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**45. Family Cases****Introduction & Background**

These instructions supersede all previous guidance relating to family removals with immediate effect and detail the policy regarding those people with dependant (aged under 18) children and young people, who are liable to be removed as either:

- ◆ Illegal entrants
- ◆ Overstayers
- ◆ Persons in breach of their conditions of leave
- ◆ A person who has gained (or attempted to gain) leave by deception.
- ◆ Deportees
- ◆ Persons refused leave to enter

A person in any of the above categories will become liable for removal, as will their spouse and/or dependant children, once their application has been considered and all avenues of appeal have been exhausted.

Family removals, and especially those involving children, are a particularly sensitive area of work. The Agency has a duty to keep the children it encounters safe from harm. This chapter of the OEM provides instruction and guidance on how to discharge that duty. Instruction – that is, actions you are required to take, are indicated in bold.

Where you are uncertain about what action to take or what conclusions to reach having considered the case and circumstances of a child, you must first consider all available published guidance and refer the matter to your line manager for advice. Where you are still unsure contact the Operational Enforcement Policy Unit.

## **45.1 Contact Management**

The contact management undertaken by Regional Asylum Teams will help keep families informed about the asylum process and their own responsibilities. Through this contact, families will be made aware of the possible outcomes and will be advised about assisted voluntary return. The contact will also provide opportunities to gather information about the family's personal circumstances, health and the well being of each member of the family. All this information will be noted on the Family Welfare Form. This form, which must accompany the case file of the family, is the means by which any relevant information regarding the family's circumstances and the welfare of the children is recorded. It provides a single place for all this vital information and the basis upon which key operational decisions must be made. The form is on CID under after entry forms, reference ICD.3629.

Medical consent forms will be obtained by case owners where possible together with details of any medication and special needs, with particular emphasis on each child's specific welfare needs. Documentation issues will also be addressed at an early stage to facilitate removal in the event of an unsuccessful application.

Where there appear to be gaps in the information recorded in the Family Welfare Form, every attempt must be made to ensure missing information is obtained. Staff planning a detention visit will take particular note of any information which indicates that any child who is to be detained is especially vulnerable. Such information includes any issues concerning:

- ◆ A child's health
- ◆ A child's disability
- ◆ A child's propensity to self-harm
- ◆ Any other factor relating to a child's age or behaviour which requires special attention

Having identified any information of this sort, plans for a detention visit must include arrangements which ensure that:

- ◆ The operational team is fully briefed about the family
- ◆ Particular issues concerning a child are addressed by specific arrangements for the operation – for example, to ensure that a disabled child's mobility equipment is collected with the child; or to ensure that the healthcare needs of a child are appropriately met during the course of the operation and the journey under escort.

### **Disabled children and family members**

It will not always be obvious that a child has a disability. This is why it is very important to establish before any enforcement action is taken whether a child involved is disabled. If information indicates that a child is disabled, it is vital that the following actions are taken:

- ◆ Clarify with the Local Authority the nature of the child's disability, ensuring that the disabled child's needs and how they must be met are clearly understood.
- ◆ Establish whether the Removal Centre can meet the disabled child's needs if they were to be detained – this entails sending to the Family Detention Unit all the information you can obtain about the child. The Family Detention Unit will seek and obtain confirmation from the Centre that the child's needs can be met in detention before accommodation is booked.

- ◆ Plan how the child's needs will be met during the enforcement operation – which must include ensuring all the staff involved in the operation are aware of the child's disability and that responsibility for looking after the child during the operation is clearly allocated.

The same careful consideration needs to be given if an adult family member is disabled. This means ensuring that the adults' needs can be met in detention and that appropriate arrangements are made in planning and carrying out enforcement action which ensure the disabled person's needs are met.

Asylum case owners will share with parents the Agency's expectation that children will be given information about the asylum process that is appropriate to their age and understanding. In particular they will seek to establish an agreed aim with the parents that children will be informed in advance by the parents about the possibility of enforced removal in ways aimed at reducing the children's stress if undergoing such a process. Case owners will note the Family Welfare Form that they have advised the parents of the need to inform their children that they may have to return to their home country should their application be refused.

#### **45.1.1 Identifying operational risks and family welfare issues**

The Risk Assessments and Safe Systems of Working are a useful tool for Family Team Managers and Officers in Charge (OIC) of operations, when identifying and controlling the risks associated with Enforcement work. These generic risk assessments should not remove the requirement to carry out an individual risk assessment for every enforcement operation planned. The generic risk assessment should be seen as a basic tool, to be used and consulted on when completing Risk Assessments. Individual responsibility and accountability for ensuring risks are managed effectively for all operations remains with the OIC & Enforcement Managers. The Family Welfare Form above will assist in job-specific risk assessment.

The Family Welfare Form [FWF] consists of 3 parts. The first part to be completed by the case owner will include information on the health, welfare and education of each member of the family. The second part will include all operational planning. **As detention is to be used only when it is necessary, it is important that in this part of the form our consideration of every alternative to detention and why it is not suitable must be recorded. The following options must be considered:**

- ◆ VARRP
- ◆ Self check in removal directions
- ◆ Detention at reporting centre
- ◆ Detention of head of household but see 45.3.3 for Splitting families
- ◆ Visit to residential address to detain the whole family

The reasons for discounting each option and the reasons for selecting the chosen method of removal must be noted on the FWF. **All operational planning, including the timing of the visit, the number of staff and any special circumstances must be noted and explained. The authority levels and names of those granting the authority must be noted, together with the time and date the authority was granted.**

A copy of the FWF **must** be sent to the contract manager of the IRC in advance of the visit, highlighting any special needs they may have to meet. FDU should have been made aware of the completed FWF on CID by ticking the appropriate box on the booking form. A copy must also be given to the escort staff and their attention drawn to any issue which may be of relevance during the journey to the removal centre.

The third part of the FWF will be completed by the removal centre. Any health / welfare concerns and any behaviour which may pose a risk should be noted. This will assist in informing any future detention visit should the family be released.

### **45.1.2 Family History**

The OIC should familiarise themselves with the basis of the claim for asylum when dealing with asylum applicants.

They should consider the potential impact of any unannounced visit when planning to detain, including consideration of past experiences the family may have had and take steps to avoid replicating stressful events.

### **45.1.3 Preparatory Visits**

#### **DETENTION OF A FAMILY MUST NOT BE UNDERTAKEN AS PART OF A PREPARATORY VISIT**

The need for pastoral visits, henceforth to be called preparatory visits, should decrease given the enhanced contact management carried out by Regional Asylum Team case owners. Family cases would normally fall within one of three categories:

### CRD cases

These are cases not being processed by regional asylum teams where an asylum claim has been made before 5<sup>th</sup> March 2007 but has not been concluded. No action should be taken on such cases without checking if it has been reviewed by the Case Resolution Directorate. If CRD confirm the family is removable, consideration should be given to the level of recent contact management. Should all necessary information regarding health, medication, education, welfare needs of children and documentation be available, a preparatory visit would not be necessary. If sufficient information is not available, consideration should be given to contacting Asylum Team 5 to conduct an outreach visit during which they could obtain any information required to conduct a visit to detain. Only in cases where essential information cannot be obtained in any other way should a preparatory visit be conducted but this should be the exception rather than the rule. It remains the responsibility of the Officer in Charge to ensure that all relevant information is available before conducting a visit to detain.

### Regional Asylum Team Cases

These cases will normally benefit from contact management in that all relevant information regarding documentation, risk factors, health, medication, education, welfare needs (for each member of the family but particularly for children) will have been obtained by case owners. All relevant information should have been recorded on the Family Welfare Form.

Staff may continue to come across earlier cases where all sufficient information is not available. If sufficient information is not available, action as per CRD cases above.

### Managed migration cases

These are non asylum cases which may be routed through the Tasking and Co-ordination process from Managed Migration or come to light through Intelligence. They would normally be cases where the head of household has entered the United Kingdom legally, either accompanied or joined by their dependants, and who has been refused an extension. They may or may not have been served with papers as overstayers. Due consideration should be given to the facts in each case before deciding the manner in which to progress the case. Factors to bear in mind are the family history, whether they all entered legally, in what capacity and whether they have had previous extensions granted. Given the history, is it likely that the family

will provide their own tickets and make a voluntary departure. Consideration should be given to establishing contact, either by telephone or by inviting the head of household to an interview to ascertain their intentions unless there is a risk that the family would not comply and may try to avoid detection. A preparatory visit may be necessary in these cases to inform the need to visit to detain, in which case all relevant information should be obtained as for failed asylum seekers.

See 45.2.2 for Clothing and Personal Protective Equipment

#### **45.1.4 Educational Exams**

In planning the timing of the detention and removal of a family, each family's personal circumstances will have been considered under paragraph 395 of the Immigration Rules. Particular consideration should be given to whether any of the children in the family are studying GCSEs, A levels or their equivalent. Removal should not be planned to take place in the three months before they are due to sit these exams unless, exceptionally, there is good reason to do so. AD authority **must** be obtained for such a course of action and the reasons recorded on the Family Welfare Form.

#### **45.1.5 Welfare of Children**

A child's welfare [in addition to the assessment of the family as a whole] should be assessed prior to detention, during the detention process and during continued detention. Health assessments should be carried out as a matter of routine on arrival at a new removal centre.

This should be achieved through contact management by case owners who should record any factors on the Family Welfare Form relating to health, education and special welfare needs of each member of the family, but with emphasis on the needs of each child. Case owners should liaise with Children's Services to ensure that each member of the family is not at risk nor has come to their notice.

During the detention visit, the officers nominated by the OIC to deal with the children should observe and record their behaviour. This should be recorded in the Family Welfare Form and should be provided to the removal centre Social Worker via the Family Detention Unit. The purpose is to establish that removal is achieved as humanely as possible bearing in mind the child's safety and welfare needs [in the context of removal].

See 29.5.4 for children who are identified as “at risk”.

### **45.1.6 UK born children**

The following procedures should be followed with respect of children who are encountered who:

- ◆ Have been born in the United Kingdom.
- ◆ Whose presence in the UK was not previously known to the UKBA.

Children of persons refused leave to enter and illegal entrants – Paragraph 10A of Schedule 2 to the Immigration Act 1971 (“the 1971 Act”) (inserted by section 73(1) of the Nationality, Immigration & Asylum Act 2002 (“the 2002 Act”)) states that where directions have been given in respect of a person under any of paragraphs 8 to 10 (i.e. persons refused leave to enter and illegal entrants) equivalent removal directions may be given in respect of a member of that person’s family. This enables us to enforce the removal of the spouse and/or dependent children aged under 18 of a person refused leave to enter or an illegal entrant.

Children whose parents are liable to administrative removal – Section 10(1)(c) of the Immigration & Asylum Act 1999 (as amended by section 73 of the 2002 Act) allows for removal directions to be served on the family members of those who have had directions served on them under the section (i.e. overstayers, those in breach of their conditions of leave, those who have had their indefinite leave revoked under section 76 of the 2002 Act and those who have obtained (or have attempted to obtain) leave to remain by deception). Section 10(4) of the 1999 Act (as amended by section 73 of the 2002 Act) states that a family member cannot be removed as such if more than eight weeks have elapsed since the removal of the main offender.

United Kingdom born children should be served with form IS151A in line with their parents, followed by form IS151A part 2. Form IS151D should be served once removal details are known.

Children of deportees – Section 3(5) (b) of the 1971 Act allows us to deport the non-British family members of a person who has been deported or has been ordered to be deported. Reference should be made to the relevant casework section to ascertain current procedures and forms.



## **45.1.7 Information Sharing With Local Child Welfare Agencies**

### **The need to share information**

Contact managers should foster good working relationships with local health, education and welfare services. UKBA's policy is to take account of any concerns these agencies may have about particular children and to ensure they are aware of and understand immigration legislation and rules.

Staff should make allowances for the fact that welfare workers may have developed a strong bond with children and may therefore be upset at the prospect of their removal from the UK. Nevertheless, it is important that welfare workers make plans with the children that take account of their immigration situation.

In particular, it is important that welfare agencies are informed after any family is detained or removed from the UK. This will prevent unnecessary concerns about missing children.

### **Children's Services/Social Services**

Children's Services should have an in-depth knowledge of any child in the area that has needs over and above the norm. Therefore, their information is particularly crucial to planning arrest, detention or removal. It may be that an information sharing agreement has already been set up with children's services which will help with the task. In any case children's social workers will generally be anxious to share information if it means children are better planned for in UKBA decisions and operations. The information gained should be included in the FWF and considered in plans for arrest, detention and removal.

Throughout the UK, Directors of Children's Services are responsible for setting up umbrella bodies that encourage co operation between agencies who deal with local children. Health, education and the local police are required by law to attend. UKBA is not. In England with by far the largest number, they are called Local Safeguarding Children Boards (LSCB). These boards can provide opportunities to,

- ◆ Ensure immigration legislation, rules and processes are understood
- ◆ Enable the maximum appropriate information sharing with UKBA
- ◆ Overcome difficulties with particular agencies.

### 45.1.8 Voluntary Returns

The VARRP process will have been explained to families throughout the contact management process. Guidance to voluntary returns is in Chapter 22.3. Before proceeding to a visit to detain, the OIC should check if the subjects have made any application for a voluntary return or indicated any wish to do so. If they have indicated a wish to make a voluntary return, every effort should be made to facilitate this. Any decision to go ahead with a detention visit should be fully documented on the Family Welfare Form, giving the reasons why it is deemed necessary to detain to effect removal.

### 45.2 Planning a Family Detention Visit

The following actions **must** be taken

- ◆ Obtain all relevant files and ensure there are no barriers to removal
- ◆ Obtain EV number
- ◆ Conduct local checks: CID, Warehouse and NOD
- ◆ For regional asylum team cases, check that all relevant information has been obtained through contact management. If not, consider asking Asylum team 5 to conduct a preparatory visit.
- ◆ For CRD cases, ensure Case Resolution Directorate has reviewed the case and that the family is removable. Consider if all relevant information is available. If not, ask Asylum Team 5 if they can conduct a preparatory visit. Only in exceptional cases should operational staff undertake a preparatory visit.
- ◆ Contact the accommodation provider/benefit provider to establish/confirm where the family live and obtain keys where possible.
- ◆ Send off VENS requesting PNC checks on all members of the family. For London offices ensure that police checks have been done by the Borough Intelligence Units.
- ◆ Contact Children's Services to check if any member of the family is known to them and if so, obtain details. Depending on the result of these checks, a case conference may be necessary. If a child is on the protection register or the Local Authority has serious concerns in relation to the welfare of the child should they be removed with their parents, the HMI should invite a representative from the Local Authority to a meeting to discuss how best to progress the case.
- ◆ Any medication and associated medical equipment required by any of the family members should, as far as possible, have been identified in advance through contact management

- ◆ Conduct reconnaissance ensuring that a description of the property and photographs are attached to the Operational Order
- ◆ Complete a full risk assessment
- ◆ Familiarise yourself with the reasons for claiming asylum which may inform the risk assessment. Consider the potential impact of any unannounced visit in relation to past experiences the family may have had and take steps to avoid replicating painful events.
- ◆ Obtain a warrant
- ◆ Obtain HMI authority to detain and remove. Obtain CIO authority for the visit.
- ◆ See 45.3.3 for splitting families and 45.3.4 for same day removals.
- ◆ Book family detention accommodation with the Family Detention Unit
- ◆ Set removal directions, with escorts if required
- ◆ Arrange suitable transport, including a van swap if required.
- ◆ Check with the Family Detention Unit that the family's needs can be met in detention
- ◆ Ensure an appropriately trained MOE team is available
- ◆ All visits should, as far as is reasonably practicable, include both male and female staff. Numbers of staff will be determined and justified through the risk assessment and on information established through contact management.
- ◆ All operational planning should be documented on the Family Welfare Form
- ◆ Write Operational Order
- ◆ Sufficient time should be allowed for a family to pack their personal effects. This should not be prescribed although a minimum of 30 minutes is envisaged. This can be curtailed or extended, subject to a dynamic risk assessment during the course of the visit by the OIC. The time allowed should be noted.
- ◆ Note NOD
- ◆ Complete the Family Welfare Form [FWF] on CID and tick the FDU booking form to indicate this has been done.
- ◆ Send booking form in advance to FDU to book accommodation
- ◆ Once FDU has noted CID of which IRC has been booked, fax the FWF to the contract manager of the IRC to ensure they are fully able to meet any special needs

### **45.2.1 Roles and Responsibilities**

**The OIC should ensure that all the factors in 45.2 above have been taken into consideration and noted on the Family Welfare Form. S/he should include on the Family Welfare Form a record of decisions taken/action planned and the reasons for the**

**decision/action, together with the correct levels of authority. The reasoning behind the number of officers and the time of day should be noted.**

The OIC should allocate an officer/s to deal with the child/children. The parents should be advised first of the reasons for the visit and what is to happen. The parents should be asked to explain the situation to the children. The officers dealing with the child/children should then assess if it is appropriate to explain the process to them further.

They should observe and record the behaviour of the child during the detention visit. They should ask the scribe to note any serious considerations at the time and write up in their VRB or notebook the behaviour of the child. An appropriate comment must be recorded.

### **45.2.2 Clothing and Personal Protective Equipment (PPE)**

PPE **must** be worn in line with the operational risk assessment for family detention visits. It will be necessary to consider the physical appearance of officers wearing the equipment and any potential impact on children.

As preparatory visits are purely conducted to obtain information and not to arrest or detain, covert or overt anti stab vests should be considered, as dictated by visit-specific risk assessment. If belt kit (e.g. handcuffs & baton) are identified as a control measure through visit-specific risk assessment, non-arrest trained staff should not conduct the visit on their own. The visit should be cancelled, or officers should be accompanied by police officers. Consideration should be given to an operational arrest team, allowing for overt possession of appropriate PPE.

### **45.2.3 Method of Entry (MoE) and Mixed Teams**

Enforced entry should only be effected by appropriately trained and accredited officers. Entry without consent, with a warrant and no force (door unlocked, keys held etc) can be effected by arrest trained Immigration officers, subject to H&S and operational risk assessments, without a police presence.

Where mixed teams [police and Immigration Officers] are deployed, the Officer in Charge should normally look to Immigration Officers to effect arrest unless operational factors favour police officers doing so.

#### 45.2.4 The Day before the Family Detention Visits

- ◆ Check CID to ensure that there are no last minute barriers to removal or late representations.
- ◆ Confirm with the Family Detention Unit that family accommodation is booked and that they have requested transport.
- ◆ Ensure removal directions and escorts, if required, are booked
- ◆ Check with the Family Detention Unit that the removal centre is able to meet any special needs highlighted on the FWF.

#### 45.2.5 The Family detention Visit

- ◆ Visits should **not** be conducted **before 0630hrs** unless a specific risk assessment indicates that an earlier visit is required. When a visit is proposed before 0630hrs or after 2100hrs, this **must** be authorised by an HMI.
- ◆ The OIC should brief the team and ensure all members are aware of the risk assessment, the information obtained through contact management, the basis for the asylum claim and any welfare needs for each member of the family.
- ◆ If it is an arrest team visit, open a log number with the local police control room.
- ◆ Ensure NOD is completed before leaving the office.
- ◆ Prior to leaving the office, ensure that you have all relevant items: warrant, paperwork, camera with film, quick check unit.
- ◆ All officers are to wear full PPE with stab vests provided for any observers.
- ◆ After entry to the property has been effected, ensure the accommodation is swept by appropriately trained staff and is secured.
- ◆ Ascertain whether any family members have any medical conditions/special needs not previously identified through contact management.
- ◆ If unforeseen circumstances arise on a detention visit that have not been identified during the planning stages, e.g. pregnancy or illness, then consideration **must** be given by the officer in charge (OIC) as to whether the visit/arrest should be deferred. Authority **must** be

sought from an **AD** in the first instance if it is intended to carry on with the arrest and detention of the family in light of the unforeseen circumstances. A record of the decisions **must** be kept for audit purposes, either on CID or in a decision log.

Explain the reason for the visit to the adult members of the family and ask them to explain to the children in simple terms. **The children should not be used to interpret.** If there is a language barrier, use the designated telephone interpreting service. It will be up to the officer dealing with each child to decide how best to communicate with the child.

- ◆ Serve any appropriate paperwork and arrest the family as a whole [including dependants] under Para.17 of Schedule 2 to the 1971 Act which will allow the family to be taken to a designated place of detention. Guidance on the completion of form IS91R is available in Chapter 38.
- ◆ Explain to the family where they are being taken, how long the journey will take, what facilities there are at the removal centre and that they will have the chance to telephone their representative from the removal centre.
- ◆ Families should be allowed a minimum of 30 minutes to dress, pack, use bathroom facilities and feed very young children. This can be extended or curtailed dependant on the dynamic risk assessment.
- ◆ It is important to make sure that all members of a family are “shadowed” as they prepare themselves to leave the house. A female officer should be present where a female is dressing, as should a male officer where a male is dressing. The kitchen and bathroom should be cleared of any potentially dangerous items. If a person wishes to use the bathroom, a check should be made first for any items which could be used to self –harm or injure others. You should not allow any doors to be locked from the inside.
- ◆ Families should be encouraged to pack official UKBA documents, solicitor’s details, health records, educational certificates, sufficient clothing for each member of the family, baby equipment such as nappies and formula milk and toys and books for children. Families should be advised of the commercial baggage allowance which is generally 20 kilos per person, but no allowance for children under the age of two. They should be encouraged to pack only one bag each to meet the baggage restrictions, as UKBA has no responsibility for arranging or paying for excess baggage. Families will have access to telephones at the removal centre to make arrangements for the rest of their belongings.
- ◆ All medication should be logged and kept separate by the officer designated with that task. If medication is required to be taken first thing in the morning, care should be taken to check

that any necessary medication is available until the family reach the place of detention and that sufficient medication is available for the duration of the detention and removal period.

- ◆ It is the responsibility of the OIC to update the Family Welfare Form with details of any medication, illness or special considerations and give a copy to the in country escorts to pass to the contract manager of the IRC. Hand written additions are acceptable if the handover time to the escorts is short.
- ◆ The OIC should update the FWF on CID, fax it to the contract manager of the IRC while the family is enroute and inform FDU of any significant new facts.
- ◆ The family should be consulted prior to leaving the address to ensure that they have packed all relevant and important personal effects and their responses should be noted.
- ◆ A full written record should be kept by one member of the team detailing the process of the operation. This should be retained securely.
- ◆ The checklist ICD. 3630 on CID under after entry forms should be completed by the OIC to ensure that all appropriate actions have been taken and a copy kept on the file.

### **45.2.6 Absent Family Members**

Contact management will have highlighted the best time of day to pick up a family as an entire unit and the OIC should have identified the principle carer. However, there may be occasions when a member of the family is not present at the address. Each case must be considered on its merits and consideration should be given to the appropriateness of continuing with the operation. If it is decided to continue with the operation the following options should be considered:

### **45.2.7 Absent Adults**

When an adult family member is not present at a detention visit consideration should be given to the following options:

- ◆ If the children are on their own without an adult, every attempt should be made to locate and arrest their principal carer. If this can be done within a short timescale, the adult should be brought to the address and the whole family arrested together. If they cannot be located, contact the police and Children's Services to ensure appropriate care arrangements are made for the children.

- ◆ If the children are with an adult who is not their principal carer, every effort should be made to locate and arrest the absent adult. If this can be done within a short timescale, the adult should be brought to the address and the whole family arrested together. If this is not possible, the detention should be postponed. Checks should be made on the adult present, with possible reference to Children's Services, to ensure they are an appropriate person with whom to leave the children.
- ◆ If the absent adult is not the principal carer of the children and their whereabouts are not known, the family members present should be arrested and a message in the person's own language) should be left for the absent person on official UKBA headed note paper, detailing the whereabouts of their family and contact details. Once contact is made, inform the person concerned that their family is in immigration detention awaiting removal. They should be given the opportunity to join their family in detention prior to removal of the family as a whole or to report in time to be removed on the same flight.
- ◆ If the whereabouts of the person concerned are known, consider whether or not to visit the location in order to effect an arrest.
- ◆ If the person's whereabouts cannot be established, refer to guidance on removing incomplete family units.

Follow up visits of this nature are subject to the same requirements for checks, assessments and authorities as the initial visit.

### **45.2.8 Absent Children**

If a child is not with the family when the arrest takes place, every effort must be made to reunite the child with their family as soon as possible. The following should be considered:

- ◆ take all of the other family members to collect the separated child on the way to the place of detention
- ◆ take the other family members to the place of detention, then ask a parent to accompany you to collect the separated child
- ◆ if it is not possible to take one of the options above, visit the address where the child is and ask a responsible or appropriate adult (who should not be an employee of the United Kingdom Borders Agency) to accompany the child to be re-united with his/her family.



When recovering a child who is separated from an arrested family, the power of arrest should be used only as a last resort and with sensitivity. Once the child has been reunited with their family, the formalities of arrest, detention and removal should be carried out at the same time as the other family members. However if the parents or the adults who are found to be caring for the separated child refuse to assist and the child is also refusing to co operate then arrest may be necessary.

It should be explained to the child/young person that it would be preferable for them to go voluntarily to be reunited with the family unit. If they refuse to go voluntarily, explain that they will have to be formally arrested which simply means that operational staff have the power in law to require the child/young person to accompany them. As this may involve compulsion the authority of an AD **must** be sought. The AD should be informed of:

- ◆ the likely impact on the child;
- ◆ the likely impact on any other child who is present;
- ◆ the likely impact on and possible reactions of any adults who are present; and
- ◆ the likely impact on the community.

This should be recorded in the officer's notebook and on NOD.

Where staff find themselves compelled to arrest a child in this way, they must be made aware of Health & Welfare Services and should be thoroughly debriefed to help manage their reactions to a possibly very disturbing experience. A written report of the debrief should be prepared and forwarded to the Office of the UKBA Children's Champion.

### **45.2.9 Collecting Children from School**

Collecting a child from school will be the exception rather than the rule and requires the authority of the Regional Director, with requests routed through ADs.

Visits to families in order to detain and remove them are conducted at a time when it is envisaged that all members of the family will be at home together. Immigration Officers will research the circumstances of each family prior to planning a visit in order to ascertain what time of day everyone is normally present. Visits should not normally be conducted before 0630hrs unless a specific risk assessment indicates that an earlier visit is required. When a visit is proposed before 0630hrs or after 2100hrs, this **must** be authorised by an HMI.

If a child is not present at the time of a visit, you **must** attempt to reunite the child with her/his parent as soon as possible. If this requires a visit to a school [or other premises] in order to collect a child, you **must** attempt to ensure that a parent accompanies staff to collect the child. If this is not possible, you **must** ensure that the child's safety and welfare is our priority. Further, you **must** endeavour to reunite the family with the minimum disruption or upset to the child concerned and to the rest of the family.

Should we need to collect a child from school, you **must** contact the head teacher and explain why we need to visit the school to collect the child. Ask if the child can be brought out of the class by an adult they know and brought to the head teacher's office. Staff should not wear PPE when visiting a school.

The UKBA will always prefer not to have to collect a child from school as officers do understand the difficulties faced by teachers and other staff and the possible upset to students caused by a visit to a school. However there will be occasions where it will be appropriate to do so e.g. in cases where the family has been obstructive and postponing the removal may cause the family to abscond.

#### **45.2.10 Control and Restraint**

All family members, including children, should be arrested as a whole unit and the arrest should be made as soon as practicable. The arrest will ensure that the family is legally in immigration custody for conveying to a designated place of detention. It will normally be that arrests in such circumstances will be under administrative powers contained in paragraph 17 of schedule 2 of the 1971 Act and **not** under criminal powers.

The restraint of adults during a family detention visit should not be routine, given the effect that this may have on the child/children. If restraint is considered necessary, it should be recorded appropriately.

The control and restraint of children and young people must be limited to circumstances where it is necessary for an officer to use physical intervention to prevent harm to the child or any individual present. Force must **not** be used simply to enforce the removal of children where there is no threat of violence. In the vast majority of cases there will not be a need for officers to exercise physical control or restraint of minors.

In cases where physical intervention is deemed necessary, officers must ensure that their actions are reasonable, justifiable and proportionate. All physical interventions should be in line with officer safety training. This training does not restrict officers solely to the techniques taught; a fact that should be borne in mind when dealing with children and young people in particular.

At all times, officers are accountable for and may have to justify any decisions and actions they take.

On every occasion when force has been used against a child, a comprehensive incident report must be completed as soon after the operation is practicable. A copy of this report must be sent to the officer of the Agency's Children's Champion.

## 45.2.11 Separating Family Members

### Separating Breastfeeding Mothers and Children

- ◆ Breastfeeding children **must not** be separated from their mother purely for immigration purposes. If there are compelling and exceptional circumstances which indicate that separation may be appropriate to keep the child safe, the local authority must advise and the separation authorised by the DD only if the Local Authority or a doctor agrees.
- ◆ If it is only discovered on the detention visit that the mother has recently given birth, it should not be inferred from the presence of bottles/baby food in the house that the mother is not breastfeeding her child. Neither should it be assumed that just because she does not state that she is breastfeeding, she is not doing so. Officers **must** ask the question directly.
- ◆ Additionally, the age of a child is not always an indicator that the mother may or may not be breastfeeding. It is not uncommon in some cultures for mothers to breastfeed their children into their formative years. Again, officers **must** ask the question directly.
- ◆ Authority to separate a breastfeeding mother and child must be obtained from an officer of Deputy Director level or above in all cases. There must be full written record of the authorisation, the reason for the split and who was informed e.g. police, social services, detention services etc as well as any proposed future actions required.

Pregnant women

The information gathered during contact management and the standard checks with doctors should include the information as to a woman's pregnancy. The Family Detention Unit should be notified in advance using the Family Welfare Form of the pregnancy, the due date and any complications. A check should be made with the airline before setting removal directions but the usual timescale for carrying pregnant women is 30/32 weeks. If a pregnant woman claimed she was having problems which would preclude her from flying, the onus is on her to produce medical evidence that this is the case. This would apply at any stage in the pregnancy.

During the course of a visit, every member of the family should be asked if there has been a change to their health or general well-being e.g. recent diagnosis of a medical condition or confirmation of pregnancy. If a woman claimed she was pregnant, she should be asked for confirmation of the fact of the pregnancy and for the blue notes from the hospital which would include her due date. The authority of the AD **must** be obtained if the OIC feels that the detention should go ahead and this should be noted in the written record of the visit. All information should be noted on the Family Welfare Form which should be sent to the Family Detention Unit while the family is en route.

The woman should be advised to take any records relating to her pregnancy. She should also be advised that she will have access to medical care while at the place of detention.

Force should only be used on a pregnant woman to prevent her from harming herself, any member of her family or any member of staff. Any force used must be appropriate, justified and proportionate. Staff will need to be able to justify the use of force, note the reasons in writing for doing so and complete the use of force form.

#### **45.2.12 Children unexpectedly encountered on Enforcement visits**

See Chapter 29.5

#### **45.2.13 Personal Effects and Baggage**

Adequate time should be allowed for a family to pack their belongings. A period of 30 minutes should be considered as the minimum to allow for packing, dependant on a dynamic risk

assessment. This period of time can be curtailed should the risk of remaining in the property be high. This timescale can be extended where the risk is considered to be low with there being no maximum time limit. When packing belongings, families should be advised to consider the needs of their children and themselves whilst in detention as well as post removal e.g. clothing, baby equipment. Relevant belongings should also extend to any UKBA documents, solicitors contact details and any friends or family contact details. Families should be made aware of the baggage allowance limited by airlines and the facility for friends/family to arrange this on their behalf whilst they are in detention. United Kingdom Border Agency has no responsibility for arranging or paying for excess baggage. The OIC should use the checklist referred to at 45.2.5 to ensure that all important documents, medication and belongings have been packed.

#### **45.2.14 Pets**

Where pets are found in the property, every attempt should be made to contact a member of the family, a friend or a neighbour to take care of the animals. Failing that, there are four options depending on the pet and any risk factors posed by the animals.

- ◆ Leave the animal if it is safe, has access to food and water and arrangements can be made for someone to care for it within a reasonable timescale.
- ◆ If police are present, they may be able to take a dog to kennels at a local police station where they have arrangements with local authority rescue centres
- ◆ Have the subject sign care of the animal over to the RSPCA and contact the RSPCA on 08705 555 999.
- ◆ Take the animals to a local pet rescue centre

#### **45.2.15 Transportation of Families**

Families should not be transported in caged vans unless the risk assessment dictates otherwise. Families should not be separated during transport unless there is good reason for doing so, where for instance an adult has threatened to harm a child.

These decisions should be taken by the OIC but any decision to maintain the splitting of a family once reaching the place of detention should be referred to the Regional Director.

Approved child seats, booster seats and booster cushions **must** be used to transport children and young people safely. Car seats must be suitable for the age and weight of the child concerned and the vehicle in which they are being fitted and must confirm to European Safety Standards R44.03.

UKBA staff **must** ensure that children under 3years use the child restraint appropriate for their weight. Children aged 3 or over, up to a height of 135cm or 12 years old, whichever they reach first, must use the correct child restraint.

Children aged 14years and above will have to use seat belts or child restraint depending on their height.

Only appropriately trained persons may install Child Car seats. All necessary training will be provided locally, either directly by the manufacturer or cascaded down via trained colleagues.

Where arrest trained staff escort families in the place of contracted escorting staff, they should follow the published guidelines for escorts, which includes guidance on refreshment breaks.

See

<http://horizon/IND/Directorates/OPERATIONS/Resources/PDF/DetentionServices/OperatingStandardsEscorting.pdf>

## **45.3 Removal and the Courts**

See IDIs chapter 8, section 5A, Annex M which is being revised.

### **45.3.1 Removal in Deportation Cases**

See CCD Children and Family Cases Processes Instructions which can be found on Horizon.

### **45.3.2 Delayed Removals**

Any further representations should be referred to OSCU if the removal directions are within 72 hours. If removal directions are not set or if they are set for a date beyond the 72 hours refer the case to a barrier caseworker.

If the representations cannot be considered before the removal directions, reset the removal directions for the next available flight and ensure that a barrier caseworker deals with the outstanding representations.

If in the opinion of the barrier caseworker the representations are likely to be protracted or entitle the family to a further right of appeal, the case should be referred to an HMI to review if detention remains appropriate.

The detention reviews for families are at 24 hours HMI, 7 days CIO, 14 days, 21 days and 28 days, all at AD level. At 28 days each case becomes part of the weekly conference call held each Monday.

### **45.3.3 Detention and Removal of Incomplete Families and Splitting Families**

Guidance on what constitutes a family can be found at

<http://horizon/IND/Directorates/OPERATIONS/Resources/Word/DetentionServices/DSOrder4-2005FamilyDetention.doc>

#### **Background**

1. Although it is a frequently used and a routine part of enforcement operations, detention under immigration powers is a serious step – it is an administrative act, not one authorised by a warrant of the court. Whenever these powers are used to detain a family, the principle, underpinned by Article 8 of the HRA, is that the members of the family remain together. Therefore splitting families for detention and removal purposes is also a very serious decision which must be authorised at a senior level within the United Kingdom & Immigration Agency.
2. Hitherto different levels of authority were required to authorise the splitting of families in different circumstances. The Minister has now decided that all splits are to be authorised by the Regional Director (RD). The following proposes how we can give effect to this decision without hampering operational decision-making but ensuring proper accountability.

#### **Planning for the arrest of a family**

3. As indicated above, the principle we must act on is that families against whom enforcement action is taken must be kept together unless there are exceptional reasons for splitting them. The RD must authorise every case in which we plan to split a family during an enforcement operation. This authority must be recorded with the reasons for the decision.

4. Although it is preferable to keep the family together at all times, it is still possible, where it is a two-parent family, to detain one parent and set self check-in removal directions for the rest of the family, where this is in the best interest of the child/children. Due consideration must be given as to which parent is the most suitable to care for the child/children. This would still be a family split that would require RD authority.

#### **Decision to split at point of arrest**

5. Sometimes it may be necessary to “split” the family at the point of arrest, for example where a member of the family is: not at home or absconds or behaves disruptively or dangerously. The decision to split at this point should be made by the officer in charge (OIC) of the operation. As soon as practicable after the arrest, that officer must record the reasons for making this decisions. These must be submitted to the RD within 12 hours to endorse the decision.

#### **Decision to split, or continue to split, in detention**

6. Every decision to split a family must be reviewed as part of the detention reviews process – that is, at 24 hours and 7 days after the arrest and weekly thereafter. The outcome of those reviews must be submitted to the RD for authorisation if the split is to be continued.

7. Occasionally it may be necessary to split a family after they have been detained - for example, if a family member has to be admitted to hospital or if a family member becomes violent and poses a threat to the safety of other family members, to other families or to staff. The decision to authorise these ‘splits’ will be taken by the contractor’s staff. When such a split is expected to last for longer than 12 hours, the contractor must obtain the authority of the Director of Detention Services to continue the split. Where the split involves the removal of a single parent from the child or children in their care, the contractor must immediately obtain the authority of the Director of Detention Services.



8. In all cases Detention Services staff must ensure that the relevant RD is informed of the split and the reasons for it are taken into account in regular detention reviews. The authority for the continued split rests with the RD.

### **Splitting a family at the removal stage**

9. Every decision to remove a family from the UK by splitting some of its members must be authorised by the RD. If children are involved, the office of UKBA's Children's Champion must be consulted first and their advice made available to the RD.

### **Detention of a single person who later reveals they are part of a family**

10. If a single person who has been detained claims to be part of a family, their claims must be investigated immediately. If it is discovered that they are part of a family, consideration to reuniting them with their family must be given as part of the detention review process. The continued detention of this person until the outcome of the detention review is known will not require the authority of the RD.

11. If circumstances about the person's background are discovered which cast a completely different light on their family circumstances - especially if these suggest that their Article 8 rights may be being infringed – then a review of their continued detention or separation from their family must be conducted within 48 hours. If that review recommends the person remains in detention and separated from their family, the RD must authorise this.

### **Review of detention where a family split has occurred as a consequence of action by the family or a family member e.g. someone absconding**

12. Whenever reviewing the continued detention of a family for whatever reason, RD's must satisfy themselves that the family cannot be reunited in detention and that detention remains appropriate, and must take into account the harmful effects of detention on children. Attempts must be made to locate missing family members to reunite the family.

### **Delegated powers**

13. RD's must make these decisions personally. When they are on leave or absent, they must ensure that the senior manager designated to exercise their authority as RD takes these decisions.

### 45.3.4 Same Day Removals

Where it is considered that there are exceptional circumstances in a case and same day removal is necessary, the authority of a **Deputy Director (DD) must be obtained**. If it is not possible to obtain written authorisation in the first instance, oral authority can be given. Written authority **must** be sought as soon as practicable afterwards.

'Exceptional circumstances' are only where:

- ◆ prompt removal is in the best interests of the family e.g. medically documented cases of potential suicide;
- ◆ Third Country Dublin removals of unaccompanied children or young people in liaison with Social Services and the receiving country:
- ◆ specially arranged charter flights **not** routine charter flights;
- ◆ certain port cases (refer to BCPI enquiries).

In cases where same day removals are delayed, the authority of a DD should be obtained to maintain detention. [This would not apply to unaccompanied children or young people who should not be detained.]

### 45.4 Post Visit Actions

- ◆ Send updated Family Welfare Form to the IRC while the family is en route.
- ◆ Conduct debrief as outlined in 45.4.2
- ◆ Note CID
- ◆ Note NOD.
- ◆ Complete file minutes
- ◆ Complete IS93 and diary detention reviews
- ◆ Book equipment back in as per local procedures

#### 45.4.1 Who to Notify of the Detention

Staff should notify Children's Services, the Education Authority, the doctor, the case owner and the accommodation provider.

#### 45.4.2 De-briefs and Written Records

A debrief of every visit should be held as soon after the visit as possible and a written record retained. The debrief should cover every aspect of the visit. It **should** focus particularly on the children as well as on what has been done well and lessons which could be learned. The OIC should ensure that staff have the opportunity to discuss their concerns and emotions following any difficult visit, with advice given on how to contact Health and Welfare for further support. Where information relating to the requirement to keep children safe from harm arises from the visit, this must be recorded on the FWF.

The debrief section of NOD **must** be updated with any Intelligence. CID **must** be fully updated. Minutes on the file should reflect the notes made on CID.

If it is an arrest team visit, copies of VRBs and/or notebooks must be passed to the OIC. The OIC should ensure that the 101 book is signed off by a CIO and filed with copies of notebooks in the arrest folder.

Copies of executed warrants and warrants which have not been served must be returned to the court within 28 days. The warrant log must be updated.

### **45.4.3 Post Removal Actions**

Inform Children's Services, the Education Authority, the doctor, the case owner and the accommodation provider. Complete clearance report.

### **45.4.4 Staff Welfare**

Family removal work is a difficult, sensitive area of work. Officers involved in family removals, particularly visits where there have been difficulties should be aware that there may be occasions when they need support.

Staff should use the opportunity of the debrief to explore any issues or concerns to help them work through any emotions heightened by traumatic visits.

Care teams are available in some locations and 24 hour Health and Welfare provision should be in place by April 2008. In the meantime staff should not hesitate to seek support from their line manager or from colleagues.

## **45.5 Training**

Training takes the form of a 3 tier programme. Tier 1 is a short e learning package designed to raise awareness of child abuse and trafficking. Tier 2 is a two day course on child abuse, trafficking, private fostering arrangements, referrals to Children's Services and basic communication with children and young people. The first 2 tiers are designed for all staff who may come into contact with children either in person or in writing.

Tier 3 is a one day practical course designed for those who may encounter children and young people either during family detention visits or unexpectedly on visits to residential or commercial premises. Staff may also encounter children and young people who have entered clandestinely or have been arrested by the police.

It is envisaged that Tier 1 is mandatory for all staff up to and including Grade 6, Tier 2 is mandatory for staff up to and including AD and Tier 3 is mandatory for operational staff up to HMI. Tier 3 is optional for caseworkers, policy staff, intelligence staff, criminal investigators and seconded police officers.

There is also a two- day course on the screening of children and young people delivered by Learning and Development in Liverpool for those LEOs who require this training.