



An evaluative report on the Millbank Alternative to Detention Pilot

Background

An estimated 2,000 children are detained each year with their parents.¹ Detained under the same policy framework as adults, they are 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 centres, near Bedford. They can be detained at any stage of the asylum process, without time limit and without judicial oversight.

The Government's official position is that children are detained for the shortest possible time, only as a last resort. The experience of NGOs including our own is that this is not the case.² Between October 2008 and April 2009 the average period of detention for the families we have supported was over six weeks.

The Children's Society, Bail for Immigration Detainees and the Refugee Children's Consortium (RCC), of which we are members, are opposed to the detention of children for immigration purposes or the separation of families in order to detain a family member.

The No Place for A Child campaign, led by RCC members Refugee Council, Bail for Immigration Detainees and Save the Children in 2006, documented the harm detention causes to children. Successive reports by Her Majesty's Chief Inspector of Prisons (HMIP),³ the Children's Commissioner for England, academics, and charities have done the same. Some of those reports also indicate that it is very unlikely that families will abscond from the immigration authorities if they are left to live in the community, because they need to remain in contact with help and support services like health and education.

The RCC endorsed the briefing on alternatives to immigration detention for families and children produced by the All Party Parliamentary Groups on Children and Refugees as part of the No Place for A Child campaign. The briefing calls for a more humane and supportive approach to families in the asylum process.⁴

History of the Millbank Pilot

In June 2007 the Immigration Minister announced a pilot scheme to trial an alternative to detention for families with children. The scheme would focus on families who had been refused asylum and were facing the prospect of return. Initially its objective was simply to

¹ Crawley, H. and Lester, T., No Place for A Child, Save the Children, 2005

² See for example, Bail for Immigration Detainees, Obstacles to Accountability: challenging the immigration detention of families, June 2007

³ See for example, HM Chief Inspector of Prisons, Report on an announced inspection of Yarl's Wood Removal Centre 4-8 February 2008, 2008; Children's Commissioner for England, The arrest and detention of children subject to immigration control: a report following the Children's Commissioner for England's visit to Yarl's Wood Immigration Removal Centre, 27 April 2009

⁴ Bercow, J., Dubs, A., and Harris, E., Alternatives to immigration detention of families and children, 2006

explore alternatives to detention.⁵ Later this was defined as 'to reduce the number of children going through detention and to increase the number of families returning to their country of origin.'⁶

The pilot scheme at Ashford, in Kent started in November 2007, although the first family was not admitted until January 2008. The supported accommodation for families was provided at Millbank, a centre formerly used to provide initial accommodation to asylum seekers who had recently arrived in the UK. The centre was managed jointly by the UK Border Agency (UKBA) and the charity Migrant Helpline.

The scheme was intended to run for 6-12 months as a pilot. In the end it ran for just ten months with families present in the centre for the last eight of those. The intention was that families would stay at the centre for 4-6 weeks during which time they would be given information about voluntary return to their country of origin. They would be free to come and go, and their children would be educated in local schools.

This evaluation

This evaluation was conducted by Lisa Nandy for The Children's Society and Bail for Immigration Detainees following concerns expressed by members of the RCC about the Millbank pilot. It was also prompted by concern that the independent evaluation commissioned by the UK Border Agency would take little account of the experiences of children and their parents.

It is based on interviews with families, evidence gathered from legal representatives and charity advocates, a visit to the accommodation centre at Millbank and information provided to us by UKBA officials. The information was collected between December 2007 and September 2008.

This report is intended to provide an alternative view to that which has been reported to us by the UKBA: that the pilot failed because families absconded. It is not, and was never intended to be, a comprehensive evaluation of the Millbank pilot. However in the absence of more detailed analysis from UKBA we hope it will capture learning to provide a better evidence base for further exploration of alternatives to immigration detention for families in the UK. The UK Border Agency recently published a short evaluation. We believe it is vital that UKBA should use the lessons from Millbank to inform the development of the alternatives pilot currently being established in Glasgow. According to UKBA the Glasgow pilot will start at the beginning of June 2009.⁷

Referrals

1. Initially there were no criteria determining which families should be referred to Millbank and the criteria appeared to remain confused throughout the duration of the pilot. We believe this was contributory factor to the low number of families referred to Millbank by UKBA case owners during the pilot. Referrals to the pilot were slow. No families were admitted to Millbank until January 2008. There appears to have been limited awareness about the scheme amongst UKBA case owners. In addition there was a disincentive for case owners to refer families to the pilot because of the likelihood that it would prolong the time taken to conclude the asylum case. UKBA case owners work to the Agency's target to conclude the majority of cases within six months
2. We received reports about a number of inappropriate referrals to the pilot.

⁵ Border and Immigration Agency Press Release, Keeping Children in the Immigration System Safe from Harm, 25 June 2007

⁶ UK Border Agency, Alternative to Detention – Family Pilot, 2008

⁷ UK Border Agency Press Release, Voluntary returns project for refused asylum families to start in June, 12 May 2009

3. Firstly, there were referrals of legacy cases.⁸ The families we spoke to, and their NGO advocates, felt that many of those families had been in the UK for such a prolonged length of time that a discussion about return was too difficult for them to contemplate.
4. Secondly, we interviewed one family referred to Millbank straight from detention at Yarl's Wood. The family was in a very emotional state after their experience in detention and this prevented any relationship of trust developing between the mother and staff at Millbank. The family's experience of detention was known to others at the pilot and appeared to contribute to the climate of fear within the centre.
5. Reports were also provided to us about families who had been referred to Millbank despite outstanding protection needs which had not been resolved, and families who were unable to return to their countries of origin because there were currently no safe routes to do so.
6. We also received reports of families referred to the pilot with medical problems which meant the accommodation was unsuitable. The ability of Migrant Helpline to "unrefer" families who were unsuitable was helpful in some cases.
7. Once identified for referral to the pilot, the time given to families to leave their accommodation and move to Millbank was too short. Initially they were given just seven days to decide whether to go before their accommodation and support was cut off, leaving them destitute. This compares to the ten days allocated to UKBA to deliver the referral letter to families. Later, the time allowed to families increased from seven to 14 days. However during this time they were required to digest the information they had been given, sell the majority of their possessions, arrange for the removal of pets, take children out of school and move to the centre. We came across one case where the daughter in the family had to make these arrangements because her mother did not speak any English.
8. The threat of destitution for those who did not agree to move to Millbank meant the families who went there did so under duress. They told us they felt coerced and frightened. Inevitably the families who accepted the instruction to move to Millbank were those who had nobody else to turn to. Their isolation was apparent to us through our interviews, and highlighted to us by other NGOs who were supporting families in this pilot.
9. Although UKBA delivered the letter in person to the family, they did not allow Migrant Helpline, the independent advocate, to visit families before they moved to the centre to provide further explanation. Those families who received a telephone call from Migrant Helpline before they arrived at the centre were at least slightly better briefed than those who went to Millbank without any prior contact with Migrant Helpline. The confusion amongst some families about why they were there was apparent when we interviewed them.
10. This confusion was compounded because legal representatives, charity advocates and members of the judiciary were also unaware of the scheme and so were unable to advise families. In one asylum support judgment involving a family who had not gone to the Millbank Pilot the Asylum Support Adjudicator describing the scheme as "potentially unlawful" concluded that:

"whilst I have no power to determine the question of the unlawfulness of the above mentioned arrangement. The situation is so vague that it

⁸ Legacy cases are those asylum claims made prior to April 2007 which have formed part of the backlog to be cleared by the Case Resolution Directorate within the UK Border Agency.

is appropriate that, rather than allow this appeal, I should remit it to the Secretary of State to further consider the matter.”⁹

11. There were also administrative problems. For example one woman was made destitute because a letter was delivered by UKBA to her old address (apparently in breach of the designated policy that it should be delivered in person). However, UKBA had been notified of her new address by the accommodation provider. As a result of this administrative error she was made destitute and recorded as an absconder because she was not at the house (where she no longer lived) when UKBA went to collect her.

The accommodation

12. Following our visit to Millbank we thought the accommodation was of decent quality but we raised concerns about children’s safety. In particular, there were two bathrooms on each corridor containing several shower cubicles and toilets, with separate facilities for men and women. Twelve families shared these bathrooms but there was no policy about where children accompanied by a parent of a different gender should shower. When the pilot started the centre was still being used as initial accommodation and for at least part of the pilot the schemes ran concurrently. This meant there were single adults accommodated alongside families with minimal supervision of the children.
13. Although the accommodation was of decent quality it was unsuitable for families because they had to share a room. Parents had no privacy which put stress on the family unit. One father described to us having to go outside into the corridor so he could cry without distressing his children.
14. Necessary disabled adaptations appeared to have been made to the accommodation.
15. Using the centre as both initial accommodation and accommodation for families at the end of the asylum process appears to have been problematic because inevitably families befriended and supported one another. This appears to have inspired fear in the families who had recently arrived in the UK because of the plight of their friends.
16. Having to move to Millbank was traumatic for families as it involved uprooting at short notice from their normal lives. This meant they needed a significant amount of time to stabilise before engaging in discussions about their future, and it left the children distressed. In addition rumours about impending forced removals from the UK circulated within the centre and families were very frightened. It also appears to have been very difficult for the families to complain about their treatment while at Millbank because they were afraid that if they did so they would be forcibly removed.
17. There appear to have been some serious lapses in communication and confidentiality. Families reported to us that they had received new information about their asylum cases from other families or from Migrant Helpline staff before they were told by UKBA or their own legal advisors. One woman we spoke to told us she had collapsed in the centre and required medical treatment when she was inadvertently told her claim had been refused. This was corroborated by other families.
18. Although the families we spoke to thought the food was of good quality, the inflexibility of mealtimes was a source of real concern to healthcare professionals, advocates and families. Families were upset they could not eat the food they were used to and there were reports of children not eating and losing weight. There was one complaint made to us by a family of a baby becoming malnourished.

⁹ Anonymised “Reasons Statement” (Asylum Support Appeal) by Mr David Saunders, provided by the Asylum Support Appeals Project.

19. We were pleased that thought had been given to access to healthcare for families. However the families we interviewed had not used it so did not have a view on whether it was helpful.
20. Education provision was viewed very positively by families and their NGO advocates. The support of the local authority, who provided training to local teachers who had children from Millbank in their classes, was important. The funding of transport, school uniforms and packed lunches by the centre also appears to have been of immense value to children. Weekly reporting requirements, originally scheduled for Wednesday mornings, were changed when we brought to the centre management's attention that this would have required all children to miss a morning of school.
21. Significant efforts had been made to make the accommodation child friendly. An outdoor playground was funded by the Primary Care Trust and the younger children we spoke to said they liked this. They also liked the activities provided for them in the children's room.

Evaluation

22. Clear objectives and evaluation criteria were not determined before the pilot began which meant that information was not collected over the lifetime of the pilot. We wrote to UKBA and Migrant Helpline with a list of suggestions about information they should collect but it appears this was not acted on.
23. There was no attempt to measure the experience of children in the pilot. We understand this was initially considered by the first UKBA project manager but the idea did not come to fruition and resistance to this was expressed to us by senior UKBA officials.
24. There was no attempt to set up a control group at Yarl's Wood Immigration Removal Centre in order to compare the outcomes and experiences of children in detention with those in the pilot.
25. UKBA did pay for an independent evaluation by a consultancy firm but we were told by the consultant that only two weeks had been allocated for the evaluation, at the end of the project, and the brief was unclear. When The Children's Society met with the consultant in August 2008 the evaluation plan involved an interview with just one family. There was very limited consultation with NGOs and legal representatives and commitments to disclose the evaluation's findings remain unfulfilled despite a commitment to publish by October 2008.

Learning points

The pilot was too short - It became clear that conducting a pilot over ten months (effectively eight months when families were in the centre) was too short to draw meaningful conclusions. Some of the initial problems such as lack of referrals were resolved but it took time. It was only towards the end of the pilot that staff involved in delivering the project told us progress looked likely.

The referral criteria were unclear – a lack of clarity or understanding among UKBA case owners surrounding the referral criteria resulted in families being referred to Millbank inappropriately.

The pilot was not well publicised – this appears to have contributed to the small number of families who were initially referred to Millbank. It also caused confusion amongst those agencies and individuals who were supporting families, such as NGOs and legal representatives, and others involved with the asylum process such as the judiciary. A future scheme should take account of this; those sectors which are likely to be consulted for advice or involved in family cases should be kept fully informed.

Case owners had a disincentive to refer families to the pilot - A future pilot should take account of the disincentive for case owners to refer families because of pressure to conclude cases within target timescales. Cases referred to a future pilot should not form part of case conclusion rates, and should not impact on a case owner's performance against the six month target.

Families were not given enough time to explore the possibility of return - 4-6 weeks was too short a period for families to explore return options. It is possible this may have partly been caused by the upheaval of the move to the centre. It may have been additionally significant that some of the families had been in the UK for a long period of time before they were referred to Millbank. Staff involved in the pilot felt that longer than 4-6 weeks was needed to form a positive relationship with families. It was positive that when during the pilot it was discovered that the timeframe was too short, flexibility was given to Migrant Helpline to continue to work with families. However in any future pilot longer timescales should be built in from the outset.

Establishing the pilot in a separate accommodation centre was unhelpful - Thought must be given to the appropriateness of trying to explore return options for families in a designated centre rather than in the community. The housing of families who had been refused asylum in one place did not create a calm environment. A future pilot should seriously consider whether upheaval is a helpful way to build trust with families considering return. Allowing families to remain in the community with their normal routines intact seems a much more helpful way of building a trusting relationship, and enabling families to think through the options available to them in a calm way.

Working with families who have chosen to engage without coercion - Families did not have a genuine choice about whether to engage in the process. Not allowing families this choice proved problematic for the staff tasked with discussing return options with them.

Lack of leadership - Responsibility for oversight of the project changed hands during the course of the pilot. This appears to have caused some of the difficulties described in this report.

Data collection - Statistics about the number of families who refused to go to the pilot, or who left Millbank, have not been released. However it is clear that some UKBA case owners recorded people as absconders when they had in fact notified UKBA about where they were. For example, two families we interviewed had left Millbank in order to return to their asylum accommodation and had immediately notified the school and the local authority. In one case the "absconding" family had also notified UKBA.

Insufficient thought was given to establishing data recording systems that could feed into a clearly agreed evaluation process. UKBA has told us that few, if any, families returned voluntarily, although this information has not been publicly released.

The aims of the pilot were unclear and potentially too limited – When we met with the consultant who had been tasked with conducting the evaluation it appeared the success criteria for the pilot was still not clear.¹⁰ We are concerned that there was a focus on counting the number of families who returned voluntarily and insufficient emphasis on capturing the broader picture of families' experiences of the pilot and which aspects of the pilot contributed to the decisions families made about their future. This meant a valuable learning opportunity was lost.

Evaluation – the evaluation was not designed in advance. This meant data was not collected during the pilot, and there was less opportunity to learn as the pilot progressed. We are particularly concerned that there was no control group at Yarl's Wood to compare the

¹⁰ Meeting between The Children's Society and Tribal Consulting, August 2008.

experiences and outcomes of children in detention with the experiences and outcomes of children in the Millbank pilot.

Conclusion

The Millbank Pilot was a missed opportunity to find out which factors help and hinder sustainable solutions for families at the end of the asylum process. The aims should have been clear at the outset and the evaluation method fully worked out.

The design of the project was flawed. In particular two things stand out. The first is the element of coercion for families taking part. It has been demonstrated that coercion does not work when dealing with families in crisis by national and international schemes established to work with families refused asylum.¹¹ The second major flaw was the confusion about referrals, which led to inappropriate referrals, and appeared to make the job of those running the pilot virtually impossible.

Listening to the stories of families in the pilot, it was clear they had felt unsupported during their time in the UK and were confused about this latest initiative. An alternatives pilot cannot work in isolation from wider system change because by the time those families had reached the end of the process they were not able to trust or engage with the process effectively.

International experience provides evidence that successful schemes work in a supportive, transparent way throughout the asylum process, so that families and their advisers understand the system and, at the end of the process, feel confident that they have been given a fair hearing. It is difficult to see how a pilot established with families who have already been through the process, and lack confidence in that process, would be able to reverse that situation. We suggest that a more effective alternative to detention pilot would provide independent support to families from the first day of their asylum claim so that if they were refused asylum the trusting relationship that is needed would already exist.¹²

May 2009

Outcry! campaign

The Children's Society and Bail for Immigration Detainees are currently campaigning to end the immigration detention of children and their families. Funded by the Diana, Princess of Wales Memorial Fund, we are campaigning together under the banner OutCry!

The Children's Society

The Children's Society is a leading children's charity committed to making childhood better for all children in the UK. Visit www.childrenssociety.org.uk

Bail for Immigration Detainees

Bail for Immigration Detainees is a human rights charity challenging immigration detention in the UK. It provides free legal advice to detained asylum seekers and migrants to help them secure their release and it campaigns to end arbitrary detention. Visit www.biduk.org

The Diana, Princess of Wales Memorial Fund

The Diana, Princess of Wales Memorial Fund continues the Princess' humanitarian work in the UK and overseas. By giving grants to organisations, championing charitable causes, advocacy, campaigning and awareness raising, the Fund works to secure sustainable improvements in the lives of the most vulnerable people in the UK and around the world. Visit www.theworkcontinues.com

¹¹ For an example of a coercive policy that did not work see, Border and Immigration Agency, Family Asylum Policy: the Section 9 Implementation Project, 25 June 2007; for an example of a supported family policy that did work see information about the Hotham Mission: asp.hothammission.org.au

¹² See asp.hothammission.org.au and also Bercow, J., Dubs, A., and Harris, E., Alternatives to immigration detention of families and children, 2006