REPORT

Last resort or first resort?

Immigration detention of children in the UK

This report was researched and written by Sarah Campbell, Maria Baqueriza and James Ingram

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Executive summary

In 2009 more than 1,000 children in the UK were detained with their families for the purposes of immigration control (Home Office 2010a).

Medical studies have found that detention is associated with post-traumatic stress disorder, major depression, suicidal ideation, self-harm and developmental delay in children (Lorek *et al* 2009; Human Rights and Equal Opportunity Commission 2004; Mares and Jureidini 2004; Steel *et al* 2004). The attempted suicide of a 10-year-old girl in immigration detention in the UK in 2009 provided a stark reminder of the implications of these research findings (Taylor 2009).

> ***"My experience in Yarl's Wood was that it was very unhealthy for children to be kept there… I felt dead inside me. Every day till now I couldn't and can't face the day peacefully. Every time I wake up, my heart would first beat rapidly and I would feel very scared inside me. This trauma is still planted in me and I don't know how to get rid of it."***
>
> (Ben, research participant, 13 years old)

The then Labour government justified the detention of children on the basis that it was used only as a last resort, and for the shortest possible time (*Hansard* HC 12 October 2009, Col 534W). It argued that in cases where families were detained, this was necessary for the purposes of immigration control for three main reasons: first, to prevent families absconding; second, to effect the imminent removal of families from the UK; and third, that if these families were not detained in order to be forcibly removed, they would have refused to leave the UK voluntarily (Home Office 2002, 4.77; Home Affairs Committee 2009, Q25; Byrne 2008).

In order to examine the validity of these reasons for detaining families, Bail for Immigration Detainees (BID) and The Children's Society carried out detailed research into the cases of 82 families with 143 children who were detained during 2009, using data from 82 clients' case files, interviews with 30 family members and 27 legal representatives, and full Home Office files for 10 families.

Our research found that in a considerable number of cases, families were detained when there was little risk of them absconding, their removal was not imminent, and they had not been given a meaningful opportunity to return voluntarily to their countries of origin. Indeed, in a large proportion of cases, there were barriers to families returning to their countries of origin during the time they were detained, which meant it was not possible, lawful or in the children's best interests for the Home Office to forcibly remove them.

These findings are of grave concern, particularly given the considerable evidence of the ill health experienced by children in immigration detention. It is our view that such practice is at odds with the Home Office's duty under s.55 of the Borders, Citizenship and Immigration Act 2009 to safeguard and promote the welfare of children in its care.

The policy context regarding immigration detention of children has changed significantly since 2009 and early 2010, the period in which our research was conducted (see p12). In May 2010, the coalition government made a commitment to end the detention of children for immigration purposes (Cabinet Office 2010, p21). However, it has since been announced that children will continue to be detained at Tinsley House Immigration Removal Centre, and in a new Short Term Holding Facility in Crawley, Sussex (UK Border Agency (UKBA) 2010; Home Office 2011b).

While the findings presented here relate to decisions to detain children made in 2009, it is our view that they offer important lessons for the future treatment of children in the UK's asylum and immigration system, and also raise serious questions about the use of immigration detention for single adults. In order to avoid further inappropriate and damaging decisions about enforcement action against children, significant changes are needed to the Home Office's processes for managing families' asylum and immigration cases.

Decisions to detain families with children

In a number of cases, we found that children and their families were detained for long periods in an open-ended manner, when there was scant evidence that they were at risk of absconding, and despite legal, documentation or health barriers to their removal from the UK. On average, the 143 children in this study were detained for six and a half weeks.

Assessment of families' risk of absconding

At the time when this research was conducted, Home Office policy instructions stated that detention should only be considered where there were compelling reasons for concluding that it was necessary, such as evidence of a strong likelihood of the family absconding (UKBA 2011, 45.3).

In Section 4, we present evidence that the majority of families in our study reported regularly to the Home Office, both before and after their detention. The findings raise serious questions about why families who did not have a history of absconding were detained, in some cases for long periods, and how the Home Office assessed their risk of absconding.

> ***"I've never had any intention of running. All I'm trying to do is just keep my kids safe and keep myself safe. I've done nothing wrong, and I'm trying to show them that I am a good person, that the kids are good and we're trying to do everything they want."***
>
> (Clare, research participant)

- Only eight of the 82 families (9.8%) who participated in this research had any history of absconding before they were detained. Five of these eight families got back in contact with the Home Office voluntarily.

- Of the eight families who had a history of absconding, five were in contact with the Home Office for most of their time in the UK. These families typically maintained contact with the Home Office for a period of years before or after absconding.

- Thirty families, released between January and August 2009, were tracked for six months following their release from detention. All 29 families for whom we were able to obtain this data reported regularly to the Home Office for the entire research period.

Section 6 outlines how the Home Office assessed the risk of absconding for the 10 families for whom we were able to obtain full Home Office files. In a number of cases, families' risk of absconding was assessed on the basis of inadequate or inaccurate information, and flawed criteria and reasoning. Procedures for assessing risk were not consistently followed.

Was removal from the UK imminent when families were detained?

Section 7 sets out our findings on the extent to which the 82 families in this research were detained for periods while there were barriers to their removal from the UK. The evidence shows that these families could not be removed for the majority of the time they spent in detention.

- 78 families were detained for periods when they could not be removed, at an estimated cost to the taxpayer of £637,560.
- On average, families had no removal directions in place for 64% of the time they spent in detention.
- 61% of families were eventually released, their detention having served no purpose.
- Three families were forcibly removed to other countries but had to be returned to the UK as a result of documentation and legal barriers to their removal, at an estimated cost of up to £136,000.

Families detained despite having no travel documentation

- 11% of families were detained despite not having travel or identity documents. This meant that they could not be removed from the UK at the point when they were detained. One family was detained for 35 days while a member of the family did not have any valid travel documents.

Families detained despite legal barriers to removal

- On average, families could not be removed as a result of outstanding legal applications for 50% of the time they spent in detention.[1]
- One family's country of origin (Sri Lanka) was judged to be so dangerous at the time of their detention that the UK government was not forcibly removing people to this country.
- 63% of parents for whom we have this data did not know that their most recent legal applications had been refused until they were detained.[2] They therefore had no opportunity to challenge this decision outside detention, and, in a number of cases, were detained for long periods while they made such challenges.

> ***"Very, very stressful. We both, me and [my wife], see nightmares almost every night. This also affected us. I mean, this is torture, this is humiliation, with the child and family, to treat us in this way. Now I can see how inhuman behaviour is also carrying on in this country, but nobody knows about it."***
>
> (James, research participant, describes his experience of the Home Office seeking to forcibly remove his family despite legal barriers to their removal)

- Of the 30 families for whom we collected post-detention data, 74% still had outstanding legal applications six months after their release.
- In the cases of three families who lodged judicial reviews in detention, it was subsequently found that the Home Office had made errors in the way their cases were considered, so they needed to be reviewed in full. We know of three further families who participated in this research who had been granted leave to remain in the UK at the time of writing this report.

1 This figure is based on data for 46 families for whom we had complete information.

2 This figure is based on data for 54 families for whom we had complete information.

Families detained despite health barriers to removal

At the time when this research was conducted, Home Office policy stated that people who were suffering from serious medical conditions would normally be considered unsuitable for detention and should only be detained in 'very exceptional circumstances' (UKBA 2011, 55.10).

- In the cases of 18 families – 22% of our research sample – ill health prevented the family being removed for part of their time in detention. These families were detained, in some cases for extended periods, despite family members being so unwell that ill health presented a barrier to removal.

- In four cases, family members were hospitalised or required urgent hospital treatment during detention, which presented a barrier to removal, at least during the period of their hospital treatment.

- Information about families' health situations was not consistently collected or considered before making decisions to detain. Reviews of detention did not function as an effective safeguard to prevent prolonged detention for children and did not register cases where ill health had become a barrier to removal.

- In one case, a mother refused over 60 meals while in detention, and reported that her son witnessed the aftermath of a suicide attempt. Reviews of the family's detention stated that there were 'no concerns' for the family's well-being and 'no medical issues'. Six months after the family's release, this child was still receiving counselling as a result of mental health problems he developed in detention.

Family decision-making on maintaining contact with the Home Office

In Section 9, we present our findings from case files, and interviews with 30 family members, on parents' decision-making about maintaining contact with the Home Office. Families variously cited their children's welfare, their family's need for access to healthcare, the need to avoid destitution, the desire to preserve their dignity, and pursuit of legal status as important factors in their decisions to maintain contact with the authorities.

For the small number of families who did have some history of absconding, we were able to obtain limited case file data that shed some light on their reasons for absconding. In some cases, families broke off contact with the Home Office following traumatic events such as a miscarriage or an episode of domestic violence, which increased their vulnerability.

Families' reasons for not returning to their countries of origin

As Section 10 sets out, when parents were asked why they would not consider returning voluntarily to their countries of origin, they repeatedly said that they feared for their safety if they returned, and they did not feel that they had had a fair opportunity to put their asylum or immigration case forward.

- Many of the parents in this research reported that their family had experienced violence or threats of violence in their countries of origin, which included Somalia, Burma, Sudan, Sri Lanka and the Democratic Republic of Congo.

> ***"If it wasn't for my new solicitor, I would be in [my country of origin] now. I don't know how my life would have been – maybe they would have killed me already. There, you don't challenge the government like you do here. And when they return you back there, it's not going to be easy with you.""***
>
> (Linda, research participant)

- Almost half (48%) of the 143 children in this research were born in the UK.

- Four of the mothers in this research had become pregnant by, or had children with, men who lived in the UK. These children would have been separated from their fathers if they were removed from the UK.

Home Office communication of voluntary return

At the time when this research was conducted, Home Office policy stated that the option of voluntary return should always be considered before a family was detained (UKBA 2011, 45.3-4).

Section 11 presents our findings that:

- 63% of parents for whom we have this data did not know that their most recent legal applications had been refused until they were detained, and so had no meaningful opportunity to return voluntarily to their countries of origin.[3]

- Parents were given limited information about voluntary return schemes before being detained, and none of the parents for whom we have this data reported that they had received a face-to-face explanation of voluntary return options from the Home Office.

- Families commented that the point at which information about voluntary return was communicated to them was not well timed. Some families were sent this information while their asylum applications were ongoing and there were barriers to removing them from the UK; others received it after being detained.

Families' experiences of reporting and tagging

Section 12 outlines our findings that:

- A number of parents were afraid and anxious about going to report, and where parents asked for alterations to reporting requirements on health grounds, these requests were not granted.

- Parents in three families were electronically tagged, and reported that this had a detrimental effect on their children. Tagging placed severe limits on parents and children's freedom of movement, exacerbated their social isolation, and increased the stress and anxiety experienced by parents.

3 This figure is based on data for 54 families for whom we had complete information.

Recommendations

- Children and their families should not be detained for the purposes of immigration control.

Access to legal advice

- Families should have access to good-quality, publicly funded legal representation from an early stage in their claim, and throughout the determination process. It is particularly important that families are able to access quality legal advice at the point when a legal application has been refused and the Home Office is preparing to take enforcement action.
- The frontloading model trialled in the Solihull Early Legal Advice Pilot (Aspen 2008) should be rolled out for all family cases across the UK.

Decision-making

- The Home Office must pay urgent attention to improving the quality of first instance asylum and immigration decisions in family cases. It should take immediate steps to implement recommendations from the United Nations High Commissioner for Refugees (UNHCR)'s Quality Initiative Project on areas of continuing concern in the determination process, including credibility assessment, workloads, and the provision of information to applicants.
- Effective procedures should be introduced by the Home Office to gather information about legal, documentation, health or any other barriers to a family's removal before enforcement action is initiated.
- The Home Office must ensure that family welfare forms are completed in full for each family, from the point of initial contact through to the conclusion of their case.
- Before a decision is taken to remove a family from the UK, thorough consideration must be given to the family's length of residence and ties in the UK, as well as the impact removal would have on the welfare of children in the family. An auditing process should be introduced to ensure that existing mechanisms such as Immigration Rule 395c are applied consistently in all family cases.
- A pre-removal assessment process should be consulted on with stakeholders, established and independently monitored. This process should have the power to require reconsideration of cases where serious questions are raised about the advisability of proposed removal. The findings of individual assessments should be documented and shared with the family and their legal representatives.
- Temporary or discretionary leave should be granted to families in cases where such an assessment finds that it is not advisable or reasonable to expect the family to return to their country of origin.

Monitoring of voluntary return

- Where families give their informed consent, outcomes for families who return voluntarily to their countries of origin through Refugee Action should be systematically monitored by an independent agency, and their findings made public.
- Such independent monitoring of voluntary return by families should also collect information about the reasons why families accept voluntary return, their individual needs, and other factors that help or hinder sustainable reintegration in their countries of origin.

Safeguards for enforcement action against families

Effective safeguards are needed to ensure that any enforcement action taken against families adheres to the following principles:

1. The safety and welfare of children should be protected effectively throughout the immigration and asylum process.
2. Enforcement measures should be time-limited, and should not be imposed indefinitely on families.
3. Enforcement measures should not interfere with families' access to the court, or their access to legal representation.
4. Enforcement measures should be proportionate to an evidence-based assessment of risk.
5. Decision-making processes about enforcement action should be subject to independent oversight and evaluation.
6. The reasons for any enforcement action taken against a family should be shared with the family and their legal representatives.
7. There should be effective, accessible routes available to families and their legal representatives to complain about and challenge decisions about enforcement action which the Home Office plans to take against families.
8. Children should be informed about decisions that will affect them, with parental consent. Children's wishes and feelings should be taken into account when such decisions are made. This should be planned and facilitated in an age-appropriate manner, which safeguards and promotes children's welfare.

Communication with families prior to enforcement action

- Case owners should inform parents and their legal representatives that a family's legal applications have been refused in a face-to-face meeting and in writing well before any enforcement action is taken against the family or removal directions are set. A reasonable amount of time – at least three months – following this meeting should be allowed for parents to consider their options, including voluntary return.
- Following such notification, enforcement action may in practice not be taken against a family within three months, either because of new legal applications by the family or delay on the part of the Home Office. In such cases, a reasonable further period of notice of planned enforcement action should be given to the family and their legal representatives.
- Funding should be made available for legal representatives to attend meetings at which voluntary return options are explained to families by Home Office staff.
- Families should be offered flexibility in the timing of voluntary return, particularly in cases where children have upcoming exams or family members have pre-existing courses of medical treatment which they need to complete before leaving the UK.
- Families and their legal representatives should be specifically asked, in writing, to provide any information about the family's health, travel documentation, and legal situation to the Home Office before any enforcement action is initiated against them.

- Before enforcement action is taken against a family, written consent should be requested from parents for the Home Office to access their family's medical records in every case.
- The Home Office should establish processes to ensure that expert, independent medical advice is available to Home Office staff concerning the appropriateness of enforcement plans in individual cases, in the light of the family's health situation.
- The Home Office must develop appropriate processes to monitor the health and welfare of children and parents who are subject to enforcement action.
- Appropriate processes should be developed for the Home Office to take into account the views of children subject to enforcement action on all decisions which affect them.

Communication with families following failed enforcement action

- When directions for a family's removal are cancelled, immigration officers should inform parents and their legal representatives of the reasons for this at the earliest opportunity, and in any case no more than 24 hours after the removal directions are cancelled.

Assessing absconding risk

- The Home Office's criteria for assessing absconding risk in asylum seeking and migrant families should be revised in the light of the evidence that is available on risk of absconding.
- Proper procedures should be established to provide a reliable assessment of families' risk of absconding. Risk assessments must be based on adequate evidence, properly fact-checked, and must take into account all relevant evidence.
- The Home Office should improve its procedures for recording families' histories of reporting and compliance, so that families are not wrongly recorded as having absconded.
- The Home Office's processes for assessing absconding risk should be subject to independent oversight and regular independent audits.

Reporting and electronic tagging

- A time limit should be introduced on the use of electronic tagging for the purposes of immigration control. In addition, limits should be set on the length of time parents are required to remain in their homes every day for electronic monitoring purposes.
- In two-parent families, only one parent should normally be subject to electronic tagging.
- The Home Office should publicly consult on and publish clear guidelines on the use of electronic tagging. Decision-makers should be required to consider the impact of reporting and tagging of parents on children's welfare, given the UKBA's duty to safeguard and promote the welfare of children under s.55 of the 2009 Borders, Citizenship and Immigration Act.
- The Home Office should publish data on how many parents are currently being electronically tagged or required to report daily for the purposes of immigration control, and the length of time for which these parents have been subject to these contact requirements.
- If parents are electronically tagged or required to report, case owners or immigration officers should provide parents and their legal representatives with clear reasons and criteria for decisions about any contact requirements that parents are subject to.
- If parents are electronically tagged or required to report, a clear process for parents to request changes to their contact requirements should be introduced by the Home Office and communicated to parents and their legal representatives.
- The Home Office's processes for allocating contact requirements to families should be subject to independent oversight and regular independent audits.

Introduction

In 2009 more than 1,000 children in the UK were detained with their families for the purposes of immigration control (Home Office 2010a). These children were held in one of three immigration removal centres: Dungavel House, in Lanarkshire; Tinsley House, near Gatwick Airport; and Yarl's Wood, the largest of the three, near Bedford.

The damage that immigration detention causes to children's health and well-being has been well documented. Medical studies have found that detention is associated with post-traumatic stress disorder, major depression, suicidal ideation, self-harm and developmental delay in children (Lorek *et al* 2009; Human Rights and Equal Opportunity Commission 2004; Mares and Jureidini 2004; Steel *et al* 2004). The attempted suicide of a 10-year-old child in immigration detention in the UK in 2009 provided a stark reminder of the implications of these research findings (Taylor 2009).

The immigration detention of children since 2001

In October 2001, the government decided to change its policy and practice in relation to the immigration detention of children in asylum seeking and migrant families, and began detaining larger numbers of children for longer periods of time.

Prior to 2001, policy on detention of children was set out in the July 1998 White Paper, *Fairer, Faster and Firmer*, which stated that: *'detention should be planned to be effected as close to removal as possible so as to ensure that families are not normally detained for more than a few days'* (Home Office 1998, 12.5).

The 2002 White Paper, *Secure Borders, Safe Haven*, set out the new policy, whereby families could be detained for longer periods:

> *'It was previously the case that families would… normally be detained only in order to effect removal. Such detention would be planned to take place as close to removal as possible so as to ensure that families were not normally detained for more than a few days. Whilst this covered most circumstances where detention of a family might be necessary, it did not allow for those occasions when it is justifiable to detain families at other times or for longer than just a few days. Accordingly, families may, where necessary, now be detained at other times and for longer periods than just immediately prior to removal. This could be whilst their identities and basis of claim are established, or because there is a reasonable belief that they would abscond.'* (Home Office 2002, 4.77)

In a letter to Bail for Immigration Detainees (BID), the Home Office confirmed that this change in policy was *'not derived from statistical evidence'* about absconding or other risks, and was made on the basis of a ministerial decision (Home Office 2002, Personal communication).

Following this change in policy, the number of bedspaces available to accommodate families in detention increased, to the point where 1,900 children were detained between July 2005 and June 2006 (Home Office 2005a, 2006a, 2006b, 2006c). There was no time limit on the immigration detention of children at this time, and Her Majesty's Inspector of Prisons found that 83 of the 450 children detained

at Yarl's Wood Immigration Removal Centre between May and October 2007 were held for more than 28 days (HMIP 2008). From 2002 to 2005, some children were detained at Oakington Immigration Removal Centre from the beginning of their families' asylum claims, as part of the 'Detained Fast Track' process, a scheme designed to decide some applicants' claims under an accelerated legal schedule (Burnham and Cutler 2007, pp18–19).

The current situation

In May 2010, the newly elected coalition government stated that it would *'end the detention of children for immigration purposes'* (Cabinet Office 2010, p21). However, it has since been announced that children will continue to be detained at Tinsley House Immigration Removal Centre, and in a new Short Term Holding Facility in Crawley, Sussex.

From 6 May to the end of December 2010, 112 children entered immigration detention (*Hansard* HC Deb, 8 September 2010, Col 569W; Home Office 2010a; Home Office 2011a). Between July and October 2010, only one child was held in immigration detention for more than seven days (*Hansard* HL Deb, 13 December 2010, Col 126W).

On 16 December 2010, the government announced that families with children under 18 would no longer be detained in Yarl's Wood Immigration Removal Centre (*Hansard* HC Deb, 16 December 2010, Col 125WS).

However, the government also announced in December 2010 that children would continue to be held in immigration detention in certain circumstances:

> *'When families arrive at the border, we sometimes need to hold them while enquiries are made to ascertain whether they can be admitted to the country and/or pending their immediate return. We will retain the right to hold such families, as well as families with individuals who may pose a risk to the public. This will be subject to appropriate Ministerial authorisation. This will be short detention, for a few dozen families each year, usually for less than 24 hours and only where logistics or safety makes pre-departure accommodation unworkable.'* (UKBA 2010, p5)

Furthermore, the government announced plans to hold families in *'a new form of pre-departure accommodation.'* Under these plans:

> *'Families will be housed in special family accommodation which will consist of a secure and supervised building, exclusively used for housing a small number of families. Stays will be limited to 72 hours and linked to a specific removal date but exceptionally could be extended up to a week with ministerial authorisation where a removal fails, for example due to disruption by the family… Once in pre-departure accommodation, families will be allowed to leave the premises with permission on a risk assessed basis. We will allow children to have opportunity to leave the premises subject to a risk and safeguarding assessment and suitable supervision arrangements.'* (UKBA 2010, 5.7)

A 'Family Returns Factsheet' on pre-departure accommodation, which was published by the Home Office on 10 March 2011, explained that families will be deprived of their liberty in pre-departure accommodation under Immigration Act powers:

> *'Powers to require the family to remain at the accommodation are derived from Schedule 2 to the Immigration Act 1971. It will ultimately be operated in accordance with new Short Term Holding Facilities Rules.'* (Home Office 2011b, p7)

The Home Office is also proposing that families will be forcibly removed from the UK using other means,

including: 'open accommodation'; limited notice removal and the separation of families (UKBA 2010). For further details of some of BID and The Children's Society's concerns about these plans, please see BID and The Children's Society (2010a; 2010b).

Clearly, the policy context regarding immigration detention of children has changed significantly since 2009 and early 2010, the period in which the research for this report was conducted. However, while our findings relate to decisions to detain children made in 2009, it is our view that they offer important lessons for the future treatment of children in the UK's asylum and immigration system, and also raise serious questions about the use of immigration detention for single adults.

Our research demonstrates that, in a considerable number of the cases we analysed, the Home Office's decision-making about detention of children was highly problematic. We found that families with children were detained for long periods in an open-ended manner, when there was scant evidence that they were at risk of absconding, and despite legal, documentation or health barriers to their removal from the UK. In order to avoid further inappropriate and damaging decisions about enforcement action against children, significant changes are needed to the Home Office's processes for managing families' asylum and immigration cases.

Furthermore, our research findings raise broader questions about how decisions to hold asylum seekers and migrants in immigration detention are being made by the Home Office. In a context where there is no time limit on immigration detention in the UK, single adults are often held for far longer periods than families with children. Home Office figures show that of the 2,525 people held in detention on 31 December 2010, 255 had been detained for more than a year. The findings presented here raise serious questions about how the Home Office assessed whether these individuals were at risk of absconding, or could be removed from the UK in the near future.

Reasons for detention and limits on powers to detain

The European Convention on Human Rights states that the government's widely drawn powers to detain asylum seekers and migrants should only be used for the purposes of preventing unauthorised entry or removing people from the UK (ECHR Article 5(1)(f)). The United Nations Convention on the Rights of the Child (UNCRC) (1989) further stipulates that detention of children should be used only as a last resort and for the shortest appropriate period of time (UNCRC Article 37 (b)).

In the 1998 White Paper, *Fairer, Faster and Firmer*, the government set out the circumstances in which asylum seekers and migrants would normally be detained under Immigration Act powers:

> *'The Government has decided that, whilst there is a presumption in favour of temporary admission or release, detention is normally justified in the following circumstances:*
>
> - *where there is a reasonable belief that the individual will fail to keep the terms of temporary admission or temporary release;*
> - *initially, to clarify a person's identity and the basis of their claim; or*
> - *where removal is imminent.*
>
> *In particular, where there is a systematic attempt to breach the immigration control, detention is justified wherever one or more of these criteria is satisfied… deprivation of liberty is a grave step which must only be used with great care and when no alternative ways of ensuring compliance are likely to be effective.'* (Home Office 1998, 12.3, 12.20)

Following the 2001 change in policy on child detention, the then Labour government argued that the detention of children under the same policy framework as single adults was a regrettable but necessary aspect of immigration control.

The former immigration minister, Phil Woolas, justified detention on the basis that there was a risk that families would abscond if they were not held in detention:

> *'Detention is used because people do not want to be deported and so abscond… We want to keep families together: if there was an alternative, I assure the House that we would use it.'* (Phil Woolas, Hansard HC Deb, 14 July 2009, Col 200)

Furthermore, the former government argued that, during the period when our research was carried out, the detention of children was only used for the shortest period possible to effect removal, and as a last resort after alternatives had been exhausted. As the former immigration minister told Parliament in 2009:

> *'Families with children are detained to effect their departure from this country when they have no legal right to remain here. They are detained only as a last resort and for as short a time as possible.'* (Phil Woolas, *Hansard* HC, 12 October 2009, Col 534W)

In 2008, the previous immigration minister, Liam Byrne, stated that:

> *'We bend over backwards to help families go home of their own volition. But sometimes families refuse to take this option and it's then that they find themselves within our detention estate.'* (Byrne 2008)

The research

In order to examine the validity of the reasons given by the former Labour government for detaining families, Bail for Immigration Detainees and The Children's Society have carried out detailed research into the cases of 82 families with 143 children who were detained during 2009. Using data from 82 clients' case files, interviews with 30 family members and 10 families' full Home Office files, we examined the extent to which these families were at risk of absconding, whether they could lawfully or imminently be removed from the UK during their detention, and what opportunity they had to seek voluntary return before being detained. We also gathered qualitative data about families' experiences of detention, and their decision-making about maintaining contact with the Home Office and voluntary return.

In Sections 4 to 7 of this report, we present our findings on the Home Office's decisions to detain families. First, we set out evidence that only a small minority of families absconded at any point before being detained or during the research period. This raises serious questions about why these families were detained – in some cases for long periods – and how their risk of absconding was assessed. Second, we consider how the Home Office assessed risk of absconding for the 10 families for whom we were able to obtain full Home Office files. Finally, we present our findings on the extent to which families were detained when there were barriers to their removal from the UK.

Section 8 presents qualitative data collected in interviews with families about the ill health and distress experienced by parents and children in detention.

Section 9 looks at families' motivations for maintaining contact with the Home Office or for absconding. While families' reasons are highly individualised, certain factors such as child welfare, perceptions of the determination process, and parents' desire to preserve their dignity were central to the decision-making of many interviewees. These findings have clear implications for Home Office decisions about contact management and assessment of absconding risk in family cases.

Section 10 presents qualitative data on the reasons why some families reported that they would not consider returning voluntarily to their countries of origin. Most parents reported that they feared for their

safety if they returned to their countries of origin, that they had faced difficulties in accessing quality legal representation, and that they did not feel that the Home Office had properly considered their legal applications. These findings underline the urgent need for improvements to Home Office decision-making processes and families' access to legal representation, if voluntary return is to become a viable option for a greater proportion of families who are refused leave to remain in the UK.

Section 11 looks at Home Office contact management practices, and how voluntary return was communicated to families in our research. We found that most parents were given limited information about voluntary return before detention, and did not have a meaningful opportunity to seek voluntary return before being detained.

Finally, Section 12 considers the use of reporting and electronic tagging, which were described by the former immigration minister, Phil Woolas, as an *'alternative to detention'* (*Hansard*, HC 2 November 2009, Col 690W). We were concerned to find that, in some cases, parents who participated in this research had been electronically tagged or subject to very stringent reporting requirements despite having serious health conditions. There was no time limit on the use of these enforcement measures, and parents reported that being electronically tagged had serious implications for their children's welfare.

We found that in a considerable number of cases, families were detained when there was little risk of them absconding, their removal was not lawful or imminent, and they had not been given a meaningful opportunity to voluntarily return to their countries of origin. Such unnecessary use of detention has serious consequences for children's welfare. It is of grave concern that large numbers of children were detained without good reason, particularly given the compelling evidence of the ill health experienced by children in immigration detention. It is our view that such practice is at odds with the Home Office's duty under s.55 of the Borders, Citizenship and Immigration Act 2009 to safeguard and promote the welfare of children in its care.

1 Methodology

Data were gathered from 82 families who were released from detention or removed from the UK during 2009. We approached 79 families who were clients of BID or the Bedford office of The Children's Society to invite them to take part in this research. These 79 families were the total number of BID or The Children's Society Bedford clients who were released from detention or removed from the UK during 2009. In addition, five families who participated in a BID workshop in a detention centre in June 2009 and were subsequently released from detention were included in the research sample. Two families did not wish to take part, so in total, 82 families with 143 children participated. Home Office statistics show that 1,065 children were detained in 2009 (Home Office 2010a), so our research sample represents 13.4% of all children who were detained in 2009.

Within this sample, 32 families who were clients of BID or The Children's Society Bedford were released from detention between January and August 2009. These 32 families were the total number of BID or The Children's Society Bedford clients who were released from detention during this period. We sought to collect post-detention data for all of these families for six months following their release. Two families did not wish to take part, so post-detention data were collected for 30 families. We did not seek to collect post-detention data for the 18 family clients who were released from detention between September and December 2009. This was because the data collection period for this research ended in spring 2010, and it would have been impractical for us to extend our data collection period to track these families for six months after their release from detention.

BID prepares and presents applications for families to be released from immigration detention on bail or temporary admission. From its Bedford office, The Children's Society provides support, advice and information to detained families on welfare-related issues. The majority of family clients self-refer to BID or The Children's Society Bedford after hearing about our services from other detainees, friends outside detention, visitors' groups, or via the internet. In addition, BID runs regular workshops in Yarl's Wood to inform detainees about their right to apply for bail, and posts information about BID's services in the detention centre, so clients often self-refer on the basis of this information. Clients are not charged for BID or The Children's Society Bedford's services.

The data presented in this report were gathered from conversations and research interviews with clients, analysis of clients' BID and The Children's Society Bedford case files, enquiries to legal representatives and, in some cases, enquiries to the Home Office. Wherever there was relevant information in case files in the form of Home Office documents, legal representatives' letters or medical reports, clients' reports were cross-checked against this. Where possible, facts were also checked with legal representatives. In addition, we were able to obtain copies of full Home Office files for 10 families through subject access requests, and further data are presented from these files. We were unable to include analysis of full Home Office files for all research participants because not all of them consented to this. Even in a number of cases where we did have consent, long timescales and delays by the Home Office in providing files made this impractical.

Qualitative data were gathered in semi-structured interviews with 30 family members from 23 families who were released from detention between January and August 2009. Interviews were carried out with 28 parents. We also interviewed one teenager with their parent, and one aunt who was detained with her sibling's family.

Although a number of families were detained on multiple occasions, the majority of the data presented in this report relate to a single episode of detention for each family, which was their first detention during the research period.

BID and The Children's Society Bedford obtained informed consent from all the families involved in the research to use the data anonymously. All participants were informed of the purpose of the research, why this information was being collected, and the way in which information about them would be documented and reported. All names have been changed to protect the anonymity of participants.

We submitted Freedom of Information Act requests to the Home Office for any data that they held on the key research questions we wanted to explore. This included information on: how many families were unable to travel at the point when they were detained, (and/or during their detention) as a result of health, documentation, education or legal barriers to their removal; how many families 'bounced back' to the UK after being forcibly removed to another country; and how many families were detained for periods of time while no directions were in place for their removal from the UK. All of these requests were refused on the grounds that this information is not collated centrally and could only be obtained from case files at disproportionate cost.

The research design and data analysis methods used in this study were discussed and critiqued by a research advisory board comprised of academics and NGO researchers. Members of the advisory board read and commented on drafts of this research report (see 'Acknowledgements' for a full list of members).

2

Profile of families' detentions

Number of individuals

The 82 families detained during 2009 who participated in this research comprised 143 children and 113 adults, of whom 109 were parents; the remainder were adult siblings, aunts and grandparents.

Age of children

As Table 1 shows, 59% of the children involved in this study were under six years old when they were detained. In addition, three mothers were pregnant when they were detained.

Table 1: Number and age of children detained

Age when detained	Number of children
0–2 years	43
3–5 years	41
6–11 years	35
12–16 years	18
17 years	2
Subtotal	139
Unknown	4
Total	**143**

Length of detention

Table 2 gives a breakdown of the length of time families were detained for. The average length of a single period of detention was 39 days, or five and a half weeks. More than half (58%) of families were held for more than 28 days.

Table 2: Length of detention

Length of single detention	Number of families
0–7 days	3
8–14 days	12
15–28 days	15
29 days–2 months	34
2–3 months	12
3–4 months	2
Unknown	4
Total	**82**

Multiple detentions

We collected information on how many families in our study were detained more than once, in order to calculate the cumulative period of time families spent in detention.

Thirty-nine per cent of families who participated in this study had been detained more than once by the end of 2009. Table 3 below gives a breakdown of how many families were detained on multiple occasions.

Table 3: Number of families detained on one or more occasions

Number of detentions	Number of families
One	49
Two	28
Three	3
Four	0
Five	1
Unknown	1
Total	**82**

When the length of time families had spent in detention was analysed cumulatively, the average length of detention increased to 46 days, or six and a half weeks. As Table 4 shows, 63% of families were detained for more than 28 days, and 22% were detained for more than two months.

Table 4: Cumulative length of detention

Cumulative length of detention	Number of families
0–7 days	2
8–14 days	6
15–28 days	12
29 days–2 months	34
2–3 months	14
3–4 months	3
4–5 months	1
Unknown	10
Total	82

Outcomes of detention

Of the 82 families who participated in this research, 50 (61%) were released from detention on bail or temporary admission. The remaining 32 were forcibly removed from the UK.

The cost of detaining the 50 families who were eventually released was approximately £702,000.[4]

4 This figure is based on government estimates that the average cost of detention was £120 per person per night (*Hansard* HL, 4 February 2010, Col 1462), combined with the findings from our research, which were that the average family had three members, and was detained for an average of 39 days.

3 Home Office decisions to detain families

The Labour government which was in power at the time when this research was conducted defended the detention of children by arguing that the practice was only used where absolutely necessary, and for the shortest possible time (Phil Woolas, *Hansard* HC, 12 October 2009, Col 534W). In addition, this government argued that if families were not detained, there would, in some cases, have been a risk that they would abscond (Phil Woolas, *Hansard* HC Deb, 14 July 2009, Col 200).

At the time when this research was conducted, Home Office policy instructions stated that detention should only be considered where there were compelling reasons for concluding that it was necessary, such as evidence of a strong likelihood of the family absconding (UKBA 2011, 45.3). To ensure that children were detained for the shortest possible time, Home Office guidance stated that immigration officers and case owners should ensure that there were no outstanding barriers to removing a family from the country when the family were detained (UKBA 2011, 45.4-4.1).

In order to examine the claim that it was, in some cases, necessary to detain families because they were at risk of absconding, we gathered data on 82 families who were detained during 2009. We looked at the families' histories of compliance or absconding, and the way in which their risk of absconding was assessed. We found that only a small minority of families absconded at any point before being detained or during the research period. In addition, we did not find evidence of any clear correlation between the presence of factors which the Home Office regards as increasing risk of absconding, and families' levels of compliance. Our examination of 10 families' Home Office files (obtained by subject access request) showed that, in most cases, inadequate reasoning and evidence were recorded to support assessments of the risk of families absconding.

Data were also gathered on the extent to which these 82 families were detained while there were barriers to their removal. In a considerable number of cases, families were detained despite legal barriers, a lack of travel documentation or health barriers which meant they could not be removed from the UK. Examination of full Home Office files of 10 families showed that, in a number of cases, the safeguards intended to prevent families being detained when they could not be removed from the UK did not operate effectively.

Several other reports have found that decisions by immigration officers to detain asylum seekers and migrants can be arbitrary, subjective, and based on insufficient information. Weber and Gelsthorpe (2000) found that decisions to detain were, in some cases, based on an official's personal prejudices, broad policy objectives or the availability of bedspace, rather than consistent criteria or a reasoned assessment of the evidence in an individual case. They also found that reviews of detention were compromised by their lack of independence, and the fact that the process rarely involved a fresh look at the grounds for detention. Similarly, Latif and Martynowicz (2009) found that the immigration officers in their study did not use, and could not articulate, any objective or consistent criteria for making decisions to detain particular individuals. Instead, decisions were based on subjective factors, including the resource implications of the detention and the immigration officers' perceptions, feelings or suspicions about a person and their risk of absconding.

Crawley and Lester's 2005 report found that the Home Office's processes for ensuring that all barriers to removal were identified prior to a decision to detain were not always effective. The authors concluded that this increased the risk of children being detained when their removal was not imminent. Previous studies have shown that, in practice, asylum seekers and migrants have, in some cases, been detained despite barriers to their removal (Bruegel and Natamba 2002; Refugee and Migrants Forum 2007; Manchester Refugee Support Network 2009).

Mr Justice Hodge, former President of the Asylum and Immigration Tribunal, expressed concerns that inadequate evidence has often been put forward by Home Office presenting officers at bail hearings to support assessments of applicants' risk of absconding. In evidence to Parliament, he said that:

> *'The Home Office come along [to a bail hearing] and say, "We do not think they will turn up. We think there is a danger of them absconding. They are disruptive," and produce those kinds of problems. Quite often, we worryingly think they are not as evidence-based as they should be…'*
> (Joint Committee on Human Rights 2007, Q456)

Problematic decision-making methods can be compounded by administrative failures, which mean that decisions are based on inadequate or inaccurate information. The Parliamentary and Health Service Ombudsman's 2010 report on the UK Border Agency (UKBA) found that administrative practices within the agency are so poor that proper case records are often not kept:

> *'There are numerous examples where the Agency have been unable to perform at even a basic level of administration, such as reading and replying to letters, keeping proper records, keeping case files together and in the proper place, and notifying the applicant of their decision.'*

While the Ombudsman's report does not specifically consider decisions to detain, its findings suggest that maladministration within the Home Office could work to prevent adequate information being collected as a basis for decision-making about detention.

4 Were families at risk of absconding?

The previous government justified the detention of families on the basis that some families would abscond if they were not held in immigration detention:

> *'Detention is used because people do not want to be deported and so abscond… We want to keep families together: if there was an alternative, I assure the House that we would use it.'* (Phil Woolas, *Hansard* HC Deb, 14 July 2009, Col 200)

However, no figures on the number of families outside detention who did abscond were made publicly available by the previous government. Indeed, there is little publicly available data about the extent to which asylum seekers and migrants in the UK maintain contact with the Home Office when required to. There have been two main studies that addressed this question. Bruegel and Natamba's 2002 study, which tracked outcomes for 18 months for 100 immigration detainees who were released on bail, found that only eight people (8%) absconded. Furthermore, only two of these eight had been identified by immigration officers as being at high risk of absconding. Aspen's 2008 evaluation of the Solihull pilot, in which asylum seekers were given early access to an enhanced form of legal advice under legal aid, found that only two people out of the 242 involved in the pilot scheme absconded. This meant that the absconding rate was 0.4%, compared to 6.8% and 4.2% for control groups in Solihull and Leeds.

In addition, information provided to BID by the Home Office indicates that approximately 90% of asylum seekers and migrants who have been deemed to be at particularly high risk of absconding – and have therefore been electronically tagged – have fully complied with their tagging restrictions (Home Office 2009, Response to Freedom of Information Act request).

International studies have also found that the risk of asylum seekers and migrants absconding is low. An evaluation of an alternative to detention pilot in New York (Sullivan *et al* 2000) found that 91% of the participants who were released from detention to this pilot maintained contact and appeared for all their required court hearings. The International Detention Coalition's 2009 study found that since 2005, on average, only 6% of asylum seekers and migrants in Australia whose cases were processed outside detention absconded. Similarly, the Lutheran Immigration and Refugee Service's 2009 evaluation of an asylum seeker support programme in Canada found that less than 1% of service users absconded.

As part of the research for this report, we obtained information about whether the 82 families who participated and were detained by the Home Office during 2009 had any history of absconding. Only 8 of the 82 families absconded for periods before they were detained. Five out of these eight got back in contact with the Home Office voluntarily.

All 29 families released between January and August 2009 for whom we were able to obtain post-detention data reported regularly to the Home Office for the entire research period.

4.1 Definition of absconding

For the purposes of this research, absconding is defined as a consecutive series of failures by a family to meet the reporting requirements set for them by the Home Office, and/or to reside at the fixed address the Home Office has recorded for them, where there is no adequate explanation for these failures.

Asylum seekers and migrants are routinely required by the Home Office to report on a regular basis either to a police station or a designated immigration reporting centre. For the purposes of our research, families who had missed such reporting events were not defined as having absconded in cases where:

- the Home Office had accepted the reasons given by parents for failing to attend reporting events
- there was clear evidence of the reasons for the family not attending a reporting event
- the family had failed to report on isolated occasions, but had continued to reside at the address the Home Office had recorded for them, and had otherwise reported regularly
- the family had not reported, or had been recorded as not reporting, as a result of maladministration or errors by the Home Office. This would include, for example, cases where a family had been given contradictory information about their reporting conditions by staff in different parts of the Home Office.

A family might miss isolated reporting events for a number of reasons, including having no money to travel, a health emergency, or other obligations such as a solicitor's appointment or a court hearing. For the purposes of this research, the fact of a family having missed an isolated reporting event was not viewed as a sufficient basis to categorise them as having absconded, particularly as in many cases families would have been reporting weekly for long periods and continued to report after the isolated episode.

4.2 Did families maintain contact with the Home Office before and after their detention?

In total, 32 families who were clients of BID or The Children's Society Bedford were released from detention between January and August 2009. We sought to collect post-detention data for all of these families for six months following their release. Two families did not wish to take part, so post-detention data were collected for 30 families.

All 29 families for whom we were able to obtain this data reported regularly to the Home Office for the entire research period. This was confirmed by their legal representative, where they had one (27 families out of 30).

Table 5: Families maintaining contact after their release from detention

Did the family maintain contact with the Home Office after release?	Number of families
Yes	21
Missed isolated events and informed Home Office of reasons	7
Missed isolated events	1
Unknown	1
Total	30

Only 8 of the 82 families in this research had absconded for periods before they were detained. Five out of these eight families got back in contact with the Home Office voluntarily.

Table 6: Families maintaining contact before detention

Did the family maintain contact with the Home Office before being detained?	Number of families
Yes	49
Missed isolated events and informed Home Office of reasons	4
Missed isolated events	5
No – absconded and came forward	5
No – absconded and arrested	3
Unknown*	16
Total	82

* In 12 of these cases, families had been removed from the UK, and we had limited data on their case file, so it was not possible to gather information about their reporting record before they were detained. In two cases, it was judged inappropriate to gather further data on the clients as they were psychologically distressed following release from detention. In two other cases, we did not have up-to-date contact details for the clients and so were unable to gather this data from them.

4.3 Immigration histories of families who did not fully comply with Home Office contact requirements

This section gives contextual information about the histories of compliance of the minority of research participants who did not consistently maintain contact with the Home Office. Throughout this report, all names have been changed to protect the anonymity of participants.

Following the rejection of Patience's asylum claim, she was not in contact with the Home Office for a year and a half. She came forward voluntarily after this period, and her legal representative made fresh representations to the Home Office. She was detained shortly after this with her children, but was subsequently released, and six months after her release from detention she was reporting regularly.

Timothy and Louise claimed asylum three months after arriving in the UK, and following this, reported regularly until they were removed from the UK seven and a half years later, apart from an incident where they missed a series of reporting events. The family failed to report for six weeks, two and a half years after they claimed asylum. This occurred shortly after Timothy's asylum appeal was refused. Following this, the family came forward voluntarily, and their Home Office file indicates that they continued to live at the address the Home Office had recorded for them throughout this period. Subsequently, the family reported regularly for a further five years, including after being detained and released from detention and after having a number of legal applications refused.

Henry and Davina were in the UK for more than eight years before they were forcibly removed after being detained in 2009. They applied for asylum four days after entering the UK and maintained contact with the Home Office for the majority of their time in the UK. Six years after entering the UK, the family had a judicial review appealing the refusal of their asylum case dismissed, and two months later they did not report for 10 weeks. The family then voluntarily began reporting again, and reported for another six months. Following this, the family again stopped reporting to the Home Office for a further nine months. They again came forward voluntarily. They maintained contact with the Home Office for a further six months until they were forcibly removed from the UK; during this period, the family was detained twice.

Harriet claimed asylum two days after arriving in the UK and did not miss any reporting events for more than three years. Five months after she claimed asylum, her asylum appeal was refused. More than a year later, Harriet and her family were detained and subsequently released. Following her release from detention, Harriet missed a series of reporting events over a two-month period, although she did remain in contact with the Home Office by telephone and resumed reporting when she was encouraged to do so by her legal representative. She then continued to report for seven months, before again missing three reporting events over a three-month period. She was found to not be residing at the fixed

address the Home Office had for her. Prior to this, Harriet had applied to be housed in Home Office accommodation, and explained that it was no longer possible for her to continue residing at the private address she was living at. Following these events, Harriet resumed reporting and shortly after this she was detained and removed from the UK with her family. Interestingly, there is no mention of absconding in Harriet's Home Office documents.

Evie's asylum claim was refused one month after she applied, but she continued to report regularly for 19 months after this. She then absconded for 14 months before coming forward voluntarily. Following this, she maintained contact with the Home Office for two years and four months, before being prosecuted for shoplifting and sentenced to nine months' imprisonment. Following her criminal sentence, she was held in immigration detention. She was released from detention and continued to maintain contact with the Home Office for six months after her release, up to the close of data collection for this research. She had no outstanding legal applications six months after her release from detention.

Ina maintained regular contact with the Home Office for a year after applying for leave to remain in the UK. Shortly after the refusal of a legal application, she failed to report for five weeks and was not living at the fixed address the Home Office had for her. Four months later, she was arrested but not charged by the police, who put her back in contact with the Home Office. Following this, she reported regularly to the Home Office for two months until she was detained with her family. The family maintained contact with the Home Office for six months after their release from detention, up to the close of data collection for this research.

Terence and Emily entered the UK on a visitors' visa which was valid for six months. Two years later, Terence was arrested for working illegally. He then claimed asylum, and two weeks later the family failed to report. Two months after this, it was found that the family were not living at the address the Home Office had for them. Seven months later, the family was located by the Home Office, and shortly after this they were detained and removed from the UK.

George and Yasmin absconded for four years after they entered the UK and Yasmin's asylum claim was refused. Following this period, the family came forward voluntarily and George applied for asylum. The family then reported regularly as required until they were detained and forcibly removed from the UK.

Conclusion

The majority of families in our study reported regularly to the Home Office both before and after their detention. This finding raises serious questions about why families who did not have a history of absconding were detained, in some cases for long periods, and how the Home Office assessed their risk of absconding.

5

Home Office criteria for assessing absconding risk

Home Office policy sets out the criteria that immigration officers should consider when making a decision about whether to detain (UKBA 2011, 55.3.1). These criteria include a number of factors that are deemed to either increase or mitigate the risk of absconding. This section considers the extent to which families who participated in our research and had a history of absconding could have been judged to be at a higher risk of absconding on the basis of these Home Office criteria.

Home Office guidance states that asylum seekers and migrants are more likely to abscond if they have a history of non-compliance, if they have no close ties in the UK, and if they have no outstanding legal applications (UKBA 2011, 55). Analysis of the cases of the families who participated in this research did not show any clear correlation between the presence of these factors and families' actual behaviour in terms of absconding or maintaining contact.

In Section 9, we present our findings on families' motivations for either maintaining contact with the Home Office or absconding. This evidence shows that the reasons cited by families for their decision-making bear little relation to the factors deemed by the Home Office to index risk of absconding.

5.1 The relationship of previous compliance or non-compliance to absconding

A number of the questions which are considered by immigration officers when making a decision to detain relate to the extent to which the applicant has maintained contact with the Home Office or kept to the residence and reporting conditions imposed on them by the Home Office in the past (UKBA 2011, 55.3.1).

We analysed the research data to ascertain whether families who missed isolated reporting events were more likely to abscond. Of the 14 families who missed isolated reporting events before or after being detained, none had a history of absconding. Conversely, the eight families who did have a history of absconding did not miss any reporting events throughout the time when they were required to report, apart from the period when they absconded.

Only two of the eight families who absconded did so more than once. The other families who absconded did so only for a single period, and in several cases they maintained contact with the Home Office for long periods once they resumed reporting. For example, after absconding for six weeks, Timothy and Louise got back in contact with the Home Office and reported regularly for five and a half years, until they were removed from the UK.

The fact that six of the eight families who had absconded on one occasion did not repeatedly abscond calls into question the Home Office's assumption that a history of absconding in itself makes it likely that a family will abscond in the future.

5.2 Closeness of ties in the UK and risk of absconding

Another factor which is deemed by the Home Office to be relevant to assessing risk of absconding is the number of close personal ties someone has in the UK (UKBA 2011, 55.3.1; 55.6.3). If a person has 'close ties' such as relatives or friends in the UK, the Home Office believes they are less likely to abscond.

Most of the families who participated in this research and had a history of absconding had been in the UK for a number of years; one had been in the UK for more than 11 years before being detained. The average amount of time that families with a history of absconding had spent in the UK before being detained was five and a half years. By comparison, the 82 families who participated in this research had been in the UK for an average of five years.

Families who have spent such long periods in the UK are highly likely to have formed close personal ties. Analysis of the case files of two families who did have a history of absconding showed that they were closely involved with their local churches and had many friends there.

These findings do not suggest any clear relationship between the number of close ties a family has in the UK and the likelihood that they will abscond.

5.3 Outstanding legal applications and risk of absconding

Home Office guidance also suggests that people are more likely to stay in contact with the Home Office if they have outstanding legal applications, and are less likely to do so if they have no outstanding legal applications. This guidance invites immigration officers to consider the following questions when making decisions to detain:

> *'What are the individual's expectations about the outcome of the case? Are there factors such as an outstanding appeal, an application for judicial review or representations which afford incentive to keep in touch?'* (UKBA 2011, 55.3.1)

In 20 cases in this study, families were informed that their most recent legal applications had been refused before they were detained during the 2009 research period. However, in 19 of these 20 cases (the exception being Terence and Emily's family, whose case is outlined above), these families maintained contact with the Home Office up until the point when they were detained, despite knowing that their legal cases had been refused. In addition, although most of the 30 families who participated in post-detention research had ongoing legal cases six months after their release, eight of these families had no outstanding legal applications or had had their applications refused. Nonetheless, not one of these eight families absconded in the six-month research period after their release from detention.

In five of the eight cases where families had absconded at some point in their time in the UK, the family absconded fairly soon after the refusal of a legal application. However, four of these five families voluntarily resumed contact with the Home Office despite their legal situation, and continued to maintain contact even when subsequent legal applications were refused.

These findings show that in the majority of cases where families knew that their legal applications had been refused, they continued to maintain contact with the Home Office. Even in cases where families did abscond following the refusal of a legal application, in most cases they got back in contact with the Home Office voluntarily and continued to maintain contact despite the refusal of subsequent legal applications. These findings suggest that, in nearly every case, the refusal of legal applications was not in itself a sufficient motivation for the family to abscond.

5.4 Conclusion

As the number of families in this study who had a history of absconding was very small, it is not possible to draw any definitive conclusions from this sample.

However, the findings set out above suggest that the criteria used by the Home Office to evaluate risk of absconding would not have been able to predict with any accuracy whether the families who participated in this research would maintain contact with the Home Office or not. Analysis of families' cases did not show any clear correlation between factors which the Home Office regards as increasing the risk of absconding, and families' actual behaviour in terms of absconding or maintaining contact.

6

Home Office assessments of absconding risk

This section considers how the Home Office assessed the risk of absconding for the 10 families who participated in this research for whom we were able to obtain full Home Office files via subject access request. It sets out our findings on whether assessments of the risk of absconding were based on information that was adequate or accurate. We also examine whether factors suggesting a family had a low risk of absconding were given sufficient weight, and whether consistent methods and sound reasoning were used when assessing absconding risk. The 10 families discussed here are referred to here as families Q-Z for anonymity purposes.

As Section 4 outlines, we found that in all 29 cases where the Home Office judged it necessary to detain a family, and we were able to obtain data on their reporting record post-release, these families reported regularly to the Home Office for six months after their release. These findings in themselves raise questions about how the Home Office assesses the risk of families absconding.

The findings of the Home Office's electronic monitoring pilot also suggest that the department has not been able to effectively assess absconding risk for asylum seekers and migrants. Between October 2004 and February 2005, the Home Office piloted the use of electronic monitoring with 111 applicants who were selected on the basis that they were perceived to have a low risk of absconding. Of these 111 applicants, 92% maintained contact and did not abscond. Following this, electronic tagging was used in cases where the Home Office assessed the individual as having a high risk of absconding. However, the compliance rate of this group was the same as that of 'low-risk' applicants, at *'around 90%'* (Home Office 2009, Response to Freedom of Information Act request). In addition, the Home Office's evaluation of the 2004–5 pilot found that it would not have been possible for the department to predict that the applicants who absconded were at risk of doing so:

> *'Having reviewed the details of each case, there are no factors which would have indicated in advance that [the eight participants who absconded] were more likely to abscond than any of the other cases released.'* (Home Office 2009, Response to Freedom of Information Act request)

There is a fundamental lack of clarity and consistency in how the Home Office defines absconding. In December 2009, BID submitted a Freedom of Information Act request to the Home Office asking for clarification on this point. Despite the legal requirement for the Home Office to reply to this request within 20 working days, a response was not received for three months. The Home Office was not able to cite any criteria or guidance used by staff when making a decision about whether to define an applicant as an absconder. Their response simply stated that an absconder is defined as someone who breaches one or more of the conditions imposed on them by the Home Office, such as reporting. BID's request specifically asked whether a missed reporting event would count as an incident of absconding, even where the applicant had offered evidence to the Home Office of their reasons for missing the event. The Home Office did not respond to this question (Home Office 2010, Response to Freedom of Information Act request).

The findings presented below show that in a number of cases, families' risk of absconding was assessed on the basis of inadequate or inaccurate information, and that existing procedures for assessing risk of absconding were not consistently followed. In some cases, details of why a family was deemed to be at risk of absconding were only documented on their file in response to a bail application, at a stage when the Home Office was required to justify its decision to detain the family before a court.

6.1 Adequacy of information gathered to assess risk of absconding

In most cases, there was limited information on the 10 Home Office files we examined to document how the Home Office had assessed the family's risk of absconding. In some cases, it was apparent that this assessment was made on the basis of little contact with, or information about, the family. In other cases, it was simply asserted when the family was detained that they were at risk of absconding, but no evidence was cited to support this conclusion. In one case, it was evident from the file that a preparatory visit to gather further information about the family had not been carried out before they were detained, despite a recommendation by a Home Office staff member that this was needed. In a number of cases, the evidence put forward to support the claim that a family was at risk of absconding was inaccurate, or insufficient to justify the conclusions reached.

In addition, full reasons for detention were, in some cases, only recorded on the file after the family had been detained. In one case, the IS.91R form, which records the reasons for detaining a family, was only completed nine days after the family was detained. Furthermore, file reviews showed that in some cases, details of the Home Office's reasoning and evidence for deeming a family as being at risk of absconding were only recorded on the file in response to a bail application. In these files, there was no evidence that risk of absconding had been properly assessed until the Home Office was required to justify its decision to detain before a court.

Examination of case files also showed that in some cases, families were released by the Home Office on temporary admission, while at the same time documents were issued which stated that they were at risk of absconding and should continue to be detained. For example, in one case, a family was released on temporary admission the day after a monthly progress report was produced which said that it was necessary to detain the family because they were at risk of absconding.

Assessment of absconding risk on the family welfare form

During the period when this research was conducted, Home Office policy stated that the family welfare form was the key document in which staff were supposed to record information about why they considered it necessary to detain a family, before the family was detained (UKBA 2011, 45.3). Policy also stipulated that a family welfare form should be included on each family case file from the start of the family's claim, to allow changes in the family's circumstances to be taken into account throughout the asylum or immigration process (UKBA 2011, 45.1). However, the Chief Inspector of the UKBA's 2010 inspection of family removals found that the family welfare form *'was not completed effectively on a consistent basis'* and that *'there was a lack of consistent understanding about the purpose of the form and responsibility for its completion'* (Independent Chief Inspector of the UKBA 2010b, p3).

Our analysis of 10 Home Office files found that the family welfare form was only present in three cases. In all three, there were serious gaps in the information on this form, and the timing of entries suggested that the information included on the form had not properly informed the decision to detain the family.

In the case of family Z, information was only entered on the form 14 days after the family was detained. In family Y's case, information was entered on the form six days before detention. However, a note on the file on the same date detailed actions that had already been taken to facilitate the family's arrest. Information was only entered on family X's form five days before the family was detained, but by that point the Home Office had already investigated whether bedspace was available to detain the family.

In two out of the three cases where family welfare forms were on the file, these did not detail any reasons for detaining the family. The 'Pre-detention planning' section which asks 'Is detention essential?' was left blank in both cases.

In family Y's case, the 'Pre-detention planning' section of the form did give a reason why detention was considered essential – that the family failed to leave the UK as required after their asylum claim was refused. The form stated that: *'They have demonstrated that they will not depart voluntarily so they are deemed suitable for enforced removal.'* However, this family reported in a research interview that their solicitors had stopped acting for them before their asylum claim was concluded and had not informed the family that their claim had been refused. This family explained that they had therefore not had a meaningful opportunity to seek voluntary return, as they were not aware that their claim had been refused.

Further insight into the level of information about families which is available to Home Office staff assessing absconding risk was also revealed by an entry in the 'Personal risk assessment' section of family X's family welfare form. In two cases, this section of the form was left blank. In family X's case, this section was completed by their Home Office case owner, who revealed that she had only met the father of the family once, several months before:

> *'I have only dealt with the main applicant. I have met him once when I interviewed him about his asylum claim... The applicant was co-operative. He made no threats and was not agitated.'*

In this case, the assessment made of the family's risk of absconding before they were detained appears to have been based on very limited information about, and contact with, the family in question.

Assessment of absconding risk on the IS.91R and in detention reviews

During the 2009 research period, the main documents in which Home Office staff were required to set out their reasons for detaining and continuing to detain families were the IS.91R form and detention reviews. The IS.91R is a tick-box form in which Home Office staff record the reasons why they have detained someone. The detainee should be given a copy of this form at the point when they are detained. During the period of this research, once a family had been detained, the Home Office was required to carry out regular internal reviews of its decision to detain – after 24 hours, 7 days, 10 days, 14 days, and then every 7 days. Detention reviews are intended to act as a safeguard to ensure that the decision to detain is based on the current circumstances of the case, and that detention remains appropriate (UKBA 2011, 55.8).

There is no procedural requirement for Home Office staff to provide evidence to support the reasons given for detention in the IS.91R form. The reasons that can be ticked here include *'You are likely to abscond'* and '*You have failed to give satisfactory or reliable answers to an immigration officer's enquiries.*' In some of the files examined for this research, these assessments were not accompanied by documents detailing any clear evidence or reasoning for the conclusions reached. This meant that in several cases, it was not possible to judge whether the decision to detain was based on accurate information.

Copies of IS.91R forms and/or detention reviews were present on the files of 9 of the 10 families for whom we were able to obtain whole Home Office files.

In five cases, families T, U, V, X and Z, the families were not deemed to be at risk of absconding in either the IS.91Rs or detention reviews on their file. These families were detained for 12, 17, 25, 66 and 78 days respectively, despite legal barriers to their removal.

In two cases, those of families R and Y, the IS.91R form stated that the family was at risk of absconding, but there was scant evidence to support this statement in the Home Office documents that were on the families' files.

In family R's case, the IS.91R form issued to them when they were detained did not state that they were at risk of absconding. However, after they had been detained for a month, a new IS.91R form was issued to them, which did state that they were at risk of absconding. This form also stated that the family had previously failed to leave the UK when required to do so. Three detention reviews that were on the file did not mention any risk of the family absconding, but the fourth review notes that on three isolated occasions over a period of eight months, the family had failed to report. However, this review did not suggest that the family had absconded on these occasions.

In family Y's case, an IS.91R form was issued to the family nine days after they were detained. This form stated that the family:

- were likely to abscond
- had used or attempted to use deception in a way that led the Home Office to consider they may continue to deceive
- had failed to give satisfactory or reliable answers to an immigration officer's enquiries
- had not produced satisfactory evidence of their identity, nationality or lawful basis to be in the UK
- had previously failed or refused to leave the UK when required to do so.

The family was detained for 49 days, but their detention reviews did not mention or provide any evidence to support the reasons for detention given on the IS.91R form. The Home Office documents on the parents' file did not provide any details of why the family was deemed likely to abscond, what occasions they had used deception on, and when they had failed to give satisfactory answers to an immigration officer's enquiries.

It is unclear why family Y was deemed not to have produced satisfactory evidence of their identity, nationality or lawful basis to be in the UK. The family had valid travel documents, which provided evidence of their identity and nationality when they were detained.

Family Y only discovered that their asylum claim, which was the basis for their residence in the UK, had been refused at the point when they were detained. The family reported that their solicitors had stopped acting for them before their asylum claim was concluded, and had not informed the family that their claim had been refused. This family explained that they had therefore not had a meaningful opportunity to leave the UK when required to do so by the Home Office.

In two cases, those of families S and W, the files contained some documented evidence to support the Home Office's assessment of these families as being at risk of absconding.

In family S's case, the parent's IS.91R form did not state that they were at risk of absconding, but did say that:

- they had used or attempted to use deception in a way that led the Home Office to consider they may continue to deceive
- members of the family had *'unacceptable character, conduct or associations'*.

After the family had been detained for more than seven days, detention reviews began to state that they were judged to be at risk of absconding. The reasons given were that the family had overstayed a visa granting them temporary permission to be in the UK, and a member of the family had been convicted of using false documents to work in the UK.

A refusal of an application for the family's release also stated that they were viewed to be at risk of absconding because they:

- were subject to deportation
- had only applied for residency in the UK after being detained
- had moved house without seeking permission from the Home Office.

The statement that the family only applied for residency after being detained was inaccurate, as the family had an ongoing application at the point when they were detained. The statement that the family moved house without seeking permission was also inaccurate, as there was a letter from the family's solicitor on their Home Office file in which permission to move house was sought. This family did maintain contact with the Home Office for the six-month research period after their release from detention.

In family W's case, there were no copies of detention reviews on the parent's file, but the IS.91R form stated that the family:

- was likely to abscond
- had used or attempted to use deception in a way that led the Home Office to consider they may continue to deceive
- had failed to give satisfactory or reliable answers to an immigration officer's enquiries
- had not produced satisfactory evidence of their identity, nationality or lawful basis to be in the UK
- had *'unacceptable character, conduct or associations'*.

Documents on the parent's file, including summaries of Home Office reasons for detention produced for bail hearings (bail summaries), detail the reasons for some of these findings.

The bail summaries produced for the father of family W do not detail why he was judged to have failed to give satisfactory or reliable answers to an immigration officer's enquiries. However, they do cite a number of factors that had led the Home Office to judge that the applicant and his family had a poor immigration history, had used deception, and did not have a lawful basis to be in the UK.

In two bail summaries, the Home Office states that the family entered the UK on false documents, and that the mother of the family did not leave the UK voluntarily after her asylum claim had been refused. These summaries also state that the mother had previously absconded, and that the father lived in the UK illegally for a number of years and only applied for asylum after he was detained. The author of the summary argues that the lateness of this asylum application suggests that it is unlikely to be genuine:

> *'[The applicant] has only attempted to regularise his stay by claiming asylum after removal directions were served on him. This seriously casts doubt on his credibility to have a well-founded fear of persecution and it is believed this application has been made purely to frustrate removal.'*

The summary concludes that family W's immigration history means that it is likely that they will abscond in order to frustrate their removal from the UK. The summary also states that the family should be detained because the father has been arrested for a driving offence, and his release is not therefore deemed conducive to the public good.

There are a number of issues with the evidence used to support the Home Office's reasons for detaining family W. There is no evidence in the Home Office file to support the statement that the mother absconded or missed any of her reporting requirements, and Home Office documents show that she was maintaining some contact during the time she is alleged to have absconded, as she made further submissions to the Home Office during this period. In addition, the summary does not take account

of the fact that the father had reported to the Home Office that shortly after his arrival in the UK, a solicitors' firm had provided him with false documents granting him leave to remain, which he believed to be genuine. The applicant reported that it was only when he was arrested that he realised that these documents were not genuine. A note on the file shows that this matter was known to the Home Office soon after the family was arrested, and the department was planning to investigate this further, but had taken no action to do so two months after the family was detained.

The argument that the family was at risk of absconding because they entered the UK on false documents did not take account of the facts that the family had an ongoing asylum claim, and refugees who are fleeing persecution are immune from criminal liability for entering the UK illegally (subject to certain criteria), as they may have entered the UK illegally out of necessity.[5]

The reasoning that was used to assess the family's risk of absconding conflated the issues of the credibility of their asylum claim and the likelihood of them leaving the UK voluntarily with their risk of absconding. This family did maintain contact with the Home Office for the six-month research period after their release.

6.2 Consideration of factors which suggest that a family will not abscond

Home Office guidance states that when decisions to detain are made, immigration officers should consider all relevant factors, including those which are perceived to make it less likely that someone will abscond. According to the Home Office criteria, these factors include: a history of reporting regularly; a history of making legal applications in an attempt to regularise status in the UK; close ties to family or friends in the UK; and outstanding legal applications, which mean the person cannot be removed (UKBA 2011, 55.3.1; Home Office 2005b).

In four of the cases discussed above, those of families R, S, W and Y, the IS.91R forms or detention reviews showed that the Home Office deemed them to be at risk of absconding. However, in all four cases, some factors which, according to Home Office criteria, would reduce the likelihood of absconding were not considered.

In three out of the four cases, families had reporting requirements before being detained, and in all three cases they kept to these conditions, only missing isolated events. In two cases, there was no evidence that this had been considered when the family's risk of absconding was assessed. In family S's case, a letter refusing the family release acknowledges that they had reported as required, but argues that *'this was at a time when [they] would not see removal as being in prospect'*. However, this is not supported by the facts of the case. Although the family had an ongoing immigration claim when they were detained, the family had an appeal of the order to deport them refused four months before they were detained, and the mother of the family had been detained previously.

In all four cases, these families had made legal applications in an attempt to regularise their stay in the UK. However, there was no evidence that this had been considered when their risk of absconding was assessed.

In three cases, the families had considerable close ties to the UK, as they had lived here for 4, 6 and 10 years respectively when they were detained. In the case of family Y, who had been in the UK for six years, a detention review stated that the family had no relations or close ties in the UK. This statement was inaccurate, as members of the family had studied and worked in the UK for several years, and had close links with many people, including their sureties, who accommodated them in their own house after the family was released from detention. For family W, who had been in the UK for 10 years, the bail summary notes that they do not have relatives in the UK, but does not acknowledge the family's close friendships and community ties. In the case of family S, who had been in the UK for four years and where the mother was engaged to an EU citizen, the family's ties in the UK were not noted in the detention reviews. However, a letter refusing to release the family notes that the mother's fiancé is willing to be a surety for

5 UN Convention and Protocol relating to the Status of Refugees (1951) Article 31; R v Asfaw [2008] UKHL 31.

her, but argues that he had not been able to ensure that she complied with Home Office requirements in the past and so could not be relied upon to prevent the applicant absconding.

All four families were detained for considerable periods while they had ongoing legal applications – 57 days, 49 days, 45 days and 30 days respectively. Home Office guidance states that outstanding applications can afford applicants an incentive to keep in touch with the Home Office (UKBA 2011, 55.3.1). However, there was no evidence that this had been taken into account when the families' risk of absconding was assessed during reviews of their detention.

6.3 Use of inaccurate information in assessments of absconding risk

In a number of cases, we found that inaccurate information was used to assess a family's risk of absconding. As noted above, and in Section 7.3, in some cases, immigration officers based decisions on an inaccurate understanding of the dates when legal applications were made or concluded, or at what point families were informed that their applications had been refused. In a number of other cases, assessments were based on inaccurate records of families' reporting histories.

In the cases of 4 of the 10 families for whom we had access to Home Office files, families were wrongly recorded as having broken their reporting or residence restrictions. In two cases, it was clear from the file that this misinformation contributed to a conclusion that the family was at risk of absconding. In addition, two families who were interviewed for this research reported that they were wrongly recorded as having absconded by the Home Office.

In the case of family S, the Home Office recorded the family as having absconded because the family had not informed them they were moving house. However, a copy of a letter in which the family's solicitor did inform the Home Office of their change of address was on their Home Office file. In addition, the family was recorded as having missed two reporting events. However, it would have been impossible for them to attend these events as they were detained when they occurred. Family R was also recorded as having missed a reporting event during the time they were in detention.

A parent in family U was recorded as having missed two reporting events. However, on both these occasions, there were data on the parent's Home Office file that demonstrated that they had communicated with the Home Office about their reasons for missing these events. In one instance, a child in the family had died the day before the reporting event, and the mother of the family had forwarded a doctor's letter to the Home Office explaining that she had been hospitalised.

The father of family T was wrongly recorded in a bail summary as having absconded for four years. The bail summary stated:

> *'The applicant was only detected during an enforcement visit by members of the immigration service. It is unlikely that the applicant would have brought himself to the attention of the authorities given that he has remained at large for approximately four years without having sought to regularise his stay.'*

The family was refused bail on the grounds that the father *'managed to disappear with his family for some four years before being found by chance by the UKBA'*. However, the reporting record noted on the family's Home Office file demonstrates that this information was entirely inaccurate. The family had reported regularly for six years, and was reporting weekly when they were detained. They had made numerous legal applications during this time in an attempt to regularise their status in the UK.

In two cases, families who were interviewed for this research said that the Home Office had wrongly recorded them as having absconded. In one case, Bridget reported that she had been told by her case owner that her reporting requirements had changed and she did not need to report on a particular week. However, she said that when she did not report, the Home Office sent her a letter to say she had been recorded as absconding, and this had been used against her when she was detained. In the second case, the mother of the family, Angela, said that she had been recorded as absconding during a period when she had a valid UK visa:

> *'They tried to lie in their reports that I absconded. And my solicitor asked: "Did you abscond?" I said "No", so they looked back into their reports and they found that I never absconded. They were talking about [year X], so I said look at my visa, it was still fine at that time. So even their records were wrong. So that's why they had to leave it because they discovered they had made a mistake.'*

6.4 Use of flawed reasoning in assessments of absconding risk

In a number of cases, there was evidence in families' Home Office files that flawed reasoning was used to assess their risk of absconding. Some of the arguments put forward by immigration officers suggested that there should be an assumption that a family was at risk of absconding, and that the burden of proof was on the family to demonstrate that they were not. In some cases, the fact that a family could be removed from the UK was taken in itself to be evidence that they might abscond. In others, the fact that a family had made legal applications was viewed as evidence of an absconding risk. Interestingly, this meant that once a family was in detention, whether they put in legal applications or not, both courses of action could be used to justify the conclusion that they were at risk of absconding.

In the case of family W, the Home Office's bail summary gave the possibility that the family could leave their home address as a reason for detention:

> *'The mother and children live in a small flat in rented accommodation. There is nothing tying this family to this address and it would be easy to leave at short notice and move elsewhere without informing the Home Office.'*

This reasoning appears to take a statement that it would be possible for the family to abscond as useful evidence in assessing the likelihood of them absconding.

In the cases of families S and W, the facts that they were subject to removal and that they had made legal applications while in detention were both used at different points in their detention as evidence that they were likely to abscond.

In family S's case, a letter refusing to release the family states that:

> *'[The mother of the family] is the subject of a deportation order signed on [xx date] and we submit that this removes her incentive to comply with any conditions of release.'*

This argument ignores the fact that this family was subject to deportation for more than four months before they were detained, and yet continued to maintain contact with the Home Office.

In both cases, it was also argued that the families' actions in making legal applications after being detained showed that they were at risk of absconding. In family S's case, the Home Office argued that:

> *'[The mother of the family] only claimed for residency in the United Kingdom on [xx date] having been made subject to a deportation order. The timing of this application suggests that it was an*

attempt to frustrate removal. [The applicant] has shown a blatant disregard for the laws of the UK and would have no incentive to comply with any terms or conditions were bail to be granted.'

This reasoning ignores the fact that the family had outstanding legal applications when they were detained, which were refused while they were in detention. The most likely explanation for the family appealing these refusals is that they wished to be granted status in the UK and therefore avoid removal. However, this does not in itself suggest that the family have a disregard for the laws of the UK, or that they would be likely to abscond.

As noted in Section 6.1 on pages 35–36, in the case of family W, the assessment of risk of absconding in their bail summary conflated the issue of the strength of the applicant's asylum claim with the family's risk of absconding. The summary argued that the timing of the application *'casts doubt on [the applicant's] credibility to have a well-founded fear of persecution'*, and that this was a reason to detain the family. The applicant had put forward reasons for the timing of his application which had not yet been considered and investigated by the Home Office at the time when the bail summary was written. In this case, it appears that speculation and prejudgements about the strength of an asylum claim which was still being considered were used to assess absconding risk. As already noted, large numbers of families are refused asylum, but the available evidence suggests that only a small minority of families abscond. The possibility that an applicant's asylum claim will, at some point in the future, be refused is not in itself an adequate reason to assess a family as being at risk of absconding.

6.5 Conclusion

Our examination of 10 families' Home Office files showed that, in most cases, inadequate reasoning and evidence were recorded to support assessments of the risk of families absconding. In most of the cases where reasons and evidence were given, the information contained inaccuracies and the reasoning was flawed. Several families were wrongly recorded as having absconded. Factors which might make it less likely that the family would abscond, such as a history of reporting regularly, were often not considered when risk was assessed. It is of grave concern that decisions to detain families, which will have had very serious consequences for the welfare of children in these families, were, in a number of cases, made on the basis of inadequate and inaccurate information.

In some cases, details of the Home Office's reasoning and evidence for deeming a family to be at risk of absconding were only recorded on the file after the family had been detained for some time – for example, in response to a bail application. This suggests that reasons may have been produced to justify the decision to detain *after* the decision had been taken.

The use of inaccurate information and flawed reasoning in assessing the risk of absconding can also have a negative impact on families' relationships with the Home Office. Interviews we carried out with families showed that in a number of cases, parents viewed the Home Office's decision to detain them as arbitrary and unfair. For example, Sarfaraz expressed the view that his reporting record had not been taken into account by the Home Office when they made the decision to detain him and his family:

'Me and my wife have been reporting every week. If you are asking us to report every week, at least give us that much respect or human rights of not coming to catch us as if we are the biggest terrorists or criminals in the world. If you are asking us to report, consider how we have been reporting to you, consider the history, consider the whole case that this family has been reporting to you every single week for [several] years. So give them at least that respect.'

7

Was families' removal from the UK imminent?

This section considers the extent to which, for the families involved in our research, their removal from the UK was imminent at the point when they were detained, and during their detention.

During the period when this research was conducted, the Labour government argued that children were only detained as a measure of last resort, for as short a time as possible to effect their removal from the UK *(Hansard* HC 12 October 2009, Col 534W).

However, the evidence presented below shows that a considerable proportion of the 82 families in this research were detained for long periods in an open-ended manner, despite legal, documentation or health barriers to their removal from the UK.

The section below sets out how many families had removal directions when they were detained, and how long families spent in detention while no directions were set for their removal. We then present our findings on the extent to which families were detained despite the absence of travel documents necessary to effect their removal from the UK. The report then considers the detention of families with legal barriers to their removal, and finally, the extent to which health issues that could prevent removal were taken into account when decisions to detain families were made.

7.1 Barriers to removal when families were detained

Before a family can be forcibly removed from the UK, directions for their removal need to be set by the Home Office. These directions specify when the family will be removed, and to which country. Families are normally given these directions, called removal directions or RDs, at least 72 hours before their planned removal, to give them reasonable notice. During the period when this research was conducted, Home Office policy stated that directions for a family's removal should be set before they were detained (UKBA 2011, 45.4.1).

Our research found that while the majority of families did have removal directions set before they were detained, in three cases, removal directions had not been served on the families at the point of detention. All three of these families had removal directions served the next day, while they were in detention. This delay will have increased the length of time spent in detention by these families.

As Table 7 shows, 79% of the removal directions that were set for families who participated in our research were subsequently cancelled, and only a minority resulted in a family's removal from the UK. Removal directions were repeatedly set and cancelled for the majority of families because of outstanding barriers to their removal from the UK.

Table 7: Number of removal directions and their outcome

Outcome	Number of removal directions
Cancelled	131
Family forcibly removed	29
Family 'bounced back' - forcibly removed and immediately returned to the UK	3
Unknown	2
Total	165

In three cases, families were forcibly removed from the UK and flown to another country, but did not leave the airport in the country they were removed to and instead 'bounced back' to the UK. In one case, this was a result of legal barriers to the family's removal, as the family had an ongoing legal case when the Home Office attempted to forcibly remove them. In another case, the family could not be removed because of issues with travel documents, which had not been resolved before the family was detained. The reasons for the third family being returned to the UK are unclear.

The National Audit Office (NAO) estimates that forcibly removing a single person from the UK costs between £7,900 and £17,000 (NAO 2009). According to these estimates, the failed forcible removal of these three families, comprising eight people, will have cost between £63,200 and £136,000. In addition, as discussed below, parents reported that the experience of being forcibly removed and flown back to the UK caused extreme distress to them and their children.

On average, families had no removal directions in place for 64% of the time that they spent in detention. A breakdown of the number of days that families spent in detention while no removal directions were set for them is given in Table 8. This shows that, of the families we have this data for, only four had removal directions in place for the entirety of their detention, and 33% were detained for more than a month with no removal directions in place. The cost of detaining these families for periods while they had no removal directions in place is estimated as £637,560.[6]

Table 8: Time spent in detention without removal directions in place

Days detained without removal directions in place	Number of families
0 days	4
1 – 5 days	6
6 – 10 days	4
11 – 20 days	10
21 – 30 days	8
31 – 40 days	10
41 – 50 days	7
51 – 60 days	4
61 – 70 days	3
71 – 80 days	3
Unknown	23
Total	**82**

6 This figure is based on government estimates that the average cost of detention was £120 per person per night (*Hansard* HL, 4 February 2010, Col 1462), combined with the fact that in this research, the average family had three members, and families were detained for a total of 1,771 days with no removal directions in place.

Furthermore, even when families did have removal directions, they could not always be removed for the entire period for which removal directions were in place. In a number of cases, families had removal directions set while there were legal, documentation or health barriers to their removal. In some cases, these removal directions were labelled as 'provisional' in recognition of the fact that the family could not currently be removed, and it was not entirely clear when or if it would become possible to remove them.

We now move on to consider the documentation, legal and health issues that meant that families could not be removed for the majority of their time in detention.

7.2 Families detained despite travel documentation barriers to removal

Nine families (11% of our research sample) were detained despite not having travel or identity documents. It is not possible to forcibly remove someone from the UK unless they have some form of travel documentation which the destination country will accept as evidence that they are a national of that country.

In some cases, organising travel documentation can be a lengthy process, as a number of embassies have long waiting times to produce this documentation, and may require evidence of nationality which is difficult to obtain (Home Affairs Select Committee 2003, paras 56–59; Independent Chief Inspector of the UKBA 2010a, p13).

Many families were unclear about what their situation was in terms of travel documentation, and this information was often not available from families' BID or The Children's Society case files. However, Table 9 shows that while 27 families did have travel documentation when they were detained, at least nine families had no travel documents at this point.

Table 9: Families in possession of travel documentation at time of detention

Did the family have travel documents when they were detained?	Number of families
No	9
Yes	27
Unknown	46
Total	**82**

Full Home Office files were obtained for two of the families who had no travel documents when they were detained. The files show that family S was in detention for at least 35 days while a member of the family did not have any valid travel documents, which meant that the family could not be removed. A Home Office official justified the continued detention of the family on the basis of their opinion that:

> *'A travel document is required, but I envisage that this should be obtained within a reasonable timescale.'*

Family X was detained for less than two weeks, but for the first four days of their detention it was not possible to remove them as one family member did not have any travel documents.

Two other families whose Home Office files we obtained had emergency travel documents in place on entering detention, but these documents subsequently expired while they were in detention. One of these families could not be removed for 30 days and the other for nine days while they awaited new travel documents.

Many of the families who participated in our research did not have a clear understanding of which periods of their detention they had travel documents in place for. It was therefore not possible to obtain a clear picture of the overall extent to which families were detained while there were documentation barriers to their removal. However, it is worth noting that there were documentation barriers to removal during detention for 4 of the 10 families whose Home Office files we examined for this study.

It is also significant to note that one family 'bounced back' after being removed from the UK as they were not accepted in their destination country due to inadequate travel documentation.

The findings presented above show that children in our research sample were held in detention when it was plainly not possible to remove their families from the UK due to unresolved travel documentation issues.

7.3 Families detained despite legal barriers to removal

In most cases, a new legal application by a family that has not been responded to or concluded by the Home Office or the courts presents a legal barrier to removing the family from the UK. There are a few exceptions to this rule, which are set out below.

Most of the families who participated in this study had ongoing legal applications which presented a barrier to removal for part of their detention. One family was detained for more than 80 days while there were legal barriers to their removal. The cost of detaining these families while they had outstanding legal representations was approximately £406,800.[7] Almost three-quarters of the families for whom we have these data still had outstanding legal applications six months after their release from detention.

Government policy states that immigration detention *'must be used sparingly, and for the shortest period necessary'* (UKBA 2011, 55.1.3). However, in cases where applicants in detention are seeking permission to apply for a High Court judge to review a decision on their asylum or immigration case, UKBA's *Enforcement Instructions and Guidance* state that:

> *'Normally detention is maintained while a JR [Judicial Review] permission application is expedited as it is considered removal is still imminent.'* (UKBA 2011, 60.12.1)

This guidance states that the anticipated timescale for resolving such applications is three weeks, if the application is refused.

Ministerial assurances during our research period that children were detained only as a last resort and for the shortest possible time (*Hansard* HC 12 October 2009, Col 534W), in line with the UN Convention on the Rights of the Child (Article 37 (b)), would suggest that families should not have been detained for periods of weeks while they awaited the outcome of judicial review permission applications. However, our research shows that, during the 2009 data collection period, a number of families were held for long periods while they awaited the outcome of such applications. One of the families who participated in this research waited for six and a half weeks in detention for the outcome of their application for permission to seek judicial review, which was being expedited.

The Home Office's response to the Home Affairs Committee's 2009 report on detention of children stated that a decision about whether a family should be detained while a judicial review application is considered would be dependent on *'the perceived merits of the case'* (Home Office 2010b). This statement suggests that immigration officers were encouraged to prejudge the outcome of a High Court judge's consideration of a judicial review application, and to make decisions about whether to continue to detain a family on this basis.

7 This figure is based on government estimates of the average cost of detention as £120 per person per night (*Hansard* HL, 4 February 2010, Col 1462), and our research, which showed that the average family had three members, and families were detained for a total of 1,130 days while there were legal barriers to their removal.

It is unclear how an immigration officer would be able to accurately predict the outcome of a judicial review, given that they do not have the training or experience required to make judgements on such cases. In addition, even if an officer were able to correctly predict that an appeal would not be successful, this would not alter the fact that judicial review proceedings often take long periods to resolve, and immigration officers making decisions to continue detention cannot necessarily accurately predict how long a family will be detained while they await the outcome of a judicial review.

In relation to this, it is worth noting that new legal applications do not always present a barrier to removal, particularly where they are judged to be repetitious. For example, judicial review permission applications which are considered to be repetitious of applications made in the preceding three months, or to raise material that could reasonably have been raised in a recent preceding judicial review application, would not normally present a barrier to removal (UKBA 2011, 60.7). In addition, where permission to apply for judicial review is refused by a High Court judge, the judge can stipulate that further applications on the same matter would not present a bar to removal.

The research findings presented below show that families who were detained for long periods often had ongoing applications six months after their release from detention. This demonstrates that, regardless of whether these families' applications eventually succeed or not, keeping them in detention until their cases were resolved would have resulted in these children and families being detained for very long periods.

Examination of Home Office files showed that in some cases, families were detained for long periods while they had ongoing legal applications, despite the fact that the Home Office staff dealing with their cases could not estimate any timescale within which these applications would be resolved.

The evidence presented below also contains several examples of operational practice by Home Office staff which contravened the Home Office's own policies. These include: families being detained before their legal applications had been resolved; attempts to remove families from the UK where there were legal barriers to removal; and families being detained at a time when there were no forced returns to their countries of origin.

Family detained when there were no returns to their country of origin

One of the families who participated in this study was from Sri Lanka. Information disclosed by the government as part of a case in the High Court showed that the Home Office did not forcibly remove anybody to Sri Lanka from 25 April 2009 to October 2009, while it was undertaking a review of the conditions there (B (Sri Lanka) v SSHD [2009] EWHC 2273 (Admin) Para 18). The family's detention took place within this period. At this time, there was extensive violence taking place in Sri Lanka and mass population movements were occurring as a result of the ongoing civil war (*Hansard* HL 29 April 2009, Volume No. 710, Part No. 67, Written Ministerial Statements: Sri Lanka; Borger and Chamberlain 2009). This family was therefore detained for a period when there was no possibility of removing them from the UK.

Mae, the mother of the Sri Lankan family concerned, reported that detention had a serious negative impact on her and her family. It was not possible to complete a research interview with her because of her extreme distress when speaking about her detention. During the interview, she said that she was suicidal:

> *'I can't sleep because I am so worried. And I am always scared, so my heart beats, I'm always in a state of anxiety and tension and fear. I'm constantly on the lookout, so when there's a car that comes out, I would run to the window to see is there someone coming to get me. It's those times when I was detained - it's living with that all the time. I'm just afraid that I might be detained again.*

> *'My [child] also cries a lot at night – there is no reason, so in [their] sleep [they] cry out, and at times [they] will go and sit in a corner and not speak to anybody. I have nothing to live for. I am very afraid and very anxious. Life seems horrible. I am living only for my [child], otherwise I wouldn't be living. I just survive because I fear what would happen to [them] if I'm not there.'*

Families detained despite outstanding legal applications

As noted above, Home Office policy during the period when this research was conducted stated that there should be no outstanding barriers to a family's removal at the point when they were detained (UKBA 2011, 45.4.1). However, our research found that while most families did not have any legal applications outstanding at the point when they were detained, six families did have outstanding applications.

Most of these six families' legal applications were resolved on the second or third day of their detention. However, for one family, these legal representations were not resolved until they had been in detention for 19 days, during which time two sets of removal directions had been cancelled.

Five of the six families who had legal representations ongoing at the point when they were detained were eventually released from detention; only one of these families was removed following this period of detention.

A breakdown of the number of families who had outstanding legal applications when they were detained is given in Table 10.

Table 10: Number of families with outstanding legal applications when they were detained

Did the family have outstanding legal applications at the point when they were detained?	Number of families
Yes	6
No	58
Unknown	18
Total	**82**

As Table 11 shows, 63% of families for whom we have this information did not know that their most recent legal applications had been refused until the day they were detained. Because these families were only informed of the refusal at the point of detention, they had no opportunity to challenge this decision outside detention, and in a number of cases were detained for long periods while they made such challenges (see Table 12).

Table 11: Number of families who knew the outcome of their most recent legal application before they were detained

Did the family know the outcome of their most recent legal application before they were detained?	Number of families
Yes	20
No	34
Unknown	28
Total	**82**

On average, families could not be removed as a result of outstanding legal applications for 50% of the time they spent in detention.[8] Seventy sets of removal directions were cancelled as a result of new legal applications or interventions from MPs, which created legal barriers to removal.

Table 12 shows that 29% of families were detained for more than 20 days while they had outstanding legal applications.

8 This figure is based on data for 46 families for whom we had complete information

Table 12: Number of days spent in detention while ongoing legal applications were in place

Days in detention with ongoing legal applications	Number of families
0 days	0
1–5 days	7
6–10 days	6
11–20 days	9
21–30 days	12
31–40 days	2
41–50 days	5
51–60 days	2
61–70 days	1
71–80 days	1
81–90 days	1
Unknown	36
Total	**82**

As part of this study, we were able to collect post-detention data on 30 of the 32 families who were released between January and August 2009. The outcomes of their legal cases are set out in Table 13. As these data show, 23 of these families still had ongoing cases or other barriers to their removal six months after their release from detention. These findings are consistent with Bruegel and Natamba's 2002 study, which found that 50% of their research participants were still awaiting a decision on their immigration or asylum case 18 months after release from detention, and 6% had been granted leave to remain in the UK.

Table 13: Outcome of legal cases

Case outcome	Number of families
Ongoing (initial asylum claim)	2
Ongoing (asylum appeal)	2
Ongoing (fresh asylum claim)	5
Ongoing (immigration application)	1
Ongoing (immigration appeal)	1
Ongoing (judicial review)	8
Awaiting documentation	1
Other barriers to removal[9]	2
Refused	1
Removed	4
Unknown	3
Total	**30**

9 One family's asylum claim had been refused one week before they were interviewed for our research, six months after their release from detention. Shortly after this, the family appealed this decision. The other family had no outstanding legal applications six months after their release from detention, but the children of the family were in the care of social services, and their mother's solicitor reported to us that removing the mother without her children would have raised fresh human rights issues.

In the cases of three of the families who lodged judicial reviews while in detention, it was subsequently found that the Home Office had made errors in the way these families' cases were considered, so they needed to be looked at again in full. In addition, three further families that we know of who lodged a judicial review during their detention had been granted leave to remain in the UK at the time of writing this report, despite the Home Office earlier having detained these families for the purposes of forcible removal.[10]

Attempted removals despite legal barriers

As outlined in the previous sections, in some cases, the Home Office set removal directions and attempted to remove families despite legal barriers to their removal. Families reported that this process caused them extreme distress. In addition, this led to a waste of public resources, as flights for the families had to be cancelled.

In one case, a family was forcibly removed to their country of origin, but had to be brought back to the UK when it became clear that their removal was not lawful. The father of this family said that this experience had an extremely negative impact on himself and his wife:

> *'Very, very stressful. We both, me and [my wife], see nightmares almost every night. This also affected us. I mean, this is torture, this is humiliation, with the child and family, to treat us in this way. Now I can see how inhuman behaviour is also carrying on in this country, but nobody knows about it.'*

In another case, the Home Office attempted to put Laura's family on two flights in one day. Force was used against Laura at the airport and she was split from her children during one removal attempt. Following this, she was informed that her removal directions had been cancelled as a result of legal barriers to her removal, and returned to a detention centre, but on arriving in detention was issued with a new set of removal directions, which the Home Office later explained had been issued in error. As Laura explained:

> *'[Later], they give apologies from the immigration office, they give me a letter apologise about this flight. By simple words, something not important for them, to remove me and harm me and my daughters by mistake. How mistake? You have a big system. How all them did the mistake?'*

Detention reviews

During the period when this research was conducted, the Home Office's policy was to carry out regular internal reviews of each decision to detain a family at 24 hours, 7 days, 10 days, 14 days, and then every 7 days (UKBA 2011, 55.8).

The evidence presented above shows that a considerable number of the families who participated in this research were detained for long periods despite legal barriers to their removal. We analysed Home Office files for 10 families to obtain a clearer picture of how legal barriers to removal were assessed when decisions to maintain detention were made. In 7 out of these 10 cases, copies of detention reviews were included in families' Home Office files. In most cases, copies of every 7-day detention review were not included in these files, so the analysis below only refers to the reviews that were included.

Analysis of families' files showed that in some cases, families were detained in an open-ended manner for periods of weeks, with no estimated timescale for resolving their outstanding legal applications. In addition, the timescales that were estimated for resolving applications were often inaccurate, as immigration officers anticipated that families' legal cases could be resolved more quickly than they actually were.

For example, in one case, a family was detained with outstanding legal applications for 22 days before a detention review estimated a timescale for resolving these applications. At this stage, it was estimated

10 This information was provided to us in ad hoc updates from legal representatives. Data were not systematically collected on this matter, so the information presented here does not provide full details of the number of families in this research who may have been granted leave to remain in the UK at the time of writing this report.

that the legal applications could be resolved in a further 20 days. However, 50 days later, when the family had been detained for a total of 75 days, a subsequent detention review acknowledged that these applications would not be resolved for a further 45 days. The review recommended that the family continue to be detained until the applications were resolved. However, the family was released on bail a few days later. They still had outstanding legal applications six months after their release from detention.

In another case, during their arrest, one family informed immigration officers that the mother was planning to claim asylum. The mother did claim asylum the next day, and Home Office staff dealing with the case sought to make arrangements for the asylum claim to be dealt with while the family remained in detention. After the family had been in detention for a week, a note was written on their file stating that the Home Office official dealing with the case had read the relevant policy, and realised the mother's asylum claim had to be considered in full; this could not be done while the family remained in detention. The family was then released, after spending more than a week in detention.

In these cases, families were detained for long periods as a result of incorrect estimates of how long it would take to resolve their outstanding legal applications.

Detention despite legal barriers to removal: the impact on families

Families reported that their experiences of being detained despite legal barriers to their removal had led them to mistrust Home Office officials and to view their actions as arbitrary and unfair.

For example, Sarfaraz described his shock at realising that the Home Office would continue to detain his family despite there being legal barriers to his removal. After he lodged new legal representations, he said that he had expected the Home Office would release his family:

> *'I was expecting: "Ok, fine, so tomorrow we will be going to be released." But the second day went by, the third day passed by. There was no news. Then our lawyer started calling them, started approaching them. "Why are you still keeping them detained? Why is he still in detention?" There was no response, there was no response. In about three weeks' time, I was able to be bailed out.'*

Sarfaraz said he felt that continuing to detain his family was unfair and unnecessary. He believed that, by detaining him, the Home Office was seeking to use coercive methods to force him to leave the UK, despite legal barriers to his removal:

> *'Why there is much frustration, anger and bitterness inside me is that I really cannot find any justification for the detention. You can understand from our current legal situation why our detention was completely unnecessary and why they have to step back. Because they themselves knew that whatever they are doing with us, they were just doing it with their full force just to get rid of us.'*

7.4 Families detained despite health barriers to removal

In the cases of 18 families (22% of our research sample), ill health prevented the family being removed for part of their time in detention. These families were detained despite family members being so unwell that ill health presented a barrier to removal.

During the period when this research was conducted, Home Office policy stated that people who were suffering from serious medical conditions would normally be considered unsuitable for detention and should only be detained in *'very exceptional circumstances'* (UKBA 2011, 55.10 *accessed in March 2010*).[11]

11 On 26 August 2010, section 55.10 of the UKBA's Enforcement Instructions and Guidance was updated to state that those who should be detained only in exceptional circumstances included: 'those suffering from serious medical conditions *which cannot be satisfactorily managed within detention*… those suffering serious mental illness *which cannot be satisfactorily managed within detention*' (additions italicised) (UKBA 2011, p59 'Revision History')

Policy further stipulated that the relevant Home Office staff should collect *'any known information'* about the health and welfare of each family member both before and during detention (UKBA 2011, 45.1). This information should then be fed into a decision on *'how best to approach removal in that particular case'* (UKBA 2011, 45.2).

However, Home Office policy during the period when this research was conducted did not clearly state that Home Office staff should proactively seek information about a family's health before making a decision to detain them. In a letter to BID dated 21 December 2009, the UK Border Agency's Office of the Children's Champion stated that:

> *'Information about a family's health is consistently considered in assessments and reviews, if the family disclose that information, and/or give their consent for UKBA to access their health records.'* (UKBA 2009, Personal communication)

The evidence presented below shows that some families who participated in our research were detained despite serious ill health, which, in some cases, constituted a barrier to removal. In addition, information was not consistently collected about some families' health situations prior to or during their detention. Even where this information was available, the evidence below shows that it was not always considered when decisions to detain or maintain detention were made.

A number of other studies have found evidence that there have been inadequate safeguards to monitor the health and welfare of families before and during detention, and that even where serious health risks are identified, these are not consistently taken into account when decisions to maintain detention are made (11 Million 2010; Burnham and Cutler 2007). The findings of these studies are corroborated by the findings of this report.

The cases cited below are those in which there were barriers to the family's removal as a result of ill health during their detention, which were recognised by the Home Office. It is worth noting that many more of the 82 families who participated in our research had health conditions that were not recognised as a barrier to removal by the Home Office.

For example, in one case, the available evidence suggests that the recent attempted suicide of a child was not regarded by the Home Office as a barrier to removal.[12] The family concerned was released 10 days after the child's suicide attempt. They had removal directions in place for a flight that was due to leave four days after the child's suicide attempt. The family's legal representative stated that as far as she was aware, the Home Office never accepted that there were health barriers to the family's removal. In fact, she reported that the Home Office had put in place plans to have a large number of escorts on board the plane with the family. The family's BID and The Children's Society case files indicate that the removal directions were only cancelled following the submission of legal representations. The family was detained for a further six days and released following further legal representations.

Ill health causing cancellation of removal directions

Thirteen families had removal directions cancelled during their detention because they were not fit to fly, or there were other health barriers to removal.

In seven of the cases detailed in Table 14 below, families were held for extended periods despite infections that meant they were not fit to fly, or delays in administering malarial medication.

In three cases, families had pre-existing physical health conditions which presented a barrier to their removal, and which could have been identified before they were detained.

Removal directions for two families were cancelled as a result of serious self-harm or suicide attempts.

12 These events occurred during the family's second detention in the research period.

Table 14: Ill health and cancellation of removal directions

Family number	Reason for cancellation of removal directions	Length of time detained while this presented a barrier to removal	Length of time detained following cancellation of removal directions	Outcome of detention
1	Child had not received adequate anti-malarial medication	21 days	20 days	Released (temporary admission)
2	Child had not received adequate anti-malarial medication	Unknown	55 days	Released (temporary admission)
3	Chickenpox	9 days[13]	31 days	Removed
4	Chickenpox	9 days	10 days	Removed
5	Chickenpox	9 days	4 days	Released (temporary admission)
6	Swine flu	Unknown	12 days	Removed
7	Chest infection	Unknown	56 days	Removed
8	Cancer, HIV and limited mobility	Unknown	6 days	Released (temporary admission)
9	High blood pressure	Unknown	Unknown	Released (bail)
10	Heart condition	Unknown	40 days	Released (bail)
11	HIV	Unknown	3 days	Released (bail)
12	Serious self-harm incident	Unknown	25 days	Removed
13	Attempted suicide	Unknown	25 days	Released (temporary admission)

During our research, one family's legal representative informed us that for a period during February to March 2009, there were no forced removals of families from Yarl's Wood as a result of a chickenpox outbreak, and that this applied to his client even though her family had not contracted chickenpox.

13 According to Collier et al 2009, p144, a person suffering from chickenpox will normally be infectious for nine days. A chickenpox infection is widely recognised as rendering the sufferer unfit to fly. See, for example, British Airways guidelines: www.britishairways.com/travel/gsanswer/public/en_gb?p_faqid=340&gsLink=searchResults

Families detained despite ill health presenting a barrier to removal

In six cases, ill health did not lead to the cancellation of a specific set of removal directions, but did mean that a family could not be removed for some period during their detention. In some cases, ill health was a factor in the decision to release the family from detention.

In four of these six cases, family members were hospitalised or required urgent hospital treatment during detention, which presented a barrier to removal, at least during the period of their hospital treatment.

One child, Majeed, had a pre-existing health condition. During his detention, he lost 2kg in weight and had to be hospitalised overnight. Immediately following the family's release from detention on bail, he was hospitalised for three more days. When they were in detention, the family was unable to access their medical records from the detention health centre for their bail hearing, but nevertheless, the child's ill health was one of the factors that was considered in favour of release. As Majeed's father explained:

> *'There was one letter from the previous hospitalisation; that was the only proof we had. When that was presented to the judge, he said: "This letter clearly shows that this child needs hospital treatment, which cannot be provided in a detention centre."'*

Another child, Megan, fractured her shoulder while in detention and required hospital treatment. It is unclear how the Home Office assessed the possibility of removing this family, but they continued to be detained for 27 days after the shoulder fracture occurred before eventually being released.

A toddler, Emma, broke her collarbone during detention. She was sleeping in an adult's bed, and her mother requested that this be fitted with a child protection barrier to prevent her falling out. Staff had not acted to rectify the situation when the child fell and broke her collarbone. The child required hospital treatment after the accident, and was given an appointment three days after the accident occurred. It is again unclear how the Home Office assessed the possibility of removing this family, but they continued to be detained for 25 days after the child broke her collarbone before eventually being released.

The mother of a detained family, Beth, was also hospitalised during her detention.[14] She had pre-existing physical health conditions that were not identified by the Home Office before she was detained. She also had mental health issues, which her legal representative had informed the Home Office of before she was detained. Beth's pre-existing physical health conditions worsened while she was in detention, and she developed new health problems. She was eventually hospitalised for a period before being taken back into detention.

In two further cases, families could not be removed for periods during their detention because their children had contracted chickenpox, but it is not clear whether this led to the cancellation of removal directions.

In one of these cases, the family was released on bail after a child in the family had been suffering from chickenpox for five days. Examination of the family's Home Office file showed that the facts that the child had chickenpox and the family had been isolated were noted in a detention review, but there was no evidence that this barrier to removal was weighed against the decision to maintain detention.

In the other case, a child in the family contracted chickenpox and the family was placed in isolation for one week to prevent the infection spreading. The family reported that they could not leave their room for nearly all of this time. As detailed above, chickenpox would have prevented the family from being removed for an estimated nine days. The family continued to be detained for approximately one month after this incident. The family's Home Office file does not show any evidence that this barrier to removal was considered in subsequent detention reviews. No mention is made of the family's health in the monthly progress report which was issued by the Home Office following the child contracting chickenpox.

14 Beth's family had removal directions cancelled as a result of separate issues related to her children's health, which are noted in Table 14.

Ill health and decisions to detain or continue detention

Interviews with parents and analysis of research participants' Home Office files shed further light on the extent to which health was taken into account by the Home Office when decisions to detain a family or maintain detention were made.

Beth, details of whose case are presented above, reported that before she was detained, the Home Office sought information from her about her children's health, but did not ask about her own health:

> *'I remember there was someone from Home Office who called me a week before and he say: "I understand that you've just had your child, but is everything ok with the child?" I said yes, no problem. And after a few days, that's when I was picked up and taken to detention. I wasn't asked about myself. They asked me about the baby, and I said the baby was fine.'*

She also reported that during detention, she found it very difficult to convince staff to acknowledge or act upon her deteriorating health:

> *'I requested treatment. I could not stand. I had to crawl in the corridor myself to go and find the doctor to come and treat me. They ignored it. They said: "No, you're fine." I had to call ambulance for myself, and when the ambulance came, they told them to go back. I got lots of people in my room, so they realised I was actually very ill. Because the manager checked, and then they sent for another ambulance to come back and take me to the hospital. When I got to the hospital, they said why did I wait for so long?'*

Information about health on the family welfare form

We examined copies of 10 families' Home Office files in order to obtain a clearer picture of how information about health is gathered and used to inform decisions about detention. The 10 families are referred to here as families Q-Z for anonymity purposes.

The evidence presented below shows that in most cases, the Home Office had insufficient information about a family's health when making decisions to detain or maintain detention. In most cases, health factors were not taken into account when a decision to maintain detention was made. There were, therefore, insufficient safeguards in place to prevent these families being detained despite health-related barriers to removal.

As already noted, during the period when this research was conducted, the family welfare form was the key document in which information about a family's health was supposed to be collected by the Home Office. This information was intended to inform decisions about whether or not to detain a family. During the period when this research was conducted, Home Office policy stated that a family welfare form should be included on each family case file from the start of the family's claim, to allow changes in the family's circumstances to be taken into account throughout the asylum or immigration process (UKBA 2011, 45.1). In particular, any vulnerabilities in children should be noted on this form and used to inform decisions about how best to approach removing the family from the UK (UKBA 2011, 45.2).

As explained earlier, our analysis of 10 Home Office files found that the family welfare form was only present on the file in 3 of the 10 cases. In all three cases, there were serious gaps in the information on this form, and the timing of entries suggested that the form had not properly informed the decision to detain the family (see Section 6.1).

On two forms, the section which enquires about whether the family has been asked if they suffer from any medical conditions was left blank or marked 'N/A'. On the third, this section states that the family has *'no known medical conditions'*.

On family Y's form, the section for 'Health conditions' is left blank, and the 'Pre-detention planning'

section of the report states that *'there are no known medical concerns for either the main subject or dependent'*. The family's BID case file states that one member of the family suffered from depression. The mother also reported that she informed the immigration officers who arrested her that one of her children had a GP's appointment booked the day the family were detained, as he was ill with a fever.

On family X's form, notes are made about the father's health conditions, but there are no notes about the mother's health. The family's BID case file states that the mother has ongoing health problems due to complications following the birth of her child by Caesarean section. The 'Pre-detention planning' section of the family welfare form was blank. Elsewhere on the form, the Home Office case owner who completed it states that:

> *'I have only dealt with the main applicant. I have met him once when I interviewed him about his asylum claim.'*

This suggests that no information had been collected on the health of family members other than the father.

Family Z's family welfare form states that the family has *'no known medical conditions'*. However, the 24-hour review of the family's detention states that on the day the family were detained, the mother reported to the arresting officers that she had abdominal pain, which she was given medication for on entering detention. The family's BID case file also reports that a child in the family had a hernia when they were taken into detention.

The evidence detailed above shows that the information collected about the families' health status before making the decision to detain was inadequate.

Consideration of health issues in detention reviews

During the period when this research was conducted, Home Office policy stated that various Home Office officials should review the welfare of children and feed this information into detention reviews. However, it offered no specific guidance on how information about parents' health should be fed into these reviews (UKBA 2011, 45.2.6).

In 7 out of 10 cases, some copies of detention reviews were included in the Home Office files obtained for this research. In most cases, copies of all the 7-day detention reviews which were required to be conducted were not included in these files, so the analysis below only refers to the reviews that were included.

In three cases (families S, T and U), there was no mention of health factors in any of the detention reviews on the file, despite some members of these families suffering from serious health conditions, and health being a bar to removal for a period of time in one case. In a further three cases (families V, W and X), health factors were noted in the first 24-hour detention review, but there was no mention of health in subsequent reviews, again despite some members of these families suffering from serious health conditions. In one case, that of family Y, health factors were mentioned twice in the detention reviews on their file. Health factors were therefore not normally taken into account when decisions to maintain detention were made in the cases examined for this study.

For example, there were no mentions of health factors in detention reviews for family S, despite chickenpox being a bar to removal for at least nine days of the family's detention. The mother of family U gave birth six weeks before she was detained, and missed at least eight meals in three days during her detention as she was refusing food, but no mention is made of these factors in reviews of the family's detention.

Family T was detained for more than 70 days. Information in their Home Office file and in BID's case file shows that the father was suffering from depression and post-traumatic stress disorder, and had an eye infection for which he was awaiting a hospital appointment. The mother was pregnant and suffering from depression. Following a failed attempt to forcibly remove her family, she was placed on hourly suicide watch in the removal centre and refused to eat or leave her room for several days. None of these factors were noted on the detention reviews on the family's file.

Family V was detained for more than 20 days. A number of medical reports on their file from their GP and local mental health services state that the mother was suffering from depression and was actively suicidal at the time she was detained. A note entered on the family's file during their detention mentions a fax that the Home Office received from a social worker, stating that the mother was *'painfully thin'* and refusing food in detention. Her depression is noted on the 24-hour detention review, but there is no subsequent mention of any health factors, or the impact which the mother's psychological state may have been having on her child, in the subsequent detention reviews.

Family Y was detained for more than 40 days. The family's BID case file states that a member of the family suffered from depression. The mother reported that a child in the family witnessed the aftermath of a suicide attempt while in detention, and that she was concerned that this had affected the child's mental health. The mother refused more than 60 meals while the family was in detention. A detention review carried out after the family had been detained for 20 days did mention the fact that the mother was not eating meals and the son was reported to have witnessed a suicide attempt. This review does discuss releasing the family, but notes that no accommodation had yet been arranged for the family and this would be a bar to their release. However, detention was maintained for another 20 days from this point. There is no mention of these health factors in subsequent reviews, other than statements that there were *'no concerns'* for the family's well-being and *'no medical issues'*, despite the mother continuing not to eat. The section of the family welfare form entitled 'Updates on medical issues' was left blank. The family was eventually released on bail.

The evidence presented above shows that for the sample of families considered here, health factors were not normally taken into account when decisions to maintain detention were made. In these cases, detention reviews did not function as an effective safeguard to prevent prolonged detention for children and did not register cases where ill health had become a bar to removal.

Detention despite health barriers to removal: the impact on families

Parents reported that their family's continued detention, despite health barriers to their removal, had serious negative impacts on their and their children's well-being.

Beth, whose case is detailed on pages 51–52 above, said:

> *'I stayed ill while in detention, and they refused to release me. They didn't listen. I almost gave up because we were dying in detention. I'm getting suicidal thoughts. Every now and then I feel I'm going to kill myself. Sometimes I've gone to the bathroom, I want to take tablets and die.'*

Another mother, Pamela, described the scene at the airport when guards tried to drag her onto the plane to effect a forced removal despite her ill health:

> *'They are big men, yeah, and they lift me up, my legs too up, take me to go, forcing me to go, yeah. They had to drag me. Because my legs they were swollen, and they were just dragging me. And [the pilot] she goes, "No, what's happening with this lady?" And they said, "No, no, she's going back home." She said, "No, no, I don't want her in my plane. Take her back." That's what she said.'*

She expressed her distress that the Home Office had tried to forcibly remove her without taking account of her health conditions and allowing time for her to access the necessary medical care:

> *'They didn't even think, they didn't look into my health problems, they just say, "No, no, you have to go." People, they do have problems in their lives, they need to check, they need to, maybe, to let people know in advance – so that you will have your check-ups and everything. And they were expecting me to go without medication, without my proper check-ups.'*

In the two cases cited above, the Home Office's attempts to forcibly remove families despite health barriers not only harmed the families, but also had a negative impact on the families' perceptions of and relationship with the Home Office.

7.5 Lack of accommodation as a barrier to release from detention

Neither families nor single adults can be released from detention, by the Home Office or by an immigration judge, if they do not have an address to be released to. People in immigration detention are therefore entitled to be provided with an address to reside at by the Home Office if lack of accommodation is the only barrier to them being released from detention.

However, four families in this research reported that, despite barriers to their removal which meant that their detention was no longer appropriate, they continued to be detained because the Home Office had failed to organise an address to release them to. In three cases, the decision to detain the family had been reversed, either by the Home Office or by an immigration judge at the Asylum and Immigration Tribunal during a bail hearing. In another case, an immigration judge said that he was unable to release the family because they had no address.

One family reported that their release from detention was delayed by two days because of the Home Office's failure to arrange accommodation. Another family reported that they were detained for 10 days after being granted release by the Home Office because an address had not been arranged.

In one research interview, Linda described her shock at being refused release from detention because the Home Office had not organised an address for her:

> *'I went for bail and they refused me. Seeing me with the baby, the judge said I needed a letter from the housing agent. They refused giving me the letter. I was just… looking at these people, I don't understand what they are doing. The judge said: "I'm seeing her with the baby, and she is pregnant. I'm not going to grant her bail for her to go to the street."'*

7.6 Conclusion

Considerable numbers of children whose cases were examined in our research were deprived of their liberty for long periods in immigration detention during 2009, despite barriers to their families' removal from the UK.

On average, families for whom we have this data had no removal directions in place for 64% of the time that they spent in detention. In some cases, families could not be removed at the point when they were detained as a result of legal barriers, lack of travel documentation or health barriers to removal. In other cases, families continued to be detained when legal, documentation or health barriers to their removal arose.

Our research findings also show that the safeguards intended to prevent children being detained in an open-ended and arbitrary manner did not function effectively. Examination of full Home Office files for 10 families showed that in a number of cases, barriers to removing families from the UK were not considered at all in reviews that took place both before and during their detention. In other cases, these reviews projected unrealistic timescales for the resolution of barriers to removal.

The arbitrary use of detention has serious effects on families' relationships with the Home Office and, most significantly, on the welfare of children. Families who participated in this research reported that their experiences of being detained despite legal barriers to their removal had led them to mistrust Home Office officials and to view their actions as arbitrary and unfair. It is our view that alienating families in this way can reduce their motivation to engage in dialogue with the Home Office and comply with immigration control.

Finally, it is of grave concern that large numbers of children were detained despite barriers to their families' removal from the UK, particularly given the considerable evidence of the serious ill-health which is experienced by children in immigration detention. It is our view that such practice is at odds with the Home Office's duty under s.55 of the Borders, Citizenship and Immigration Act 2009 to safeguard and promote the welfare of children in its care.

8

Impact of detention on families' well-being

This section will consider the impact which detention had on families' well-being and their relationship to the Home Office. Sections 4 to 7 set out our findings on how decisions were made to detain families. Section 7.3 explores the damage caused to families' relationships with the Home Office in cases where families were detained despite their removal from the UK not being imminent. This section will look at how the emotional and health impact of detention affected parents' ability to trust and engage in dialogue with the Home Office.

8.1 Experiences of arrest, detention and attempted removals

As part of this study, we carried out semi-structured interviews with 30 family members. Parents we interviewed repeatedly said that the experience of being detained was distressing and demeaning. Some described being verbally abused by the officers who arrested them; others said that their family had no choice but to get dressed and go to the toilet in front of these officers.

While they were in detention, four families reported that they were held in isolation. In two cases, this was a result of health issues; in the third case, the family was isolated before an attempted removal; and in the fourth case, the family reported that they were isolated because they had held prayer meetings with other families in their room.

Two single mothers reported that male staff walked into their rooms without knocking to do roll calls, and on occasions they were naked when this happened. One of these mothers, Pamela, commented that:

> *'It's just scary that you're nothing to them, you're just garbage.'*

Linda said that she found the experience of detention dehumanising, and the way she was treated meant that she no longer trusted the Home Office:

> *'Anything can happen to you in [detention]. Nobody cares how you feel and what's going on with you. I don't trust them any more. They were not treating us like human beings, they were treating us like animals.'*

8.2 Information about directions for removal

A number of families reported that directions for their removal were repeatedly set and cancelled while they were in detention without them being informed of the reasons.

For example, James reported that on three occasions, his family were given times and dates when they would be forcibly removed from the UK; each time, their removal was cancelled, but he did not know the reason for any of these cancellations:

> *'For no reason, the first flight was cancelled. We don't know why. They didn't tell us. I don't know exactly the reason because they didn't send me any letter to explain why. Four days later, they booked another flight for us, same time. This attempt was cancelled even before we got to the airport. We were still in the room, and we were told that ok, there would be no flight. We don't know why. On the third flight, we boarded the airplane, but the escorts, they ask us to leave the plane. They didn't give any reason.'*

James reported that on two of these occasions, the family was taken to the airport to be removed, and on the first occasion they spent between 17 and 18 hours in the airport with their young son. He said that during the first attempted removal, his child was forcibly separated from his wife and witnessed force being used against James. The experience was extremely distressing for the whole family, and a psychologist advised James that it had affected his son's well-being:

> *'This [experience of attempted removal] affects the child because he can remember something, especially when he sees strangers. The psychologist said that he will never forget these views and it might affect him in the future, it will stay with him, this.'*

James's perception that flights and directions for his removal were cancelled 'for no reason' suggests that a lack of information led him to view the setting and cancellation of removal directions as arbitrary actions by the Home Office.

8.3 Parents' and children's health in detention

The majority of the parents who were interviewed for this research reported that their family's health and well-being had suffered following their arrest and detention, and that both they and their children were very distressed and anxious in detention.

No medical assessments were carried out as part of this research. Some information about the health of parents and children following their detention was gathered in research interviews, and from BID and The Children's Society case files. These data cannot give a full picture of the extent to which parents and children suffered ill health during and following their detention.[15]

There were 46 children and 34 adults in the 23 families who were interviewed for this research. Tables 15 and 16 below set out information volunteered by parents about the ill health which adults and children in their family experienced following their arrest and detention.

Table 15: Number of parents receiving treatment for mental health conditions before and after detention

Health issue	Number of adults
Receiving treatment for mental health condition before being detained	5
Started receiving new treatment for depression or other mental health conditions after being detained	5

15 For example, in 15 cases, parents spontaneously reported that their children developed difficulties eating during detention. It is not known whether the remaining 31 children in this sample developed difficulties eating or not, and parents were not prompted for this information.

Table 16: Health issues experienced by children in detention, as reported by parents

Health issue	Number of children
Self-harmed in detention or since being detained	2
Developed difficulties eating during detention	15
Lost weight while in detention	8
Receiving treatment for mental health condition before being detained	0
Started receiving new treatment for depression or other mental health conditions after being detained	5

8.4 Children's welfare in detention

Section 7.4 of this report shows that, in the Home Office files which were examined for this research, the information that was collected about families' health before a decision to detain was made was inadequate, and in most cases, health factors were not taken into account when decisions to maintain detention were made.

Parents who were interviewed for this research reported that their children were extremely anxious and distressed, had difficulties sleeping, had frequent nightmares, developed behavioural problems, and began wetting the bed while in detention. In a number of cases, these symptoms persisted after the child was released from detention.

After the family was detained, Daniel's daughter disclosed that she had been raped by soldiers in her country of origin. She self-harmed in detention, was suicidal and refused to eat or drink. Daniel said that his daughter and other children continued to be depressed after their release from detention:

> *'The experience is horrible. For my children, you know, it has made them think that they are different from other children. And it has haunted them, I can see. The children, I think they need serious counselling because now my children have been depressed. When we have a visitor, they are afraid. [My daughter] she doesn't talk in the school, she doesn't do communication with anybody because she feel that everybody has know that she was taken to the jail or something like that.'*

Another child, Kate, reported that she had experienced prolonged sexual abuse and violence in her country of origin, and these reports were found credible by the Home Office, but not seen as a sufficient basis for the family to be granted refugee status. She was detained with her family for 64 days, during which her mother reported she was very tense and afraid, and was suffering from insomnia and experiencing flashbacks of the abuse which she suffered in her country of origin. Her mother reported that since the family had been detained, her daughter's behaviour had changed:

> *'[Detention] has instilled fear in my children. [My daughter] keeps it inside. Since we got out of detention I discovered that she got into a temper where she would be angry for even a small thing, she would just be screaming. At first, I didn't know what it was, but later on I discovered I think it was depression or stress.'*

In some cases, children witnessed self-harm or experienced violence in detention, and parents reported that these experiences had serious negative impacts on their children's emotional well-being. In one case, a parent reported that his child was dragged along the ground at the airport by removal escorts as they attempted to forcibly remove the family from the UK. In another case, Ben, whose mother was

interviewed for this research, witnessed the aftermath of a serious self-harm incident and a suicide attempt in detention. He provided a written account of his experiences for this research:

> *'One night, while we were in my room [in detention], I heard people screaming and running downstairs… We found a man had poured boiling water over his body from head and was jumping up and down screaming, banging his head. During the same week, another teenage girl who was so confused almost hanged herself to death. I was so close to this girl and only to hear she almost strangled herself and was found hanging... I felt dead inside me. Everyday till now I couldn't and can't face the day peacefully. Every time I wake up, my heart would first beat rapidly and I would feel very scared inside me. This trauma is still planted in me and I don't know how to get rid of it.'*

8.5 Parents' welfare in detention

The majority of parents interviewed for this research reported that they were very anxious and distressed in detention, and in four cases, parents reported that they were suicidal. As Table 15 above shows, some parents had pre-existing mental ill health issues, which a number of parents reported had worsened in detention. In others, parents began receiving new treatment for mental ill health after they were detained. In addition, some parents had physical health conditions such as high blood pressure, which they reported had worsened while they were in detention.

Helen described how, after being detained, she had lost the will to go on living:

> *'When you have children, they come to you in your house, and pick you up to detain you from your home very early in the morning. So sometimes I have sleepless nights. Whenever I hear a car passing or closing doors, I have to peep through the window to see if it's them. Anyway, I have a feeling if they even come back for me again… I'm ready to die. I've had enough. It's very disappointing. When you've been so disappointed so many times, you look at the future and you see that there is nothing to look forward to. So there is no point to live. That's how I'm feeling.'*

Isobel was seriously unwell before she was detained. She reported experiencing torture in her country of origin and had a history of suicide attempts. Before the family was detained, Isobel's infant son had been taken into care because of concerns about her ability to parent him given her mental ill health. Isobel reported that the week after she was reunited with her son, the family was detained:

> *'I was really sick because they took my baby in care. The social services, they took him in care because I wasn't ok, I was on medication. And the week that my son was back to me, that was the same week the Home Office came back to [arrest] me. Because my son was back to me. So, it was really very, very hard for me.'*

While in detention, Isobel was on suicide watch, and was having nightmares, flashbacks, intrusive thoughts and auditory hallucinations. She reported that she became more unwell while in detention, particularly as she witnessed other detainees self-harming, and was unable to access the medication she had been prescribed before detention for three days when she was detained.

8.6 Conclusion

The majority of the parents who were interviewed for this research reported that the experience of being detained was distressing, frightening and demeaning, and their own and their children's health and well-being had suffered following their arrest and detention. In our view, the ill health which is experienced by children in detention is unacceptable, and shows that the practice of detaining children is at odds with the Home Office's duty under s.55 of the Borders, Citizenship and Immigration Act 2009 to safeguard and promote the welfare of children in its care.

A number of parents described how, following their family's detention, they had become so afraid of the Home Office that any contact they had was an instant source of stress and anxiety. For example, Christopher described how, every time he saw the Home Office logo, he became afraid:

> *'When I go in to the reporting centre, there's a photo, [the Home Office logo], and it's really scary. Every time I see it, it makes me feel a bit ill, scared. I have high blood pressure from the stress.'*

Similarly, Isobel said that whenever she saw a brown envelope dropping through her letterbox she became afraid, as she thought it might be from the Home Office:

> *'Just to see a brown envelope, if it drops in here, I just think that it is from the Home Office. It's really too much. Because I remember, the day they took me [into detention].'*

9

Family decision-making on maintaining contact with the Home Office

A small number of studies have looked at whether or not asylum and immigration applicants maintain contact with government authorities (Bruegel and Natamba 2002; Aspen 2008). However, much less is known about people's motivations for either staying in contact with the authorities or failing to do so. A proper understanding of families' motivations in this area is essential if the UK government is to design effective contact management policies for families.

Below, we set out our findings on families' reasons for deciding to either maintain contact with the Home Office or to abscond.

Section 4 of this report showed that most families maintained full contact with the Home Office before they were detained. All 29 of the families for whom we were able to obtain data on their reporting record post-detention reported regularly to the Home Office for the entire research period.

As part of this study, we carried out semi-structured interviews with 30 family members and asked about their reasons for staying in contact with the Home Office and not absconding. Respondents variously cited their children's welfare, health considerations, the need to avoid destitution, the desire to preserve their dignity, pursuit of legal status and fear of re-detention as important factors.

When asked why they continued to report to the Home Office, most parents' first response was that they had no choice, as this was what the Home Office required of them. Ella responded:

> *'I don't have any option but to go there and sign.'*

Denisa said:

> *'It hasn't even come into my head to run away. It's not something that's even entered my mind.'*

However, a small number of families had absconded for periods of time before they were detained. Section 9.2 presents findings about the circumstances of these families and the reasons why they made the decisions they did.

9.1 What motivated families to maintain contact with the Home Office?

Children's welfare

The majority of the 30 family members we interviewed cited considerations of their children's welfare when explaining why they did not feel it would be possible or tolerable for them to abscond. This finding is consistent with Cole's 2002 study, which found that parents regarded the health and educational needs of their children as the primary reason for maintaining contact with the authorities (Cole 2002, p 22).

Peter explained that his children's well-being was central to his decision to stay in contact with the Home Office:

> *'We cannot abscond. I got the children, I adore them too much. So, I can't abscond. I have to stay with my children, taking good care of them. I brought them to life, I need to provide for them, be in total care of them, whatever happens, because they are too vulnerable. That's the reason why I would not, never try to abscond.'*

Many parents explained that if they absconded, they would not be in a position to provide their children with everything they needed, including a good education. For example, Naomie said:

> *'So with kids as well it's more complicated. So you have to look after them, they have to go to school, they have to go to hospital. So how are you going to do that out of the system? I don't know. It's not just you. It's your kids.'*

Pamela and her partner David emphasised that absconding would damage their children's well-being and prospects. Pamela said that by absconding *'you are killing the children's future'*. David added:

> *'To abscond, someone who's got family, really, it's like, you're troubling your kids. It's like, you're on the run every time. I mean, the children don't grow up with peace of mind, they're always in fear.'*

Patience explained in a bail application that despite having previously absconded, she was now strongly motivated by her children's welfare to stay in contact with the Home Office:

> *'I need to think of my children and if I abscond it will make everything very emotionally stressful for them. I have absconded once, it was humiliating and I was depressed. I was frustrated and that endangered my children. I don't want to put them through that any more.'*

Access to healthcare

A number of the families we interviewed had members with serious health conditions, including HIV and cancer, which they would not be able to get treatment for if they absconded. Seven parents cited the need for access to healthcare when explaining why they would not be able to abscond. For example, Sarfaraz commented that:

> *'My younger one is a patient. So until next year he is required to see a consultant in the hospital every month. This is the situation, where he needs urgent medical attention any time. How can someone expect that we will abscond?'*

Avoiding destitution

Ten of the parents interviewed said that if they stopped reporting to the Home Office, they would not have money for basic necessities, such as feeding their children. All 10 were asylum seekers and therefore did not have the right to work.

Naomie stated that:

> *'If you don't go [to report] they will cut your money, they will cut your support and everything. And we are not allowed to work. They don't give families work permits. So how are we supposed to survive? I have to take the money to look after my [children]. I haven't got any choice.'*

Like most of the parents interviewed, Naomie lived in accommodation provided for her by the Home Office. She emphasised that breaking contact with the Home Office and leaving this accommodation would be extremely disruptive to her children, would damage their welfare, and would be unsustainable:

> *'I continue to report for the sake of my kids, because I can't go and live in a friend's place with my [children] for one month, two months. It's not the same thing, they won't be stable. No matter what you do. Even when we go to a friend's place for one weekend, it's not the same. They feel that they are not at home, [they say] "Let's just go home mummy." So I have to do it for the sake of my kids.'*

Linda also argued that most asylum seeking families would not have the resources to survive if they did not maintain contact with the Home Office:

> *'They are not going to run away because they don't have anywhere to go – that's why they came to you for help. They don't have a place to go.'*

However, two of the parents we interviewed were not motivated to stay in contact with the Home Office by the need to avoid destitution. One of these parents was an immigration claimant rather than an asylum seeker, and therefore was not receiving any financial support from the government. She was struggling financially as she was not allowed to work, but she reported regularly.

When prompted about whether avoiding destitution motivated him to stay in contact with the Home Office, Matthew commented that he would be much better able to provide for his family if he was not in the asylum system and could work. Nevertheless, he said that he wanted to pursue his asylum case through the proper legal channels:

> *'If I decide to abscond, I can go somewhere, get a new job, do odd jobs, get money, look after my family better. I am convinced that I can do better, get better money, support my family, rent a house, one bedroom or two bedroom. But I think to remain and to abide by the laws is dignity.'*

Maintaining dignity

Beth explained that her motivations for staying in contact with the Home Office included a desire to maintain dignity, self-respect and well-being:

> *'You have to be in the system properly, you have to do things properly. You have to feel comfortable, to feel that you're doing things normally like other people. If you abscond, you're going to be worried, thinking: "Where am I going to go tomorrow? My life is going to be difficult." Where can I go?'*

Similarly, Matthew said that:

> *'To remain with your dignity and respect, it's good to abide by the laws. It's good to remain with a clean, clean record in any country. I think you need to try hard to fight your case, get your status, be free, try to rebuild yourself again.'*

Sullivan *et al*'s (2000) study also found that the desire to maintain dignity was central to participants' decisions to maintain contact with the immigration authorities. Their evaluation concluded that positive experiences of being treated as legitimate and with respect during the legal process increased participants' desire to live in the United States *'in good standing, in a legitimate way'*, and not illegally.

Legal status in the UK

Eleven of the parents interviewed cited their desire to maintain the lawful basis on which they were in the UK and to obtain settled immigration status as motivating factors in their decisions to maintain contact with the Home Office.

James spoke about his family's belief that they have valid claims for asylum, and their desire to pursue this through the proper legal channels:

> *'We are confident, and we believe that our story is right, is true, and there is no reason to do anything illegal or any other different action, and that is why we respect the law here, and we report on time as we are required.'*

Aaron also commented that he thought he had a fair chance in his upcoming case because:

> *'…the judiciary in the UK, I know, is totally respectable. You know, they're neutral.'*

The belief of these families in the possibility that they would receive a fair hearing was central to their decision to maintain contact with the Home Office. This finding is consistent with those of Cole (2002), the Solihull pilot independent evaluation (Aspen 2008) and Sullivan *et al* (2000). As noted above, less than 1% of asylum seekers who participated in the Solihull early legal advice pilot absconded. This pilot project combined closer Home Office contact management with early access to legal advice for asylum seekers. The evaluation found that applicants in the pilot felt that they had been able to put their cases more fully, and were therefore more likely to comply with Home Office requirements.

Sullivan *et al*'s survey of 40 immigration and asylum applicants who maintained contact with the US immigration authorities found that participants' desire to follow the law was by far the strongest motivator, with 50% of participants citing this as their main reason for complying. A further 38% cited 'hope' for a good outcome as the factor which motivated them to maintain contact with the authorities.

Sarfaraz emphasised that his life decisions for the past few years have all been centred around his family's need to obtain sanctuary and status in the UK, and that absconding would mean that everything they have been working towards would be lost:

> *'I don't want to run away. Why should I run away? I have been running for several years. That is why I have come to the UK, with the hope that I will be able to have a long-term durable solution. Peace of mind, a peaceful life. When I am already trying my level best to be defending my current position, my life and everything, legally – why should I suddenly become illegal?'*

Matthew spoke about the need to remain in the UK on a lawful basis in order to ensure his children's welfare and be able to pursue his ambitions for the future:

> *'I want my kids to live a good life. I want to make sure I sort out up-to-date immigration and start building my life with my family once again, so I can do a better course. I can decide to go for a Masters in social work or I can do anything.'*

Five parents also cited concerns that if they missed any reporting events, this could be used against them and could jeopardise their immigration or asylum claim. For example, Beth said:

> *'You try to abide by the rules. The case is coming up. I don't want them to have any excuse because normally the Home Office creates so many excuses that are wrong.'*

Clare also said that she hoped her compliance would encourage the Home Office to view her case favourably:

> *'I've never had any intention of running. All I'm trying to do is just keep my kids safe and keep myself safe. I've done nothing wrong, and I'm trying to show them that I am a good person, that the kids are good and we're trying to do everything they want, so that we can get what we want – which is asylum. We're trying to work within their parameters.'*

Concern about the consequences of not reporting

Some parents' responses to the question of why they were maintaining contact with the Home Office reflected the fact that, within the current system, the way families relate to the Home Office is often strongly linked to fear. For example, Clare stated that:

> *'The people that I've met, most of them are too scared not to do what they're told – that they report every tiny detail to the Home Office because they're so worried about what's going to happen. I am slightly scared of the Home Office – with what they've done recently, I think I have a right to be.'*

The impact of some families' fear and mistrust of the Home Office on their compliance with the requirements of the asylum and immigration system and engagement with the option of voluntary return is explored in Section 10 of this report.

Seven of the parents interviewed cited concerns about being re-arrested and held again in immigration detention as one of the reasons why they chose to maintain contact with the Home Office.

Helen said:

> *'I don't want them to put it on me, that it was my fault that I ran away, so that's why they have to detain me. So I have to obey everything they want.'*

Laura and Bridget said that they particularly feared the impact on their children if they were re-detained as a result of not reporting. As Laura said:

> *'I'm scared about any mistake happen from my side. Because I didn't give them any chance to do something bad for my daughters. I try to do what they want from me: stay at home, report, did everything, no work. What they want me to do, I will do for them. Keep my daughters away from any trouble, anything dangerous from them, any risk. Because I scared for them to come again [to detain us]. By any mistake.'*

Two parents did not specifically cite concerns about re-detention, but said that if they missed reporting even once, this could make problems for them, or put them in 'big trouble'.

Angela also mentioned that failure to report could lead to criminal sanctions:

> *'I wouldn't [miss reporting] deliberately because I don't want them to find a loophole to say "You have broken the law"'.*

Having a clear understanding of reporting requirements

Other studies (Cole 2002; Sullivan *et al* 2000) have found that clear information from immigration authorities about reporting requirements is key to encouraging applicants to maintain contact.

Information about reporting was not a major issue for most of the families interviewed for this research, as nearly all had a clear understanding of the reporting regime. One interviewee, Aaron, said that when he first arrived in the UK, he and his wife initially did not want to report. However, his solicitor explained that if they did not report, this could damage their case and potentially lead to detention. Aaron is therefore reporting now, as he is keen to pursue his asylum claim.

9.2 Why some families decided not to maintain contact with the Home Office

This section explores what we know about why a minority of families in this research did not maintain full contact with the Home Office.

Eight out of the 82 families included in this study had absconded for periods prior to being detained, although most of these families came back into contact with the Home Office voluntarily. It was not possible to interview the parents in these families, so the information below is taken from their case files and Home Office files. Five of these families were forcibly removed immediately after their detention; one family refused to take part in post-detention research; and we were not able to get in contact with two families to carry out research interviews, although a post-detention interview was carried out with the legal representative of one of these families.

In some cases, families broke contact with the Home Office following traumatic personal events such as a miscarriage or an episode of domestic violence, which increased their vulnerability. Lack of emotional resources, isolation and health problems appeared to weaken families' motivation or ability to keep working within the system. For some parents, fear of return and a lack of confidence in the determination process were cited as a reason for absconding, while in other cases, poor legal advice had led to families being in the UK on an irregular basis.

A perceived lack of adequate information and support from the Home Office was also a factor in some families' decision-making. These findings are supported by the conclusions of international studies of pilot schemes offering alternatives to detention, which found that enhanced provision of subsistence support and information resulted in very low rates of absconding. In both the International Detention Coalition's 2009 Australian study, and the Lutheran Immigration and Refugee Service's 2009 Canadian evaluation, the absconding rate was less than 1%.

While the evidence in this section provides some significant learning points, it is important to recognise that families' motivations for absconding are likely to be specific to their individual circumstances. Therefore, it is not possible to generalise from the small sample and limited evidence presented here. A number of the factors which motivated families to abscond, such as lack of confidence in the Home Office, were common experiences for many of the families we interviewed, but did not lead all these families to contemplate absconding.

Vulnerability

There is evidence to suggest that decisions to abscond can, in some cases, be driven by the acute stress experienced by asylum seekers who may be dealing with physical or mental ill health and may have experienced or witnessed violence, either in their countries of origin or in the UK.

Bruegel and Natamba's 2002 study, which looked at whether asylum and immigration applicants maintain contact with the authorities, found that two of the applicants who absconded had experienced traumatic events. The wife of one applicant committed suicide before he went missing, and the other applicant was a survivor of rape.

Similarly, some of the participants in our study identified mental health problems or traumatic events as factors in their decision to abscond.

In the documentation in her case file, Patience explained her decision to abscond by saying that:

> *'I was very depressed at that time and felt I couldn't cope anymore.'*

She also said that her decision to abscond was motivated by frustration, and described the experience of being underground as *'humiliating'* and *'very emotionally stressful'*. Before she claimed asylum, Patience's husband had become violent and abusive. She separated from him when she claimed asylum, but became depressed after her claim was refused. She was prescribed antidepressants, and returned to her husband, who continued to be violent and abusive. Patience reports that her husband *'wouldn't let me contact or meet people; he was trying to isolate me'*, and that he ill-treated her children. During her time with him, she stopped reporting and absconded. On separating from her husband again, Patience was assisted by a refugee charity and re-established contact with the Home Office, and resumed reporting.

Although we were not able to carry out a research interview with Evie and therefore had very limited information about the circumstances of her decision to abscond, she states in documents in her case file that she ceased to maintain contact with the Home Office after she had a miscarriage.

It was not possible to interview Henry and Davina or Harriet for this research to ask them about their reasons for absconding, and there was no information on their case files about their reasons for absconding. However, we do know that both families were affected by a number of health issues and vulnerabilities. Henry claimed to have experienced torture in his country of origin. He seriously self-harmed while he was in detention, but refused medical treatment. His wife, Davina, suffered from cancer. Harriet, a single mother, was still a child when she arrived in the UK and suffers from sickle cell anaemia.

Fear of return to country of origin

As Section 10 shows, many of the families who participated in this research did not have confidence in the Home Office's decision-making processes. In a number of cases, families felt they had reasons to fear return to their countries of origin, which the Home Office had not properly considered or addressed.

Patience explicitly linked her decision to abscond to her fear of return to her country of origin. One of the reasons she gave for not making contact with the Home Office was that she was *'very frightened of being sent back'*.

Lack of information and poor legal advice

Two interviewees cited their lack of knowledge of the asylum process and confidence in dealing with legal matters as the reasons why they did not make contact with the Home Office when they arrived in the UK.

This is consistent with Sullivan *et al*'s (2000) research, which found that the asylum seekers and migrants surveyed had a very limited understanding of the legal system, and that this compounded their fears of detention and return. Most of the information asylum seekers had was based on reports from acquaintances, the media, and people smugglers, and advice from independent support workers who helped them to navigate the system.

One of the participants in our research, Patience, said that she did not claim asylum on arrival in the UK *'because I didn't know what to expect and I was very frightened of being sent back'*.

A number of interviewees received poor legal advice, which exacerbated their lack of understanding of and trust in the asylum system, and in some cases led to them being in the UK on an irregular basis.

One father reported that a solicitor had organised documents for him on his arrival in the UK, which he only realised were fake several years later when he was arrested. After being released from detention, he discovered that this firm of solicitors had been shut down for giving out false status documents:

> *'These were crooks. So, they gave me documents, which were really fake. I came to realise that last year when I was arrested. I get bad memories, thinking what these solicitors took me through.'*

9.3 Conclusion

If the Home Office is to design effective contact management policies for families, they need to take into account the factors that motivate families to either maintain contact or abscond.

Our research found that perceptions of the determination system were central to parents' decision-making about whether to maintain contact with the Home Office. Where families have confidence in the determination process, and believe that there is a possibility that they will receive a fair hearing, this can be a significant motivation for them to stay in contact with the Home Office.

This research also found that considerations of children's welfare and families' desire to preserve their own dignity were central to parents' decision-making, and that some families absconded when they became particularly vulnerable, often following traumatic personal events. These findings underline the importance of the Home Office operating policies and practices that promote children's welfare, treat parents with respect, establish trust with families, respond to families' needs, and offer them appropriate levels of support.

The findings of this research have implications for the criteria and methods used by the Home Office to assess families' risk of absconding. As Section 6 shows, in a number of cases, assessments of a family's absconding risk were based on very limited, sometimes inaccurate information. Immigration officers' reasoning was often based on generic circumstances, such as the point at which a family's asylum claim was refused. Such factors were used as a basis for speculation concerning parents' beliefs about the strength of their claim and how this would influence their decisions about whether to maintain contact with the Home Office.

Our research found that parents' decision-making is highly dependent on each individual family's circumstances at any given point in time. This is demonstrated by the fact that the same family's actions following refusal of legal applications at different stages of their immigration history varied greatly (see Section 5.3). If the Home Office is to assess families' risk of absconding with any accuracy, this will require better collection of the relevant information on individual cases. The department must take a much more nuanced approach, which does not assume that different families will respond in the same way to events such as a refusal of their claim.

10

Families' reasons for not returning to their countries of origin

In this research, when parents were asked about the reasons why they would not consider returning voluntarily to their countries of origin, they repeatedly said that they feared for their safety if they returned, and they did not feel that the Home Office had properly considered their legal applications.

In some cases, these fears were not without foundation. As Section 7.3 of this report explains, in the cases of three of the families who lodged judicial reviews in detention, it was subsequently found that the Home Office had made errors in the way their cases were considered, so they needed to be looked at again in full. In addition, a further three families who lodged judicial reviews during their detention had been granted leave to remain in the UK at the time of writing this report.

It is beyond the scope of this research to consider in any detail the quality of Home Office decision-making on asylum or immigration claims. However, parents' perceptions of the determination process did have a strong influence on their decision-making about compliance and voluntary return. Our findings concerning families' experiences of the determination process are therefore set out briefly below.

Various pieces of research have found that the quality of decision-making in asylum cases in the UK can be compromised by time limits, varying quality in asylum interviewing practice, selective use of country of origin information or other evidence, and lack of accountability for decision-making (Tsangarides 2010; UNHCR 2006; Baldaccini 2004; Smith 2004). 28% of appeals of Home Office decisions on asylum cases heard by the Asylum and Immigration Tribunal in 2009 were successful.

A number of studies have also found that the availability of financial assistance or support to return voluntarily is not the most important factor affecting applicants' participation in voluntary return schemes. Applicants' perceptions of the level of safety they would experience on return are a far more important consideration (Bryan *et al* 2010; Thiel and Gillan 2010; Black *et al* 2004).

There is also some evidence, from pilot projects that aimed to improve access to legal advice and experiences of the determination process, that applicants on these pilots were more willing to consider voluntary return if their claims were refused. For example, Aspen's 2008 evaluation of the UK Solihull pilot, which combined closer contact management by the Home Office with early access to enhanced levels of legal advice, found that applicants were more able to accept negative decisions where these occurred. Some case owners and legal representatives interviewed for the evaluation said that they perceived participants on the pilot to be more accepting of negative decisions than applicants who were not involved in the pilot project, and that this may have been a result of participants feeling that they had been able to put their case forward more fully. Similarly, Sullivan *et al*'s (2000) evaluation of an alternative to detention pilot project in New York found that rates of voluntary return for participants were higher than for a control group. Participants were reported to value highly the support they were given to prepare their legal cases, and participate in court hearings.

The majority of parents we interviewed did not feel that they had been given a fair opportunity to put their asylum or immigration case forward before being detained. Parents often doubted the quality of Home Office decision-making, and felt that they had reasons to fear return to their countries of origin which had not been properly considered by the Home Office. In addition, some families regarded their length of residence and family ties in the UK as barriers to return to their countries of origin, and believed that these factors had not been sufficiently taken into account by the Home Office. Several families reported that they had been poorly advised by previous legal representatives, and for this reason did not feel that they had a meaningful opportunity to put their case forward before being detained. Finally, a number of families reported that once they were detained, it became more difficult for them to access legal advice at the crucial point when they were seeking to challenge decisions which had been made on their case and consider what options were available to them. In some cases, these factors contributed to a lack of confidence among families in the decisions which had been made about their asylum or immigration case, and reduced the likelihood that they would consider voluntary return.

10.1 Experiences of Home Office decision-making

Most of the parents interviewed for this research reported that they did not feel that they had been given a fair hearing by the Home Office. For example, James said that he felt his asylum claim had been dealt with in a rushed manner, and that the specific issues which he had raised in his application were not fully considered in the Home Office's decision-making:

> *'We believe that we've been treated unfairly in this country. So far, everything was unjust when it comes to our case. Five days after the asylum interview, they refused us with some unreasonable or unprofessional reasons... which was obvious that they didn't even study our case. Our application was dismissed. A few weeks later, our appeals were refused. They refused it with no reason whatsoever. It was a very short letter which also indicates or shows that they didn't even look at our case. The Home Office refuses people very fast, and doesn't listen to them. When I had my Home Office interview, they just asked me to answer yes and no to their questions, and told me "be quiet" when I tried to explain more about my case.'*

10.2 Fear of return

Nearly all of the parents interviewed for this research reported that they feared for their safety if they returned to their countries of origin, with the exception of one family who had an immigration rather than asylum claim.

In many cases, parents reported that their family had experienced violence or threats of violence in their countries of origin. The countries of origin of parents who participated in this research included Somalia, Burma, Sudan, Sri Lanka and the Democratic Republic of Congo.

Four parents and one child reported that they had been detained and tortured in their countries of origin, and two of these parents had reports from the Helen Bamber Foundation that provided evidence to support these claims. Two men reported that they had been shot at in politically motivated violence, and one of these reported that he still had a bullet lodged in his body as a result of this. One woman reported that her husband had been killed by the military in her country of origin, and two other women said that their husbands had disappeared after taking part in political activism. In two cases, mothers reported that they or their children had experienced extreme domestic violence and sexual abuse, and this was found to be credible by the Home Office, although it was not accepted as sufficient basis for refugee status to be granted.

The extended family of one mother who was removed from the UK during the course of this research had leave to remain in the UK. They reported to us that, following her removal, this mother went into hiding in her country of origin, and that her child was not attending school.

The majority of parents who were interviewed for this research said that they did not feel that they could consider returning voluntarily because this would mean putting their lives at risk. For example, when asked his views about voluntary return, James said:

> *'In regards to us [voluntary return] is undiscussable or unspeakable. I know they get paid around £2,000. I mean, the families' life, how much is it worth? Is it £2,000? £10,000? That is why I think for some people, it might be advisable, however, for some others, it should not even be talked about.'*

Similarly, Linda said that:

> *'If it wasn't for my new solicitor, I would be in [my country of origin] now. I don't know how my life would have been – maybe they would have killed me already. There, you don't challenge the government like you do here. We are living in a dictatorship. They are just killing people when they are protesting. And when they return you back there, it's not going to be easy with you. From there, you are going straight to the prison from the airport. They are taking you straight to the prison. Your family can't see you. Everything is just going to be quiet and quiet forever.'*

10.3 Length of residence in the UK

The majority of families who participated in this research had been in the UK for long periods. A number of parents felt that their length of residence and ties to the UK had not been properly considered by the Home Office before a decision was made to remove them from the UK.

Section 395C of the UK Immigration Rules states that before a decision to remove somebody from the UK is made, consideration should be given to their length of residence and strength of connections in the UK. In addition, Home Office guidance introduced in August 2009 stipulates that before making a decision to remove a family, case owners should consider the length of their residence in the UK, and whether delays by the Home Office have contributed to the amount of time they have spent in the UK (UKBA 2011, 53.1.2).

As Table 17 shows, the 78 families in this research for whom we have these data had been in the UK for an average of five years at the point when they were detained.

Table 17: Length of time families were resident in the UK before detention

Years resident in the UK on date of detention	Number of families
0–1 years	15
2–3 years	17
4–6 years	27
7–9 years	13
10–12 years	3
13–15 years	1
16–18 years	1
19–21 years	1
Unknown	4
Total	82

As Table 18 shows, 68 or 48%, of the 143 children involved in this research were born in the UK. A further 21% of children were three years old or younger when they arrived in the UK.

Table 18: Average age of children when they arrived in the UK

Age of child when arrived in UK	Number of children
Born in UK	68
0–1	17
2–3	13
4–5	11
6–7	8
8–9	11
10–11	3
12–17	8
Unknown	4
Total	**143**

A number of the families who participated in this research had strong family ties in the UK. Two of the mothers were married or engaged to UK and EU citizens, who were actively involved in raising their children. Two more mothers had children with or were pregnant by UK citizens, and a further two mothers had children who were fathered by men who were living in the UK. In addition, the parents in three families had siblings, nephews, aunts and cousins in the UK.

Some parents spoke about the difficulties they would face if they returned to their countries of origin. One father, who came to the UK as an unaccompanied child himself, nearly 20 years before he was detained, said:

> *'My problem is that I don't have anyone back in [my country of origin] – no family, and I've been in the UK for [many] years now. I can't return voluntarily. I am very used to this country now, if I go back home I don't know what life would be. It is too much.'*

Twelve of the parents who were interviewed expressed concerns about how their children would adapt to life in their country of origin, given that they had spent their formative years in the UK, and in many cases had been born in this country.

For example, Nathanial explained that his children had grown up in the UK and would find it very difficult to adapt to life in his country of origin:

> *'For the past years, we've all been here, so we've made a home, we've made a family, we've got friends around us. Because of that, the kids are happy here, they're ok with their school and their friends as well. Here, there's a different culture from [our country of origin's] culture. We've had some other problems back home where there are some, like, initiation traditions. The kids, if they go there, they'll be exposed to those traditions. So, they might find life hard there.'*

Clare was pregnant by and engaged to be married to a UK citizen at the point when she was interviewed for this research. She explained that her children viewed her partner as their father, and if she was removed from the UK and the family was split, this would have a serious impact on her and her children's well-being:

'My youngest one considers my fiancé to be her dad. She was only just born when we escaped [from violence in my country of origin], and so she's never known a dad except my fiancé. My kids want my fiancé to adopt them. They're still trying to get me deported. [They're] putting another child of mine without a father.'

10.4 Consideration of health factors

Three of the parents who were interviewed who suffered from health conditions (including HIV and cancer) said that they were concerned about what would happen to their children if their health deteriorated on return to their country of origin. These parents did not feel that the Home Office had given adequate consideration to this issue when making a decision to remove them from the UK.

For example, Helen said that, as an HIV-positive person, her lifespan would be shortened if she was returned to her country of origin, as she would not be able to access the medication she needs. This would mean that her child would be orphaned:

'Me being HIV positive – if I go back and die, and this child, where is the child going to be left? The length of years I'm going to live there is not the length I'll live in this country. And I need to look after my child. I won't get the proper medication. I would like to live much longer. Because going back is like death row. He would be left an orphan. I'd rather die than go back, but let my child stay here and have a better life.'

10.5 Legal representation

Some parents reported that they had a low level of confidence in the decisions which had been made about their asylum or immigration claim because they did not feel that their previous legal representatives had put their case forward properly. Many parents reported that they had difficulties securing quality legal representation.

In recent years, there has been extensive research into the impact on immigration advisors and applicants of changes to legal aid provision and the introduction of fixed fees in the UK. There is strong evidence that the overall supply of publicly funded asylum and immigration legal advice has dropped, as experienced immigration advisors leave this type of work, unwilling to compromise on quality as funded time per case is reduced. Research and consultation submissions describe so-called 'advice deserts' for asylum and immigration advice in certain parts of the UK, cherry-picking of less complex cases, early closing of cases, and delegation of work to paralegals (AdviceUK 2008; Asylum Aid and BID 2005; Greater London Authority 2005; House of Commons Constitutional Affairs Select Committee 2007; McClintock 2008; Refugee Action 2008; Trude and Gibbs 2010; Smart 2008). One study showed that a high proportion of asylum seekers are wrongly refused legal aid assistance at appeal stage (Louveaux 2010).

Some parents in our research did report positive experiences of legal representatives who had given them clear information about their legal situation. For example, Naomie said of her current legal representative:

'I'm quite happy with him. Because every time he wants to do something, he will call me, he will let me know. I know how my case is going and everything.'

However, 14 parents in our study reported that they had had problems with previous legal representatives. In some cases, a lack of information from legal representatives meant that parents were unclear about their legal situation, particularly in the time leading up to their detention. A number of parents complained that they found it difficult to contact their legal representatives or get information from them, and that they were therefore unclear about their legal position. In some cases, parents were

not informed by legal representatives about the reasons why they were in detention or what the progress of their legal applications was. In others, legal representatives stopped acting for clients without informing them of this.

Naomie explained that she thought she had ongoing applications, but when she went to visit her legal representative's office, she realised that the firm had been closed down, and her legal representative had not made the applications which he told her that he had put in. She was looking for a new legal representative when her family was detained.

In another case, Mae explained that:

> *'After our application for asylum was refused, the lawyer did not inform us, give us proper information of what our rights were, so we had no idea about what was going to happen next. I didn't know anything at all [about subsequent appeals]; we had no letters and no information from them. All they would say is "Yes, we're doing your work." That's all. Every time we would ask – "Yes, yes, we have your… we are taking your case to the court." But not what the steps were, what they were doing and what was the court saying. We had no idea at all until we were detained. Our lawyer wasn't informing us as to why we were being detained again and again.'*

A number of parents reported that their legal representatives had told them that everything was going well with their legal applications shortly before they were detained, but when the family was detained they were not able to contact their legal representative and had to seek new representation. For example, Mona said that:

> *'We asked our solicitor what was going on before detention. He said "It will be ok, you don't need to be worry." When we are in the detention centre, we are so much afraid, afraid. He didn't answer the phone to us. We had to get new solicitor.'*

In such instances, parents did not feel that they had been afforded a proper opportunity to put their case forward, and therefore had instructed new legal representatives to pursue further legal applications on their behalf after they were detained.

Two parents said that although their representatives had made some legal applications for them while they were in detention, they did not know what these applications were, and they still did not have any information about their progress several months after being released from detention.

Commenting on the provision of information to applicants, Naomie argued that legal representatives could do more to give clients a clear understanding of their legal situation:

> *'Legal advisors, they should be more honest with their clients. Too often they say "I don't know, it's all up to the Home Office", instead of informing clients of their situation.'*

Finally, some clients had a history of poor experiences with legal representatives, and said that this meant they would not be able to trust legal representatives as a source of information. For example, Matthew said that:

> *'I couldn't believe in any solicitor after the experiences I had.'*

10.6 Lack of confidence in the determination process exacerbated by experiences of detention

In a number of cases, families reported that they felt that the Home Office had detained and attempted to remove them from the UK without giving them a reasonable opportunity to appeal refusals of legal applications (see also Section 7.3). Families often found that once they were detained, it became more difficult for them to put forward their legal case at the crucial point when they were seeking to challenge their removal from the UK. In some cases, this contributed to a lack of confidence in the determination process.

Previous research has found that there are a number of barriers to applicants putting forward their legal cases from detention, including difficulties in accessing information and legal advice, and in contacting people outside detention (Refugee and Migrants Forum 2007; Amnesty International 2005).

Some families in our research did report that while they were detained, they were able to access information from immigration officers and legal representatives who they were referred to by other detainees. For example, Nathanial said that while he was in detention, an immigration officer explained to him who his case owner was, and what steps he would need to take in order to claim asylum.

However, a number of parents reported that they experienced difficulties with putting their cases forward while they were in detention. In some cases, the family's legal representatives stopped acting for them once they were detained; in other cases, parents lost Home Office documents during their arrest or became unwell while in detention.

Post-detention data were collected for 30 families who were released between January and August 2009. During their time in detention, three of these families did not have a legal representative, 12 had periods when they had no legal representation, and 13 had legal representatives throughout their detention. This information was not known for two families.

Isobel said that she had difficulties communicating with her legal representative and accessing her Home Office documents in detention:

> *'After you get there, you get stuck, you can't contact your solicitor, they can't allow you to talk on the phone. Once they tell you that you're not allowed to take your Home Office documents. Just leave them there. You are not allowed to take anything. So, at times you get inside and you get stuck. You have not any contact. You have not anything. And the phone card they give you for only two minutes.'*

In addition, some parents reported that they received poor legal advice from legal representatives who they came into contact with while they were in detention. For example, Isobel said that in the panic and haste of being detained and issued with removal directions, she instructed a legal representative who she felt handled her case poorly:

> *'When I was in detention that time, because I was really desperate – I didn't have a solicitor, I didn't have anything – so, I got a private solicitor. He asked me for £500. By the time we were in court, it was like he didn't know anything about my case. He couldn't speak up. All the time the judge was just asking him "Can you speak up?" I was in the court. But they tell you "Don't say anything", you have to stay quiet. The case was refused.'*

In the cases cited above, parents' experiences of not being able to put their case forward properly while being detained exacerbated their lack of confidence in the determination process.

10.7 Conclusion

The majority of parents interviewed for this research did not feel that they had been given a fair opportunity to put their legal case forward before being detained, and feared being returned to their countries of origin. In some cases, after judicial review proceedings were initiated, it was found that the Home Office had made errors in the way families' cases were considered, and that they needed to be looked at again in full. In addition, parents reported that they had difficulty accessing quality legal representation before being detained. In this context, it is perhaps unsurprising that, far from seeking to frustrate the removal process, parents felt it was essential that they put in new legal applications while in detention.

Unfortunately, once they were in detention, some families had difficulty accessing information and quality legal advice, and instructed legal representatives who they felt did not advise them well.

Parents who felt that their claims had been refused without due consideration by the Home Office often reported that they felt a lack of control over their lives, were under acute stress, and had to focus on short-term survival. For example, Clare said that the stress of being dependent on a decision-making system in which she did not have confidence was affecting her health:

> *'I don't sleep or eat properly like I should. Most of the time, I get sick. It's drained me. I'm constantly stressed out. I have the fakest smile on my face just to try to keep my kids calm. It's taken its toll, and there's nothing I can do. I just don't trust any of them, and it's terrible because my life is basically in their hands at the moment. Everybody's so afraid of the Home Office. I've never felt so helpless in my life.'*

She said that the lack of certainty associated with being in a decision-making system which she did not have faith in meant it was difficult for her to make any plans:

> *'I'm trying to keep my kids as calm as possible, but they don't know where they're going to be, and all I can say as a parent is "Well, you're here now – that's what we've got to focus on." Any time my kids want something, I question if I want to go out and buy it because we won't be able to take it with us. I'd like to be positive and say that I can plan for the future, but I don't know. That's the worst part about it. As a parent, it kills me that I can't.'*

These findings underline the urgent need for improvements to Home Office decision-making processes and families' access to legal representation, if voluntary return is to become a viable option for a greater proportion of families who are refused leave to remain in the UK.

11 Home Office communication of voluntary return

During the period when this research was conducted, the Home Office maintained that its contact management policies ensured that case owners or immigration officers engaged with families throughout the asylum or immigration process, informed families of their options, and gathered information about families in order to make case-sensitive decisions about how to effect removal.

For example, in a letter dated 21 December 2009, Caroline Rowe, the Head of the UK Border Agency's Office of the Children's Champion, informed BID that:

> *'Following the enhanced contact management of family cases… families are seen on a more regular basis by caseworkers who regularly update the family file and maintain up-to-date information on the family's health, education, welfare and documentation.'* (UKBA 2009b)

However, parents who participated in this study reported that they had very little meaningful contact with the Home Office throughout their claim, and were given limited information about voluntary return before being detained.

The Chief Inspector of the UKBA's 2010 inspection of family removals found that:

> *'We could find little evidence, either at a regional or national level, of a coherent or consistent contact management strategy for dealing with family cases… The lack of a clear contact plan in each case meant that the family may not fully understand where they were in the process, [and] the choices open to them should their application be refused.'* (Independent Chief Inspector of the UKBA 2010b, 5.8-5.10)

11.1 Home Office contact management

A number of families who participated in this research reported that they had very limited contact with the Home Office for periods of years preceding their detention.

For example, Nathanial reported that, following the refusal of his family's legal representations, they had no contact with the Home Office until they were detained four years later:

> *'Since they refused our visa, we didn't have any contact with the Home Office. When they refused us, of course we had a letter. So, we began dealing with the lawyers. For four years [while in the immigration appeals process], we didn't have any contact with the Home Office. It was just that immigration assistance [from law centres].'*

Bridget stated that, after the refusal of her asylum application, she had no contact with the Home Office other than reporting, and minimal correspondence about accommodation and subsistence support for a year and a half before she was detained. She said that:

> *'At times, you feel like you haven't been given a chance to really explain yourself... How you feel, why you've done something.'*

11.2 Relationship with case owner

Under the New Asylum Model, case owners are intended to act as the key point of contact between applicants and the Home Office. Parents we interviewed commonly reported that they had little contact with their case owner. None commented positively on their contact with their case owner, and eight parents volunteered information about difficulties in their relationship with their case owner.

Angela reported that her contact with her case owner had been very limited, and that she had not been given information about where her case was up to and why. She said that this had added to her anxiety about the asylum process and confusion about her own legal situation:

> *'I've never seen him. Apart from him sending letters to say you are supposed to report, that's all. There is no communication, no updates. We still live in fear because we don't know what is happening with our case. There's no updating to say "This is the situation right now." You have to know why you have failed, why your case had failed, this is the reason. You should be updated just like, the doctor, they would always want to tell you "This is how your health is at this point." If you are dying, they should tell you "You are dying." And you really should know why you are dying. But for them, they just keep everything blank. So we were just waiting, until the day they came to say "Your case has failed, we are taking you [into detention]…" I have had little or no clear information about the whole legal process.'*

Several parents said that they found it difficult to trust their case owner because they were employed by the Home Office, and moreover they were the person who had made the decision to refuse their initial asylum claims and detain them. In addition, parents reported that case owners had variously refused to speak to them on the phone, had not helped them with urgent problems, or had treated them poorly, and for these reasons it was difficult to have a good relationship.

Bridget stated that because her case owner made a decision to detain her family, she would not contact her despite struggling to meet her reporting requirements due to health problems:

> *'Some of us are scared of them. We don't know what to do, what to say. I always ask them [at the reporting centre], if they can reduce [my reporting frequency] for me, give me once a month. They always say they have to talk to my case owner. I don't want to talk to her. She is the one who has ordered in the first place that I should be detained. I'm left with no choice. Everything I say, they do not understand. I don't talk to her. I'm scared.'*

Some parents reported that case owners had not helped them with urgent problems when they had contacted them for assistance. For example, Beth was released from detention for health reasons, with her two infant children who were also unwell. The Home Office failed to organise accommodation and financial support for her on release, so she was homeless and destitute for several days. Beth contacted her case owner, but said she did not help with this:

> *'Even in the case of the money [my case owner] said "I'll contact them and tell them about your money." She did not contact them. I waited and waited for so long, until when I had to get some*

[phone] credit, and then I had to contact NASS [National Asylum Support Service] people and I told them I'd been in detention.'

Aaron said that while he was in detention, his case owner called him repeatedly, telling him to go back to his country of origin, and speculating that his case was likely to be refused on appeal:

'My caseworker, he gave me a call five times in one hour. He say, "You make decision to go back, this is better for you and your family." I say, "I have no any choice to go back to [my country of origin]". He said "Just sign and go back". I said "Ok, if you want to send me back, if anything happen with my family, you are responsible." He said "Ok, you want to apply appeal. Ok, you apply, but the judge, immigration judge, 99.9% he refuse you.""

One parent said that she did not want to contact her case owner because while she was in detention, her case owner told her legal representative and other agencies that this parent wanted social services to take her children into care:

'She's lied about things that are not true. I said to her when I was in detention, "Is there any way you can help me and I get released out of here? I'm very ill and I cannot look after my children when I'm like this. I need help." So, she twisted it all around and said that I wanted social services to come and take my children. I cried so much when I heard that. How could I have said that? I only called her and asked her because I thought she was my case owner. I don't know how the system works. They say that if I have a problem to call her, but in most cases she has not helped me.'

Another mother reported that her case owner refused to have her asylum interview recorded, that he treated her poorly when she spoke to him on the phone, and that he advised her to terminate her pregnancy:

'Every time I phone him about anything, he treats me like I'm worse than the scum on his shoe. A few weeks ago when I got [a health condition], my case owner said "You should make your life a little bit easier and just abort your child." I was like "Excuse me? You don't have the right to tell me that." He was like "Well, you're going to be sent away either way – I'll make sure of it." He can't tell me what to do with my body, with my child. It's not just not fair, it's sick. They treat people like animals until the point where you're broken down to nothing.'

The lack of communication and poor relationship many families had with their case owner meant that they did not have any effective point of contact with the Home Office who could facilitate two-way flows of information about their case.

11.3 Communication about Assisted Voluntary Return

During the period when this research was conducted, the International Organization for Migration (IOM) ran several programmes which offered advice and financial support to refused asylum seekers and irregular migrants in the UK, to assist them with returning to their countries of origin.[16] These programmes were funded by the Home Office, but IOM is an independent organisation. Rates of voluntary return in the UK are low when compared with other European countries such as Sweden, where 82% of all returns of refused asylum seekers in 2008 were made voluntarily (Centre for Social Justice 2008). By comparison, in 2009, only 14% of returns of asylum seekers and migrants from the UK were made through the Assisted Voluntary Return schemes (Home Office 2010a).

During the period when this research was conducted, Home Office policy stated that the option of voluntary return should always be considered before a family was detained (UKBA 2011, 45.4). In their

16 From 1 April 2011, Refugee Action took over the provision of Assisted Voluntary Return programmes in the UK from the IOM.

response to a report by the Children's Commissioner for England about detention of families, UKBA stated that:

> *'Information on the benefits of voluntary return is given throughout the process. The case owner starts to build a relationship with the head of household when the family makes the application for asylum and continues after the appeal determination.'* (UKBA 2009a)

During the period when this research was carried out, David Wood, Strategic Director of Criminality and Detention at UKBA, stated in evidence to Parliament that prior to detaining families, the Home Office worked with them extensively to inform them of their options, gave them notice that their legal applications had been refused, and asked them to leave the UK voluntarily:

> *'These will be families whom we have engaged with the whole period of time through the process, encouraging them and letting them know that at the end of the process they have to leave the United Kingdom if they are judged to be here unlawfully. Then we ask the people to go voluntarily. The families we detain are those who refuse to leave the United Kingdom… What we get to is saying to the family, "You have no right now to be in the United Kingdom, you have to leave," and then they refuse, so the only way we can enforce that is by detaining them.'*
> (Home Affairs Committee 2009, Q25)

However, our research findings suggest that insufficient effort had been made to ensure that families had a meaningful opportunity to engage with the voluntary returns process before a decision was made to detain them. In addition, in many cases, parents were mistrustful of the IOM's voluntary return schemes, and doubted whether they would actually be given financial assistance if they returned voluntarily to their countries of origin.

A National Audit Office report (2005) and two internal reviews by the Home Office all found that there was insufficient communication about the IOM's assisted voluntary return programmes, and more needed to be done to raise the profile of the programmes among applicants (Black *et al* 2004; Home Office 2007b).

The 2007 Home Office internal review looked at policies and practices in relation to removing families from the UK, and found that information on voluntary return schemes was normally provided to families in writing, with the refusal of their asylum appeal. The review argues that this level of information provision is insufficient:

> *'Underlying all of this is a, possibly flawed, assumption that the family understands their position and the options available to them. This therefore needs to be explained through regular contact management and recorded by the person undertaking this.'* (Home Office 2007b, p21)

This Home Office review recommends that at least one face-to-face explanation of voluntary return should be given to parents, so that they can gain a greater understanding of what this would mean in practice, and that sufficient time is allowed for the family to fully consider this before any further enforcement action is taken.

The Chief Inspector of the UKBA's 2010 inspection of family removals found that:

> *'There was a lack of clear guidance as to what constituted an AVR [assisted voluntary return] offer, lack of consideration as to which staff were best placed to engage the family in discussing their options, how the options should best be promoted, and training on how to do this effectively. This meant there was no consistent approach across the UK Border Agency.'*
> (Independent Chief Inspector of the UKBA 2010b, 5.19-20)

This suggests a lack of clarity within the Home Office concerning whose responsibility it is to communicate voluntary return to applicants, and whether this is the role of case owners. A 2009 National Audit Office report found that in cases where applicants took up an assisted voluntary return scheme, case owners did not get the credit for the removal, and this reduced the incentive for staff to promote the programmes.

Receiving refusal letters at the point of detention

> *'They do not tell you there's something wrong, they don't tell you your case is closed.'* (Naomie)

Of the families for whom we have these data, 63% did not know that their most recent legal applications had been refused until the day they were detained (see page 45 of Section 7.3). These families therefore had no meaningful opportunity to seek voluntary return before being detained.

In some cases, the relevant Home Office staff, or the families' legal representatives, had not informed them of the outcome of their case; in others, a decision was not made on a family's applications until after the family were detained.

In a research interview, Beverley described her experience of finding out that her case was refused on the day she was detained:

> *'After I was refused, they didn't come to me, or write to me or send me anything. They just came and detained us. The Home Office, they say that they told me that I should voluntarily go, which they didn't do. They said that I was given a chance to return home, and I didn't want to; which is a lie. I didn't receive a letter or they didn't say anything. I haven't received even a single letter.'*

Examination of subject access request files for 10 families showed that the Home Office did not inform three of these families of the outcome of their legal representations until the point at which they were detained, or after this. In one case, the family's legal case had been refused more than seven months before they were detained, but they were not informed of this, despite their legal representatives writing to the Home Office twice to ask about the outcome of the case.

In these three subject access requests, no reasons are given for not informing the families of the outcomes of their cases, and there is no evidence of individualised assessment of risk when making this decision. The family welfare form was missing from two of the three files. According to the UKBA:

> *'The family welfare form is the basis upon which key operational decisions, including job-specific risk assessments, are made for each family case and are included on each family case file from the start of each family claim.'* (UKBA 2009, Personal communication)

The one family welfare form which was available was completed after arrangements to detain the family had already begun. The 'Pre-detention planning' section is blank, and the 'Personal risk assessment' states that the applicant was 'co-operative'.

Method, timing and consistency in offering voluntary return

None of the family members for whom we have these data reported that they had received a face-to-face explanation of the IOM's voluntary return schemes from the Home Office before being detained.

Seventeen families who were interviewed provided information on how they had heard about IOM's voluntary return schemes. Most of these families had heard about the voluntary return schemes from a number of sources. Eight families reported that they had received letters from the Home Office that included information about the schemes. Six families said they had seen information on posters and in leaflets at Home Office reporting centres, and one said that an immigration officer had mentioned the

voluntary return schemes when they were reporting. Three families said they had learned about the IOM schemes through refugee charities; one family got information through friends; another family was signposted to IOM by their legal representative; and another family did their own internet research about voluntary return.

A number of families said they had learned more about the voluntary return schemes in detention. Seven said they had seen IOM's literature or posters while in detention, and two families mentioned learning about the voluntary return scheme from other detainees. One family said they had spoken to immigration officers in detention about voluntary return, and two families said that a talk on IOM's voluntary return scheme was offered to detainees while they were in detention.

Analysis of 10 families' full Home Office files showed that, where the Home Office provided information to families concerning voluntary returns, this was commonly communicated in pro forma wording added to letters about other matters. Copies of some refusal of claim letters included this information, yet others did not. In other cases, the information was provided at an early stage of the asylum or immigration process, a considerable period before detention, and not necessarily communicated to the applicant again when their claims had been refused.

During the period when this research was conducted, Home Office policy stated that in cases where families were detained, the reasons why detention was considered the only option to effect removal should be fully documented in the family welfare form (UKBA 2011, 45.4). Our analysis of 10 Home Office files found that a copy of the family welfare form was only in the file in 3 out of the 10 cases.

The 2009 version of the family welfare form had a section which asked whether a discussion about voluntary return had been held, and what the applicant's response was. This section asked:

> *'Has the case owner advised the main applicant that if they do not take up the opportunity for AVR [assisted voluntary return], they will be removed if their application is unsuccessful? Note time, date and response.'*

In two of the three cases where family welfare forms were on the file, this section of the form only states 'no' or 'N/A'. No explanation is offered for why a discussion about voluntary return was not held. In the third case, this section is ticked, but no information is given about the applicant's reaction or why detention was considered essential.

At the point in their case when they were interviewed for this research, most families had a basic understanding of the IOM's voluntary return schemes. However, several families said they did not have a good understanding of voluntary return until they were detained, and it was only while they were in detention that they learned more. For example, Nathanial explained that there was some information about voluntary return in his refusal letter, but while in detention he got a better understanding of the process:

> *'In the letter that we got with the refusal, that's when they said yeah, you should leave voluntarily. But at that time, we didn't know anything much. Actually, when I was in detention, we saw posters, and books. When [the BID caseworker] came, we learned a lot about it then as well. But before, the Home Office, they just sent us that letter. We didn't know much about it.'*

Similarly, Linda commented that she did not receive any verbal explanation of voluntary return, but simply standard information leaflets:

> *'They didn't explain anything. They just give you the papers – this is the voluntary return paper, and this is this. On this page, here are your removal directions, and on this page, you see the voluntary return. They just pack everything and give it to you, they don't explain it.'*

In addition, some families commented that the point at which voluntary return was communicated to them was not well timed. Some families were sent information about voluntary return while their asylum applications were ongoing and there were barriers to removing them from the UK. Others received information about voluntary return at the point when they were detained.

Matthew was given information about voluntary return at a point when he had already been detained to be forcibly removed from the UK. He said that it was difficult for him to take this information in following the very stressful experience of being detained:

> *'The timing is not good actually. The Home Office communicated about it, but when they are just taking you to the detention. Anything they tell you will just, won't enter, won't stick in your head. And there's a lot of information when they've just arrested you. There's too much information. When you're arrested for the first time, the first thing to come in your mind: you're going to be removed from the country. And then you think about a lot of things, so there's really nothing but putty. But with time, when you are in detention you meet a lot of people, you read a lot of books.'*

Perceptions of voluntary return

Previous research has found that asylum seekers and migrants are, in many cases, mistrustful of voluntary return schemes – for example, because they do not believe they would really be given assistance after returning to their countries of origin (Black *et al* 2004; Thiel and Gillan 2010). In addition, previous research suggests that distrust of the asylum determination system and a lack of reliable information and advice through the claims process can lead to suspicion of government-funded voluntary return programmes (Thiel and Gillan 2010, p7).

In our research, three parents reported positive perceptions of voluntary return schemes, commenting that they could be a good solution for some immigration or asylum applicants. For example, Matthew said that:

> *'Some people I have talked to, they have voluntarily returned home. So, it has worked for some people. Some people, when their government changes. When another government comes, takes power [in their country of origin], some people have voluntarily gone home. When the circumstances change, people can use that kind of scheme and they can benefit from it.'*

However, 10 of the 30 family members interviewed for this research expressed mistrust of the IOM's voluntary return schemes. Some parents said they did not believe that people actually received any financial support after returning through IOM, either because of corruption in their countries of origin or practical barriers to claiming assistance from IOM, or because of IOM's links to the Home Office.

For example, Daniel said that he had heard about a family whose voluntary return money had been taken from them in the airport in their country of origin:

> *'People have told me, if you have been deported to [my country of origin], when you get to the airport, the British, the officers from the immigration, take you to the streets, they don't care about what happens to you. You know, somebody, he was deported to [my country of origin]. What happened to him, they give him, I think £135 for transport, that the immigration officers [in my country of origin] took it from them and just pushed the family to the street. Very terrifying. So, I don't think the voluntary return is an option.'*

Peter said that his understanding was that the amount of money you were given via the IOM voluntary return schemes depended on *'Home Office discretion'* and that you might not receive any money once you returned.

In addition, a number of families expressed confusion about how much money IOM actually paid to returnees in cash, given that some of the financial assistance on offer went towards travel and in-kind support. For example, Angela said:

'Of course, there are rumours, about the money what they promise is not what it is on the ground. They say the money they are advertising, it includes every expense. So they are deducting your transport. Everything. So, at the end of it, you don't get anything. Just maybe £50 or something, maybe £20. I don't know. Depends on how expensive your flight is. It's just hearsay though. I can't say I'm sure it's true.'

Finally, two families expressed concerns that IOM worked closely with the government, and that any information which was shared with IOM would also be sent to the Home Office. These families said that if a family applied for voluntary return, this could lead to the Home Office detaining and forcibly removing them. For example, Eve said:

'The thing is, I know some people who once applied for voluntary return, but I understand the following day, the Home Office came to pick them up, to deport them. So it's like, people now, they are scared, they don't know who to trust.'

Although detaining a family who had an ongoing application for voluntary return with IOM would be contrary to Home Office policy, it is important to note families' perceptions of the risks associated with contacting IOM.

Several studies have found that there is inadequate monitoring of outcomes for migrants who do take voluntary return (Thiel and Gillan 2010; Bryan *et al* 2010; Development Research Centre on Migration, Globalisation and Poverty 2004). When outcomes for returnees are not adequately monitored, the potential for communication about voluntary return to applicants or other stakeholders is clearly limited. A study on voluntary return to the Balkans found that there was a lack of monitoring of the reasons for returnees accepting voluntary return, their individual needs, and the factors which assist sustainable reintegration (Development Research Centre on Migration, Globalisation and Poverty 2004). Without a clear understanding of these factors, it will not be possible for the Home Office to communicate effectively with applicants about voluntary return.

11.4 Conclusion

In a number of cases, parents who participated in this research had limited contact with the Home Office in the period preceding their detention. Despite Home Office policy at the time, which stipulated that the option of voluntary return should always be considered before a family was detained (UKBA 2011, 45.4), we found that parents in our study were given limited information about voluntary return before being detained. In some cases, they did not have a meaningful opportunity to consider voluntary return as they did not know that their legal applications had been refused until they were detained.

12 Families' experiences of reporting and tagging

Phil Woolas, the former immigration minister, informed Parliament in November 2009 that reporting and electronic monitoring were already functioning effectively as alternatives to detention:

> *'As an alternative to detention, the introduction of better contact management through the use of physical reporting at reporting centres and police stations together with the use of electronic monitoring (tagging and voice recognition) has allowed the UK Border Agency to maintain contact with individuals at all stages of the asylum process.'* (*Hansard*, HC 2 November 2009, Col 690W)

The Home Office has also stated that part of the purpose of applicants reporting regularly is that this enables Home Office staff to encourage applicants to return voluntarily to their countries of origin:

> *'Regular reporting also enables us to deal with any barriers there may be to removing an individual from the UK and to advise and encourage alternative options other than an enforced removal.'* (Independent Asylum Commission 2008, p29)

The findings presented below about the anxiety and distress experienced by parents around reporting suggest that there may be serious barriers to voluntary return options being communicated effectively to parents during reporting events.

Furthermore, we were concerned to find that some parents were being electronically tagged or were subject to very stringent reporting requirements, in some cases being required to report on a daily basis. There was no time limit on the use of these enforcement measures, and parents reported that being electronically tagged had serious implications for their children's welfare. One father who was tagged reported that he had written to the Home Office twice asking to be informed of the reasons why he was tagged, but had received no reply. Five parents said they had requested changes to their reporting requirements for health reasons and presented medical evidence to support their request, but in every case these requests had been refused.

The fact that tagging and reporting restrictions were imposed on families in an open-ended manner, and that families often did not know the reasons for these restrictions, led some parents to conclude that these restrictions had been imposed on them arbitrarily and unfairly.

12.1 Information about reasons for tagging and reporting requirements

Members of 11 of the 23 families interviewed for this research reported that they did not have a clear understanding of the reasons for the specific reporting or electronic tagging requirements imposed on them.

For example, Angela said that she used to report once a month, and this was later increased to once a week, but she did not understand the reasons for this change, or what criteria the Home Office use to set reporting conditions:

> *'Since I started, I've never missed [a reporting event] for any reason. They still make me go and report and come back each and every week. I think it depends on the caseworker or something. I don't know why it's every week now, it used to be every month. It's them who decide. I don't understand their system. Whether it's just me or every case, I don't know.'*

12.2 Treatment by staff at reporting centres

In our research, three parents said they had had positive experiences of treatment by staff at reporting centres, and three parents said they had, on occasion, witnessed or experienced poor treatment of applicants by staff. Clare reported that while she was generally treated well when reporting, she had seen an immigration officer swearing at another applicant:

> *'Usually at the reporting centre, they're actually really nice. They don't give me any grief. I have seen them give grief to other people though. Usually, they do it to people who don't speak English too well, or not at all. One of the officers actually [swore at another applicant].That was really out of order, and that scared a few people away from them. I said something to the officer about it, and told him he should apologise for it. He said "You have one of two options – you either shut your mouth, or I don't let you sign in."'*

12.3 Home Office allocation of reporting requirements

At the time when this research was conducted, Home Office policy stated that immigration officers and case owners should base decisions on how frequently applicants need to report on specific criteria (Home Office 2005b). If applicants have a history of compliance, this weighs in favour of less frequent reporting requirements. If an applicant's case has been refused and it is deemed likely that they will be removed within the next four months, this weighs in favour of more frequent reporting. In addition, policy states that people with certified medical problems that hinder their ability to report should be considered for reporting less than once a month, and other compassionate circumstances which weigh in favour of less frequent reporting should also be considered. It is considered reasonable for applicants to be required to travel up to 25 miles to report, and parents with young children will, in most cases, have to travel with their children.

In our research, six parents said it was difficult for them to report as regularly as they were doing because of health conditions, including high blood pressure and diabetes. Some of these parents had been advised by their doctors that their health conditions were being exacerbated by the frequency with which they were reporting. Five parents said they had requested changes to their reporting requirements for health reasons and presented medical evidence to support their requests, but in every case these requests had been refused.

When Clare was interviewed for this research, she was four months' pregnant, had several young children and was suffering from a number of health problems, including a heart condition. It took her an hour and a half by train to travel to her reporting centre. Before her family was detained, she was reporting monthly, but after she was released from detention she was required to report weekly. She did not know of any reason for this change. She had previously complied with her reporting requirements and had outstanding legal representations which meant she could not be removed from the UK. Clare said that she had requested less frequent reporting requirements and presented medical evidence in support of this, but her requests had been refused:

'About two or three weeks ago, I couldn't sign in because I couldn't even walk. I've requested them to put me back on monthly, not weekly, and they're refusing to do it. I've been really sick recently, and I'm pregnant. Even my doctor said it should have switched because of the amount of stress that I'm under. My heart can't take it. I can show all my paperwork from the doctor's office, and [my caseowner] even spoke with my doctor directly.'

A month after this interview, Clare suffered a miscarriage. She was still required to report weekly six months after her release from detention, when data collection for this research ended.

12.4 Reporting and parents' well-being

Nine parents said they found going to report stressful or demeaning, and four of these said they felt that reporting was exacerbating their health conditions, including depression and high blood pressure. Primarily, parents said they found reporting stressful because they feared they would be re-detained when they went to report.

James explained that once, when he and his partner went to report, one of the immigration officers who had previously arrested and detained the family spoke to them. He said that this incited a lot of fear in his wife, Talia, who was already depressed and had attempted suicide in the past:

'Two weeks ago, we went to report. One of those guys who raided our house at midnight was there, and we were so frightened when we saw him. He came and spoke to us, he was asking Talia for her file. She was so scared. She shouted at him. She was shaking for two days after this. She was very depressed to meet this man.'

Beverley said she feels that there is an atmosphere of fear in the reporting centre, as all the applicants who are reporting are anxious that they may be detained:

'[The reporting centre] is just a place where you queue up like you are going to go where people are going to be slaughtered. Because you don't know what's coming. Everyone goes there, if they were talking on the way, if you enter that door, no one talks, everyone is quiet like they're at a funeral. And, you just wait, whether they are going to come out or not. It's really, really hard.'

12.5 Electronic tagging

Five parents from three families who participated in this research were electronically tagged, and were required not to leave their houses for several hours a day to comply with their tagging restrictions. Three of these parents reported in research interviews that tagging was having a negative impact on them and their children.

Peter and his wife were electronically tagged and were required to stay in their house from 10am–12 noon and 6–8pm. When interviewed for this research, Peter said he did not understand the reasons why they were being tagged, particularly as the family had an ongoing legal case and were reporting every week. He reported that he had written to the Home Office twice asking to be informed of the reasons why he was tagged, but had received no reply:

'We are put under stress. When you do something to somebody, you must be able to explain the reason why. We are not told, they didn't say anything about the reason why we are on tagging. Many couples are released, they were not tagged. It's got almost three months now where I've been on tagging and nobody from Home Office tell us the reason why, and we've been chasing this thing. I've wrote about two letters, they do not reply.'

Following this interview, Peter was re-detained with his family, and when he was released from detention on bail he was no longer electronically tagged. Peter said that at his bail hearing, the judge had asked the Home Office presenting officer why Peter had been tagged, and the officer replied that he did not know. The judge concluded that tagging was not necessary and removed this condition.

There is no time limit on the use of electronic tagging for asylum seekers and migrants in the UK, and one of the parents in this research had been tagged for 10 months at the time when they were interviewed.

Peter commented that the absence of a time limit added to his sense of injustice about being tagged, particularly given that time limits apply when tagging is used as a criminal sanction:

> *'If you are criminal, you know you are criminal, that's why you got this thing. If you are criminal, it is obvious that in time they will come and take it from you. But now, we don't event have time [limit], they don't even write to us about tagging.'*

Three parents who were electronically tagged reported that this had a detrimental effect on their children. These parents were not able to attend school sports games or birthday parties with their children, and could not take their children outside the vicinity of their home because of the requirement for them to be in the house at certain hours every day. In one case, a mother and father had to apply for their tagging restrictions to be varied as they could not take their children to school in the morning because they were not allowed to leave the house.

Christopher explained that his children's freedom of movement was limited by his tagging restrictions:

> *'I'd love to take my children a bit further afield to show them places, but I can't because obviously I've got this tag and I don't want to be in a situation where I can't return at the right time. So, I feel like we're imprisoned, in a way. We can't go out together. It's horrible.'*

Parents also reported that the stigma and restrictions of electronic tagging had contributed to their social isolation. For example, one father said that during Ramadan, his religious code required him to go to the mosque after dark, but he was unable to do so because of his tagging restrictions. Peter described how he did not want to leave the house in shorts during the summer because he did not want people to see that he was tagged:

> *'Now, I can't go out with the shorts [on]. We need to put trouser, put on sock to cover [the tag]. It's not easy.'*

Parents also reported that they suffered from stress and anxiety as a result of being tagged. One mother said she was not sleeping because she was worried about being tagged. Christopher described how he had been phoned repeatedly by the Home Office to query issues with his electronic tag, and this had caused him a lot of anxiety. He reported that he suffered from high blood pressure, which was exacerbated by the stress he experienced when he had to interact with the Home Office. Christopher explained that one day he had to leave the house 10 minutes early, to go to a Home Office appointment. The Home Office rang him that day to find out why he had broken his curfew. Christopher said:

> *'I explained my reasons, and they just said "Basically, don't do it again." They said "This is your last time." So, it scared me.'*

Christopher's wife, Denisa, also said:

> *'In the kitchen, that's where there's [a box with] antenna rays for this tagging. When you've got kids around, they always bump into it. You know, it's on top of the cupboard, so they bump the cupboard and it shakes a bit. When I'm cooking, for example, and I open the cupboard, it has a bit of movement and straight away they are phoning like, "What have you been doing?"*

Christopher also reported that he was very anxious because his wife was pregnant, and he was worried that if anything happened to her during the hours when he was required to stay in his house, he would not be able to do anything to help her.

12.6 Conclusion

The findings presented above show that stringent reporting requirements and electronic tagging of parents can have serious implications for the welfare of parents and their children.

In our view, there is an urgent need for the Home Office to take steps to ensure that reporting or tagging restrictions are not placed on families arbitrarily, and the welfare of children and families is properly taken into account in decisions about reporting and tagging. Wherever they are used, the reasons for the introduction of these restrictions should be shared with families and their legal representatives. There should be effective, accessible routes for families to challenge these restrictions, and time limits placed on the use of electronic tagging.

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