

Refugee Children's Consortium

Briefing on Immigration Detention of Children September 2011

Despite having committed to ending the immigration detention of children in May last year, the Government opened a new family detention facility in Crawley, Sussex in September 2011. This centre is described by the Government as 'Pre-departure Accommodation'. However, the centre is secure and has areas where families and individuals can be held in isolation. Families will be detained there under Immigration Act powers. It will be run as an offshoot of the nearby Tinsley House detention centre and inspected by the Chief Inspector of Prisons.

Some concessions have been made in the Government's policies on child detention in the last year, and a time limit of one week has been set on child detention (although this has not as yet been circumscribed in legislation). We are extremely disappointed that the Government has not fulfilled its commitment to end child detention, and have the following concerns about the new 'family returns process'.

Immigration detention is no place for a child

The Refugee Children's Consortium is opposed to the immigration detention of children. Children can experience extreme distress even during short periods in detention. For example, in 2009 a 10-year-old girl attempted suicide in a UK Immigration Removal Centre after being held there for three days.

Separation of families

We are gravely concerned that in some cases, as an alternative to detaining children, the UK Border Agency is separating children from their parents by holding parents in detention. There is currently no time limit on the separation of families by detention, and the Home Office does not publish data on how many families are separated. Members of the Refugee Children's Consortium have worked with families who have been separated in this way for long periods, including where the children were in care as a result. In our view, such practice is at odds with the UK Border Agency's duty to safeguard and promote children's welfare.

Access to Legal Advice

We are concerned that many families who are held in the new Crawley detention facility will not have had the opportunity to access quality legal representation in order to properly put forward their immigration or asylum cases before being detained. It is still unclear to what extent they will be able to access quality legal advice once in detention. The cuts which the government proposes to legal aid will make the position of these families even worse in that some would be wholly excluded from Legal Aid prior to their detention, while asylum-seeking families are likely to find accessing quality legal advice will become even more difficult.

- For asylum cases, the Government should roll out the Early Legal Advice Pilot to family cases nationally, to improve families' access to legal advice.

- For all cases, amendments should be made to the Legal Aid, Sentencing and Punishment of Offenders Bill to ensure that families with children are able to access legal advice to put forward immigration claims.

The new family returns process

In the new family returns process, families who, in many cases, have been in the UK for several years, and have children who were born in this country, are being expected to make a decision to leave the UK in just two weeks. Civil servants have informed us that there have been concerns in a number of cases about parents in these new processes self-harming.

Families and their legal representatives will not be given information about why a specific enforcement action is being taken against a family, and will therefore not be able to challenge the UK Border Agency's decisions in a meaningful way. They will not have any means of presenting information directly to the new independent 'Family Returns Panel', who will be making decisions about what enforcement action will be taken against them; or of checking that the information presented to the Panel is accurate and includes all relevant information.

In some cases, children are attending the family return conferences at which issues such as forcible removal are discussed with parents. We are concerned that there is considerable scope for children to become distressed during these conferences, and no support is being offered to them to help them to cope with these experiences.

- Families should be given longer than two weeks to consider returning voluntarily to their country of origin.
- There should be a direct flow of information between families and their legal representatives and the new Family Returns Panel.
- Children should not normally attend family return conferences. They should be consulted and have their welfare assessed by health and child welfare experts.

Tinsley House Immigration Detention Centre

We are concerned that Tinsley House will continue to be used to hold families who are detained on arrival in the UK. If they are to be detained, we cannot see any reason why these families should not be housed in the new family detention facility in Crawley, which the UK Border Agency itself states is a more suitable environment for children. Families will also be held in Tinsley House if it is deemed that they pose 'public protection risks', yet it remains unclear how these risks will be assessed.

- Families who are detained on arrival in the UK should not routinely be held in Tinsley House.

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The Refugee Children's Consortium (RCC) is a group of NGOs working collaboratively to ensure that the rights and needs of refugee children are promoted, respected and met in accordance with the relevant domestic, regional and international standards. Its members are:

Action for Children, Asphaleia Action, Asylum Aid, AVID (Association of Visitors to Immigration Detainees), Bail for Immigration Detainees, BASW – The College of Social Work, BAAF (British Association for Adoption and Fostering), Catch 22, Children and Families Across Borders, Children's Legal Centre, Child Poverty Action Group, Children's Rights Alliance for England, The Children's Society, DOST, Family Rights Group, The Fostering Network, The Immigration Law Practitioners' Association (ILPA), JCORE, Medical Justice, The Medical Foundation for the Care of Victims of Torture, National Care Advisory Service, NCB, The Prince's Trust, RAMFEL, Refugee Council, Refugee Support Network, Royal College of Paediatrics and Child Health, Scottish Refugee Council, Student Action for Refugees (STAR), Voice, The Who Cares Trust, Welsh Refugee Council.