6.5 The Panel will continue to offer support and advice to the Home Office in relation to policy and practice, in particular that which impacts downstream through early intervention and prevention and in a way which will make returns more humane.

# ANNEX A: KEY RECOMMENDATIONS 2011-12

## REPORT: A SUMMARY

### **Key Recommendation 1:**

Use of Cedars as part of the returns process

a) UKBA should review the criteria for the use of Cedars and ensure that they are applied consistently.

b) Barnardo's should review the 10 per cent "red line" and consider whether it supports the best interests of children and their families.

### **Key Recommendation 2:**

Managing non-compliant behaviour

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

### **Key Recommendation 3:**

Engaging children in the process

UKBA should always involve children in major decisions that affect their lives.

### **Key Recommendation 4:**

Managing contractors

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

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

### **Key Recommendation 5:**

Multi-agency liaison

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

## **Key Recommendation 6:**

The border

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

### **To UKBA**

#### **Recommendation 1 (para 3.1)**

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

#### **Recommendation 2 (para 3.2)**

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

#### **Recommendation 3 (para 3.13)**

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

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

#### **Recommendation 4 (para 3.17)**

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

#### **Recommendation 5 (para 3.20)**

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

#### **Recommendation 6 (para 3.21)**

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

## **To legal representatives**

### **Recommendation 7 (para 3.22)**

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

## **To UKBA**

### **Recommendation 8 (para 3.25)**

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

### **Recommendation 9 (para 3.28)**

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

## **To DfE**

### **Recommendation 10 (para 3.33)**

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

# ANNEX B: OTHER RECOMMENDATIONS 2011-12 REPORT: A SUMMARY

## To UKBA

### **Recommendation 11 (para 3.34)**

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

## To DfE

### **Recommendation 12 (para 3.35)**

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

## TO UKBA

### **Recommendation 13 (para 4.9)**

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

### **Recommendation 14 (para 4.14)**

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

### **Recommendation 15 (para 4.15)**

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

### **Recommendation 16 (para 4.16)**

UKBA and Reliance should reconsider the need for medics on all return journeys.

### **Recommendation 17 (para 4.23)**

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

### **Recommendation 18 (para 4.23)**

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

**Recommendation 19 (para 4.24)**

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

**To Her Majesty's Chief Inspector of Prisons****Recommendation 20 (para 4.25)**

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

**To UKBA****Recommendation 21 (para 4.27)**

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

**Recommendation 22 (para 4.28)**

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

**Recommendation 23 (para 4.30)**

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

**Recommendation 24 (para 4.31)**

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

**Recommendation 25 (para 4.31)**

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

**Recommendation 26 (para 5.2)**

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



# ANNEX C: KEY RECOMMENDATIONS

## 2012-14 REPORT

**KR1:** Where a family has offered medical consent, the case should not come to Panel until the information is available for consideration.

**KR2:** The Home Office should meet the cost of anti-malarial protection for returning families.

# ANNEX D: OTHER RECOMMENDATIONS

## 2012-14 REPORT

**Recommendation 1:** The Home Office should consider extending post-return follow up for a small number of vulnerable families in order to learn how similar families can be insulated from the risks which they face following return.

**Recommendation 2:** In all cases where trafficking is suspected or where an individual has been referred into the National Referral Mechanism (NRM) for consideration by a competent authority, the NRM referral form is included as part of the papers submitted to the Panel.

**Recommendation 3:** Case owners receive additional training in human trafficking risk mitigation and child safeguarding where human trafficking is suspected and a negative reasonable or conclusive ground decision (under the Council of Europe Convention Against the Trafficking In Human Beings) has been determined.

**Recommendation 4: Ref KR 2 2011-12 Panel Report:** UKBA (now the Home Office) should develop a behaviour policy which includes as a last resort the use of physical intervention with children underpinned by a thorough training programme for officers and stringent guidelines for its use. It is important to stress that the Panel recommends that physical intervention should form part of a broader behaviour management policy and be used only in exceptional circumstances. Physical intervention should perhaps only be used in circumstances where the family has frustrated a previous return by a child's non-compliant behaviour.

# ANNEX E: PANEL MEMBERSHIP

**Chris Spencer (Chairman)** - has 10 years experience as a Corporate Director of Children's Services in two Local Authorities. Since finishing his last substantive post in the London Borough of Hillingdon in 2011, when he was also the Association of Directors of Children's Services national lead on UASC and Trafficking, he has filled various roles including Independent Chair of two Children's Improvement Boards, Independent Chair of a Local Safeguarding Children's Board and two periods as an Interim Director of Children's Services. Earlier in his career he worked for 13 years as a child psychologist.

**Philip Ishola** - currently Director Counter Human Trafficking Bureau and has worked in central and local government for 25 years. Philip was formerly Head of Immigration and Asylum and counter-child-trafficking lead officer at Harrow Children's Services and the former Deputy Chair Serious Organised Crime (SOCA) Victim Care Group and former chair of the London Safeguarding Children Board subgroups on trafficked children and the 2012 Olympics Games.

**Dr. John Keen** - a General Practitioner in Chiswick since 1988. He is also chair of the Research Ethics Committee in both Central London and Brent and Medical Adviser (Housing) to several Local Authorities in London and elsewhere.

**Dr. Stephanie Green** – a Port Medical Officer at Heathrow airport for 10 years, advising on the health of new entrants to the UK, including those seeking asylum. Currently a Medical member of the First Tier Tribunal (Social Security and Child Benefit) and Independent Member of the High Speed 2 Compensation Panel. Also, a consulting doctor for several Sexual Health charities.

**Dr. Robin Basu** – former Senior Medical Manager and Consultant Child and Adolescent Psychiatrist in the National Health Service for 30 years.

**Bernard Phillips** – former head teacher of an inner city comprehensive school for 19 years. He has extensive experience in community cohesion work. He was the education adviser for a successful bid to open a secondary free school.

**Sir Roger Singleton** - is a former chief executive of Barnardo's and was previously both chair of the Independent Safeguarding Authority and the Government's Chief Adviser on the safety of children. He is currently chair and director of Safeguarding First Ltd. He has a background in education, children's services, risk assessment, policy and management.

**Geoff Sloan** - retired Detective Superintendent with Merseyside Police who, as Operations Commander for the Wirral Division, was head of the Family Support Unit and a member of the area's child protection committee.

**Prospera Tedam** - a senior lecturer in Social Work at the University of Northampton where she has been since 2006. Prior to joining the University, she worked in the voluntary and statutory sectors as a social work practitioner and manager specialising in children and families social work. Prospera's growing portfolio of publications include the area of culturally competent social work practice, child abuse linked to faith and religious beliefs as well as equality and diversity in higher education. Prospera is chair of the board of Trustees for Africans Unite Against Child Abuse (AFRUCA), a London based NGO which works to promote and safeguard the rights and welfare of African children in the UK.

**Lorna Tull-Griffith** - a trainer and consultant who has worked with children and young people for 30 years and was previously a head of service in a large local authority.

# ANNEX F: QUARTERLY STATISTICS ON CHILDREN HELD SOLELY UNDER IMMIGRATION ACT POWERS IN CEDARS AND TINSLEY HOUSE

	Cedars	Tinsley House
2011 Q2	Does not apply	12
2011 Q3	11	15
2011 Q4	23	13
2012 Q1	35	12
2012 Q2	37	18
2012 Q3	20	27
2012 Q4	29	27
2013 Q1	28	6
2013 Q2	11	23
2013 Q3	30	34
2013 Q4	30	29
2014 Q1	5	11

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

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

Since 2013 Q1, the data for Tinsley House refers specifically to the family unit there. The family unit actually re-opened in March 2011, following refurbishment, but was not separately identified from the rest of Tinsley House on CID (Case Information Database) until January 2013.

Data published on 22 May 2014 at: <https://www.gov.uk/government/publications/tables-for-immigration-statistics-january-to-march-2014>