



Home Office

# **The Home Office response to the Independent Family Returns Panel 2014-16 report**

## Introduction

In its 2014-16 report, the Independent Family Returns Panel has made new recommendations to the Home Office in relation to managing family returns. The Panel has also revisited recommendations made in its [previous reports](#).

Since publication of the Panel's first report in September 2012, the Home Office has, where possible, worked with the Panel to action its recommendations. The Home Office considers recommendations to be closed where we have taken the necessary action.

# 1. The Home Office response to the Panel's 2014-16 recommendations

## 1.1 Recommendation 1: In planning returns to Europe which can be reached by ferry this option should be given priority.

1.1.1 Home Office response: accepted in principle.

1.1.2 Family Engagement Managers (FEMs) consider the best return method for a family as part of their detailed return planning based on the individual circumstances.

1.1.3 The use of a return by ferry is one of these options, and where this is considered to be the most appropriate method of return, and the authorities in the receiving country have confirmed it is an acceptable return route, it is used. There are, however, numerous other factors, including safeguarding concerns, which may, for some families, make the use of ferry returns less desirable than other options. As such, ferry returns are considered preferable, and we accept the principle that such routes should generally be prioritised, but FEMs must consider the individual requirements of each return.

1.1.4 Status of recommendation: closed.

## 1.2 Recommendation 2: Third country cases should be expedited once they enter the family returns process.

1.2.1 Home Office response: accepted.

1.2.2 Third country cases are governed by the Dublin Regulations which allow a six month timeframe for returning a family to another Member State. Making arrangements with Member States for this transfer can be a complex process for which the six month clock will only stop if a judicial review or an appeal causing a suspensive effect is lodged. Home Office Family Returns already prioritise third country cases referred to them, but deadlines for returning these families can sometimes be very tight.

1.2.3 Status of recommendation: closed.

## 1.3 Recommendation 3: The Home Office should consider how best to involve schools when planning to return a family from Scotland.

1.3.1 Home Office response: accepted.

1.3.2 An initial meeting was held between the Home Office Deputy Director of Family Returns, a member of the Panel, and senior managers from the Glasgow City Council Education Services to address the challenges around information sharing and how to engage schools in family return planning in Scotland.

1.3.3 As a result, they agreed to organise training sessions for staff to raise awareness of the family returns process and why information from education professionals is important in helping plan returns and ensuring the best interests and impact on the children is considered as part of return planning. A member of the Panel and the Home Office Deputy Director delivered the first two of these sessions to education professionals in Glasgow on 7 September 2016. The Family Returns Unit will continue to offer these

training sessions and will monitor all Scottish family cases, should information on a family not be shared by a school this will be flagged and the reasons investigated.

1.3.4 Status of recommendation: closed.

**1.4 Recommendation 4: Home Office Family Engagement Managers should ensure that the organisations listed in the “return support” section who could offer support to the family have a presence on the ground.**

1.4.1 Home Office response: accepted in principle.

1.4.2 The Family Returns team works closely with the Foreign and Commonwealth Office (FCO) and other parts of the Home Office to identify and signpost families to genuine support provision in their country of return. Where support is identified, families are advised of this in general terms during family engagement meetings and details are given to them at the point of departure.

1.4.3 Wherever possible, support is verified via the FCO, other parts of the Home Office engaged in support provision overseas, or trusted stakeholders.

1.4.4 The return support requirements will vary according to the individual circumstances of the family and it is often not possible to verify that a specific support service exists, particularly if it has been identified from internet research. Where this is the case, the family is advised that the support can not be verified.

1.4.5 The Family Returns team is working with Home Office Voluntary Returns Service to ensure that, as return support is identified for all returnees, it can be tapped in to for families returning under the family returns process.

1.4.6 Status of recommendation: closed.

**1.5 Recommendation 5: The Home Office should provide officers with clear guidelines on the practice of separating families.**

1.5.1 Home Office response: accepted.

1.5.2 When immigration powers are used to detain or remove a family, Home Office policy has always been that family members remain together wherever possible. Separation of individuals from their family unit may sometimes be required, however, where it is necessary and proportionate to do so to enable us to carry out immigration functions effectively. Any separation must also always have regard to the need to safeguard and promote the welfare of any children concerned.

1.5.3 In February 2016, the Home Office published new guidance on [family separations](#). This was developed in consultation with external working groups including a task and finish sub-group which included Panel members.

1.5.4 The new guidance introduces a three-stage process for caseworkers to follow when considering if separations are lawful, necessary, and proportionate. The three stages are:

1. Identifying family groupings: by looking at ECHR Article 8, Appendix FM, and exceptional strength of ties and dependencies.

2. Ensuring separations are necessary and proportionate; by looking at length and nature of proposed separation, impact upon children regardless of their age, family unity, and safeguarding and welfare.
3. Authorisation, re-unification plans, and review points.

1.5.5 The new guidance draws upon advice provided from Barnardos to help Home Office staff recognise and consider welfare and impact factors on the individual merits of each case. It supports officers in making individual case considerations, whilst recognising that they are not trained to make professional assessments in this field.

1.5.6 Status of recommendation: closed.

## **2. The Home Office response to recommendations revisited in 2014-16 report**

### **2.1 UK Border Agency (UKBA) should review the criteria for the use of Cedars and ensure that they are applied consistently (KR1a, 2011-12 report).**

2.1.1 Panel update 2014-16: The Panel accepts that the criteria for the use of Cedars were reviewed as a consequence of the recommendation made by the Panel and that this has led to the more consistent use of the facility when returning families to their country of origin. While acknowledging Stephen Shaw's recommendation regarding Cedars in his review into the welfare in detention of vulnerable persons, the Panel feels that the use of the facility in more cases could benefit children and their families. A stay at Cedars for up to 72 hours gives a family time to prepare themselves for return to their country of origin both psychologically and practically. It also allows them more time to consult their legal advisers than a same day removal. It would also mean better value for money as Cedars is a very expensive facility which is under used.

2.1.2 Home Office response: accepted in part.

2.1.3 The Immigration Act 2014 defines "pre-departure accommodation" as being a place used solely for the detention of children and their families for a period of not more than 72 hours, or not more than seven days in cases where this longer period is authorised personally by a Minister of the Crown. Current guidance requires that it be used as a last resort when other options have either been exhausted or are unsuitable.

2.1.4 Following the Panel's 2012-14 report, the criteria for use of pre-departure accommodation were reviewed and considered to remain appropriate. There are no plans to review these criteria further. Staff were reminded of the criteria following the earlier review. Where a safeguarding or welfare issue exists which will impact on the success of an alternative return option the use of pre-departure accommodation is arranged.

2.1.5 On 21 July 2016, the Immigration Minister announced the Government's decision to close Cedars pre-departure accommodation, and replace it with new pre-departure accommodation near Gatwick Airport, as a discrete unit at Tinsley House Immigration Removal Centre. This will maintain the required legal safeguards and focus on welfare for families with children whose return is to be ensured under the family returns process.

2.1.6 The new pre-departure accommodation will be operated in line with the statutory framework established by the Immigration Act 2014, specifically in relation to the statutory time limit on stays at the facility and the requirement for the Independent Family Returns Panel to be consulted in advance in each case where it is proposed that a family should be placed there.

2.1.7 Status of recommendation: closed.

### **2.2 The UK Border Agency 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 (KR2, 2011-12 report; and recommendation 4, 2012-14 report).**

- 2.2.1 Panel update 2014-16: The Panel has set out very clearly in previous reports the case for a comprehensive behaviour policy which includes as a last resort, the use of physical intervention. The Home Office, however, has been slow to respond to this recommendation and it remains the case that such a policy has still not been developed. This means that in a small number of cases since the Panel came into existence, children have been subjected to unacceptable pressure from parents not to co-operate with Home Office officials and where such cases occur it is a form of child abuse. A comprehensive behaviour management policy which includes the use of physical intervention as a last resort, similar to those that exist for children and young people when they are in the care of schools, children's homes or the secure estate is still outstanding.
- 2.2.2 Home Office response: accepted in principle.
- 2.2.3 The position on how best to manage situations in which children within a family are uncooperative with the process is complex and remains under review. We will consult relevant stakeholders on any changes to the current position.
- 2.2.4 Status of recommendation: open.
- 2.3 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 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 and these checks are renewed every three years in keeping with best practice (KR4, 2011-12 report).**
- 2.3.1 Panel update 2014-16: The Panel believes that there was a very good response to this recommendation following the 2012 report. The Home Office seconded a senior member of staff to support and provide management oversight to the training of Reliance staff. However, since that time Reliance has changed ownership and been renamed Tascor. The Panel believes that the recommendation should be revisited in order that the Home Office is able to satisfy itself that those arrangements are still in place.
- 2.3.2 Home Office response: accepted.
- 2.3.3 The Home Office is satisfied that staff have completed foundation level training before being tasked to accompany families on returns and that at least 1 member of the Tascor team accompanying families has higher level training experience. Tascor's dedicated family team staff have undertaken either a 1 day Barnardo's course or a safeguarding module approved by Barnardo's and delivered by Tascor training staff. Senior detainee custody officers have undergone a 2 day Barnardo's course.
- 2.3.4 The Home Office is satisfied that there are appropriate escalation procedures, a whistle blowing process for Tascor staff in relation to safeguarding matters and that staff are aware of this process. The normal reporting process in relation to safeguarding matters

is set out at paragraphs 5:17 and 5:18 of Tascor's Standard Operating Practice 17 entitled 'Safeguarding & Promoting the Welfare of Children and Family Movements'. Tascor staff are required to read this document and record that they have done so. Family team staff regularly review this document to refresh their knowledge. The Confidence line is also open to all staff and this number is readily available at all base locations for staff to use if they feel they cannot approach their line manager.

2.3.5 The Home Office is satisfied that Disclosure and Barring Service (DBS) checks have been completed for all escorts accompanying family returns and that these checks are renewed on a regular basis. This is completed in line with the accreditation process for detainee custody officers and is renewed every five years.

2.3.6 Status of recommendation: closed.

## **2.4 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 (KR6, 2011-12 report).**

2.4.1 Panel update 2014-16: The Panel now receives data from all ports of entry, but it took until the end of 2015 for this to be provided. Despite repeated requests, the Panel was, up to then, only able to report on children and families held at Tinsley House, an immigration removal centre close to Gatwick Airport.

2.4.2 Home Office response: accepted.

2.4.3 Border Force now routinely shares data on all ports which is discussed with the Panel along with selected case narratives at regular meetings.

2.4.4 Status of recommendation: closed.

## **2.5 UK Border Agency officers should only wear protective clothing where risk assessments indicate this necessary to protect themselves or members of the family (recommendation 13, 2011-12 report).**

2.5.1 Panel update 2014-16: It is an on-going source of concern to Panel members that Home Office arrest teams still insist on wearing full protective clothing when undertaking an enforcement visit. While the Panel accepts in some cases where the risk assessment indicates that such precautions are necessary, it is not necessary in every case. The Panel has carried out a number of direct observations when the use of protective clothing has been considered unnecessary and detrimental to the children involved. The Home Office should revisit this recommendation.

2.5.2 Home Office response: rejected.

2.5.3 Safety considerations for all parties involved in an arrest and removal are paramount.

2.5.4 Where a family is being arrested and escorted to a port of departure, or to pre-departure accommodation, the default position is that all officers must wear full Personal Protective Equipment for safety reasons. A decision to make an exception to such policy must be fully risk assessed and authorised at assistant director level or above.



2.5.5 While it is acknowledged that there may be different views as to the potential risk in any particular case, the ultimate decision is an operational one. The Home Office will, however, review any individual case where the Panel raises particular concerns as to the necessity for protective equipment.

2.5.6 Status of recommendation: closed.

## **2.6 The UK Border Agency and Reliance should reconsider the need for medics on all return journeys (recommendation 16, 2011-12 report).**

2.6.1 Panel update 2014-16: While the Panel does not feel strongly that the presence of a medic on all enforced returns is necessarily detrimental to the families involved, it is apparent that too frequently this is an unnecessary precaution. Despite the need to deliver efficiencies across the public sector this aspect of Home Office policy seems to represent poor value for money.

2.6.2 Home Office response: accepted.

2.6.3 Following the Panel's initial recommendation, a review of the use of medics accompanying returns was completed. This indicated that although rarely needed for significant issues, medics were used consistently for more minor concerns and provided valuable reassurances to families.

2.6.4 The use of medics on family returns is decided in collaboration with Tascor and considered on a case by case basis.

2.6.5 There are no plans to change the existing policy.

2.6.6 Status of recommendation: closed.

## **2.7 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 the UK Border Agency to renegotiate the leasing of more suitable space at the busier ports of entry with airport operators (recommendation 26, 2011-12 report).**

2.7.1 Panel update 2014-16: There has been very good progress at some ports in providing family friendly holding facilities for those arriving at the border. Panel members have observed for themselves the improvements made at Birmingham, Manchester, Glasgow and London Heathrow to provide child and family friendly spaces. However, this recommendation remains as there are still too many holding spaces around the country which are not suitable for holding families arriving at the border for anything more than a short period. The greater use of Tinsley House for families arriving at London airports while controversial due to the facility being an immigration removal centre, offers families far better facilities for rest and recuperation than a holding room at the airport.

2.7.2 Home Office response: accepted.

2.7.3 The holding rooms are designed for short periods of stay and the Home Office is subject to the space constraints imposed by the individual port authorities, but will continue to work with Tascor and port authorities to identify improvements to regimes and facilities where required.

2.7.4 The recently refurbished holding room at Birmingham Airport includes a dedicated room for families with natural light, child-friendly furnishings and wide variety of activities for children. Refurbishment has also been completed at Heathrow Airport which now sees dedicated family rooms available in all of its holding rooms.

2.7.5 Status of recommendation: open.

**2.8 In all cases where trafficking was suspected or where an individual was referred into the National Referral Mechanism (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 2, 2012-14 report).**

2.8.1 Panel update 2014-16: The Panel has been asking for the NRM referral form where an assessment has been carried out, to be attached to the evidence presented to the Panel. Where there has been a determination by a competent authority of "no reasonable grounds" this does not mean that there is no risk in returning a family to their country of origin - it may mean that there is no evidence but the risk may still exist. It is important that the Panel has access to all information that may have a bearing on safeguarding or wider welfare issues as they relate to families in the family returns process. This issue was raised in the 2012-14 report, but the Home Office response was to hold its views on whether to share such information with the Panel until the outcome of the NRM review is known.

2.8.2 Home Office response: accepted in part.

2.8.3 In line with the approach taken to the disclosure of asylum decisions, it is not considered necessary for the Panel to routinely have sight of NRM decisions. It is accepted, however, that there may be some information within such decisions that will be relevant to the Panel in terms of safeguarding. As such, the Home Office will work with the Panel to identify and share specific issues in individual cases. It is considered that the Competent Authority is best placed to provide such a summary.

2.8.4 Status of recommendation: open.

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

2.9.1 Panel update 2014-16: The Home Office has confirmed its existing and ongoing specialist trafficking and modern slavery training provided to decision makers which includes an e-learning course. During this reporting period the Panel has started, at least, to see an increased awareness of trafficking in family welfare forms.

2.9.2 Home Office response: accepted.

2.9.3 Home Office e-learning on human trafficking and the NRM aimed at UK Border Force, UK Visas and Immigration (UKVI) and Immigration Enforcement staff was updated and re-launched in March 2016 with revised text relating to modern slavery and other relevant

policy changes. There are three courses. The NRM e-learning course is for all those commands. There is a specific modern slavery e-learning course for the use of Border Force and a separate modern slavery e-learning course for the use of UKVI and Immigration Enforcement. The training is mandatory for all in country staff in those areas.

2.9.4 The courses cover the issues surrounding Modern Slavery, providing a general insight into what Modern Slavery is and what it entails, some of the general indicators to look out for if you suspect that someone might have been a victim of modern slavery and some more detailed information about specific types of exploitation such as sexual exploitation, forced labour, and domestic servitude. Staff are also trained to refer cases into the NRM and to use the duty to notify mechanism, which means that the Home Office receives an anonymised notification if a potential adult victim doesn't want to be referred into the NRM.

2.9.5 Status of recommendation: closed.