



Thank you for agreeing to take part in the Independent Chief Inspector of Borders and Immigration removals stakeholder survey 2014. Your views are important to us and will assist to inform the inspection of the removals process. Please be open and honest when giving your opinions - your responses will be confidential. This survey should take you no longer than 10 minutes to complete.

1. What organisation do you represent?

Bail for Immigration Detainees (BID)

2. Do you think the Home Office makes effective detention decisions for the purpose of enforcing removal? *(please mark 'x' in the appropriate box)*

Yes  
 No

3. If you answered no, please explain why you consider the Home Office falls short in the detention of suitable applicants for the purpose of enforcing removal.

In 2013, over 42% of people leaving detention (including families with children) were not removed from the UK but released into the community, their detention having served no purpose. Perhaps even more worryingly, over 43% of the 11,479 detainees who were held for between 29 days and over 48 months were subsequently released. (1) A recent Freedom of Information Act request revealed that in 2012/13, the Home Office paid £5,017,971.63 in compensation following claims for unlawful detention.(2) On six occasions, the courts have found that the Home Office has breached Article 3 of the European Convention on Human Rights in unlawfully detaining seriously mentally ill people.(3)

A number of reports have highlighted failings by the Home Office in cases where pregnant women, unaccompanied age-disputed children, and trafficking victims have been detained.(4)

In 2013, BID published *Fractured Childhoods*, a report examining the cases of 111 parents detained without their children. In 92 out of 111 cases parents were eventually released, raising serious questions about why they were detained in the first place. Data from a small quantitative sample of 27 parents showed that, in most cases, these parents were detained despite barriers which meant that it was not possible, lawful or in their children's best interests for the parent to be removed. In addition, the cases surveyed revealed serious problems with the methods used by the Home Office to assess parents' risk of absconding or reoffending. Most, but not all the parents in the study were held in immigration detention after completing criminal sentences. Post-detention data were collected for the 15 parents in the small quantitative sample of 27 families who had been released for more than six months at the end of the research period. All 15 parents complied with the terms of their release and maintained contact with the Home Office. In 14 out of 27 cases in the small quantitative sample, information was obtained about how the National Offender Management Service had assessed parents' risk of reoffending or risk of harm to the public on release. In 10 cases, parents were assessed by the National Offender Management Service as posing a low risk of reoffending or harm on release, and four parents were assessed as posing a medium risk. However, the Home Office repeatedly argued that these parents needed to be detained as they posed a 'significant' and 'unacceptable' risk.

(1) Home Office (27/11/14) *Immigration Statistics, July to September 2014*

(2) Home Office (22/10/14) FOI release 32365 *Compensation paid out for unlawful detention from 2011 to 2013* <http://bit.ly/1x9ijxs>

(3) *R (HA) (Nigeria) v SSHD* [2012] EWHC 979; *R (S) v SSHD* [2011] EWHC 2120 (Admin); *R (D) v SSHD* [2012] EWHC 2501 (Admin); *R (BA) v SSHD* [2011] EWHC 2748 (Admin); *R (S) v SSHD* [2014] EWHC 50 (Admin); *MD v SSHD* [2014] EWHC 2249 (Admin)

(4) See for example Medical Justice (2013) *Expecting Change: the case for ending the immigration detention of pregnant women*; Refugee Council (2012) *Not a minor offence: unaccompanied children locked up as part of the asylum system*; Centre for Social Justice (2013) *It happens here: equipping the United Kingdom to fight modern slavery*, p98. In addition, a parliamentary question in January 2012 stated that the Government was aware of 67 women who were held in immigration detention between 1 April 2009 and 26 October 2011 and who were later identified as victims of trafficking: *Hansard* HL Deb, 10 January 2012, c67W

4. In your opinion, how effective is the Home Office in ensuring that asylum claims or other representations are considered before removing applicants from the UK? *(please mark 'x' in the appropriate box)*

- Very effective  
 Effective  
 Sometimes effective  
 Not effective

BID's 2013 report *Fractured Childhoods* examined cases where parents were detained without their children. 15 of the 111 parents in our sample were removed or deported without their children. In one case, which is set out at p89 of the report, a parent was not given any notice of his removal and therefore did not have the opportunity to take emergency legal action to prevent it. It appears from the file that the Home Office was originally planning to deport this man with his wife and children. The Home Office later confirmed in writing that he was not given notice of his removal as a result of 'administrative errors.'

In a further case, which is detailed on p107 of the report, the Home Office set removal directions for a parent in error, as they didn't realise that he had a pending appeal which meant that it would have been unlawful to remove him from the UK at this time.

5. In your opinion does the Home Office give sufficient weight to the needs of sensitive/complex cases when making arrangements for removal? Such as in the case of family groups involving children or the removal of failed asylum applicants to 'unsafe' countries'? *(please mark 'x' in the appropriate box)*

- Yes  
 No  
 Could do more

6. If you answered 'no' or 'could do more' to the above question, please explain why you think this is the case and what other measures the Home Office could adopt to improve their processes?

Extremely serious concerns have been raised about the actions of the Home Office and its contractors during some attempts to forcibly remove people from the UK – for example by the inquest into the death

of Jimmy Mubenga.

A series of Prisons Inspectorate reports have also highlighted problems (see for example 19/11/14 *Detainees under escort: Inspection of escort and removals to Tirana, Albania and Pristina, Kosovo* and 25/3/11 *Detainees under escort: Inspection of escort and removals to Jamaica*)

BID is particularly concerned by failures by the Home Office to consider the best interests of children where families are separated by detention and/or removal. Our concerns are set out in detail in our 2013 report *Fractured Childhoods*. We are concerned that the Home Office does not appear to have consistent procedures in place to find out whether people have children, and if so what their children's situation is, before they are arrested and removal directions are set for them. In BID's view, Family Welfare Forms should be completed in all family cases, including cases concerning the deportation of parents, so that proper consideration can be given to child welfare.

Furthermore, the Home Office needs to develop proper processes for assessing children's best interests and reuniting children with their parents where the family are separated by prison or detention, and the Home Office plans to remove or deport them together. In one case, which is detailed on p95 of BID's *Fractured Childhoods* report, the Home Office planned to deport a family together. Both parents were detained and the children were in the community. One of the children in this family was one year old when his mother went to prison, and had been separated from her for two years and five months. A bail summary in her file states that: 'It was intended that the four children would be reunited with their parents [at a reporting centre], or at Heathrow Airport, before the family boarded the aircraft.' It is extremely concerning that the Home Office thought it would be appropriate to reunite these children with their parents for a few hours to re-establish their relationship during the course of their deportation.

In relation to removals in the family returns process, concerns were raised by the Prisons Inspectorate's 2014 *Report on an unannounced inspection of Cedars pre-departure accommodation and overseas family escort 6 – 27 January 2014*, which found that:

'While escorts were managed reasonably well, we observed unnecessary light-touch restraint by escort staff, which escalated at least one situation... the needs of children were not central enough to the arrest process. In one case, extreme force was used for several minutes to batter down a family's door early in the morning... The reasons given for this tactic, which was not preceded by any attempt to

knock on the door, lacked credibility.’ (p5)

Barnardo’s 2014 report *Cedars: Two years on* highlighted concerns in relation to the arrest and escorting process, use of force against children, and the separation of families in the family return process. At p13, the report states:

‘We have seen examples where one of the parents is separated from their children for a number of days, often being returned on different flights.’

BID is troubled by the absence of any statistical or management information on the numbers of families who are separated during the returns process. Without such basic data, it is difficult to see how the Home Office’s adherence to its legal duty to safeguard and promote the welfare of children can be monitored. BID has heard anecdotal accounts of cases where families were separated because one parent was absent from the home when the family’s arrest took place. Given the serious child welfare considerations which are at stake, there is an urgent need for the Home Office to amend its instructions and practice to ensure that families are not separated for reasons of operational convenience.

Finally, we note that a number of families in the return process are subject to ‘limited notice’ or ‘no further notice’ returns. BID is concerned that there may be barrier to these families accessing legal advice and judicial oversight of the Home Office’s decision to forcibly remove them. In the case of ‘limited notice’ removals, given that legal representatives are likely to have considerable caseloads to manage, it may be difficult for them to take on a case where there is no fixed removal date, as they will not be able to reliably assess what the impact of taking the case on will be for their ongoing casework. Furthermore, the uncertainty of not knowing what date or time they will be removed from the UK on is likely to cause considerable distress to families. This is particularly concerning given evidence that some family members in the returns process have self-harmed.<sup>(1)</sup> Unfortunately, BID is not aware of any publicly available information on whether families who have been removed with limited notice have been able to access legal advice, and what effect the process had on them. We urge the Borders and Immigration Inspectorate to examine this issue as part of your inspection of the removals process.

(1) Home Office (2013) ‘Evaluation of the new family returns process’ p45

7. How efficient is the Home Office in enforcing the removal of individuals (asylum and non asylum cases) who have no legal basis to remain in the UK? (please mark 'x' in the appropriate box)

- Very efficient  
 Efficient  
 Sometimes efficient  
 Not efficient

8. Do you consider that the Assisted Voluntary Return scheme offers sufficient value for money as a mechanism to remove individuals from the UK? (please mark 'x' in the appropriate box)

*BID does not have enough knowledge of this issue to comment.*

- Yes  
 No

9. What do you consider the Home Office is doing well with regards to the removal of individuals from the UK?

The Prison Inspectorate's November 2014 report *Detainees under escort: Inspection of escort and removals to Tirana, Albania and Pristina, Kosovo* noted some improvements in the practice of escorts during forced removals. At p5, it found that both the removals observed were 'generally well organised and calm' and that 'for the most part escort staff interacted sensitively with detainees.'

10. How could the Home Office be more effective in the removal of those without a legal basis to remain in the UK?

Thank you for taking the time to complete the survey.