



"In Whose Best Interests?"

The separation of families by detention and deportation and the BID Annual General Meeting

BID Bail for
Immigration
Detainees



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Welcome

18:00 Annual General Meeting

Approval of minutes of 2018 AGM, matters arising
Treasurer's report
Approval of auditors
Election of trustees
Chair's/Director's report
Any other business

18:20 "In Whose Best Interests?"

Nick Beales, Legal Manager, Separated Families' Project
Mike, formerly detained and facing deportation from the UK
Nathan Ward, former G4S manager, now Anglican vicar, helped
expose abuse in Brook House
Amelia Gentleman, Guardian journalist
Carmen Kearney, Legal Manager Article 8 & Deportation Project



BID's Separated Families' Project

Nick Beales, Legal Manager

BiD Bail for
Immigration
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Separated Families' Project

- Provide legal representation in immigration bail to those detained under immigration powers
- Work alongside our Deportation project and Policy Team



Section 55

Duty regarding the welfare of children:

(1) The Secretary of State must make arrangements for ensuring that—

(a) the functions mentioned in subsection (2) are discharged having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom, and

(b) any services provided by another person pursuant to arrangements which are made by the Secretary of State and relate to the discharge of a function mentioned in subsection (2) are provided having regard to that need.

(2) The functions referred to in subsection (1) are—

(a) any function of the Secretary of State in relation to immigration, asylum or nationality;

(b) any function conferred by or by virtue of the Immigration Acts on an immigration officer;

(c) any general customs function of the Secretary of State;

(d) any customs function conferred on a designated customs official.



“Primary consideration”

- ZH (Tanzania) [2011] UKSC 4
- We do not see evidence in detention decision-making that children’s best interests are treated as a primary, or even relevant, consideration.



Safeguards

- Criminal Casework: Detention of Families (valid from 29 July 2014)
- If the FNO has parental responsibility for a child, you must consider the best interests of any children in the family unit and how the FNO's detention will impact on them. If there is a subsisting relationship between the parent and child the best interests of the child will almost always be in the liberty of the parent, unless there are child protection concerns around the parent. If this is the case, you must consider if there are lawful grounds where the best interests of the child can be justifiably overridden (page 12)



Safeguards

- Criminal Casework: Detention of Families (valid from 29 July 2014)
- What the impacts of the separation might be on the individual children. You must contact the local authority children's services (LACS) and the office of the children's champion (OCC) for advice in assessment for the following:
 - young children may forget who a parent is if a subsisting relationship is not carefully managed
 - older children may be affected by the absence of parental guidance in areas such as bullying or physical development.



Safeguards

- Family Separations (December 2017)
- You must not separate family members in the following circumstances:
 - nursing mothers must not be separated from the child they are nursing, for immigration purposes
 - a child must not be separated from both adults for immigration purposes (or from one, in the case of a single-parent family, if the consequence of that decision is that the child is taken into care) (page 6)



Case studies

Three cases where children were taken into care as a result of detention.

1.OK

2.TA

3.MD



BID's work

- Home Office does not keep figures on the numbers of children separated from parents as a result of detention
 - 167 parents separated from 322 children
 - 26 of these parents were removed (18%)



Challenging these decisions

Systematic failings:

- Out of 20 cases surveyed by BID, in only one did the Home Office acknowledge that they had contacted the local authority
- In none of these cases do they appear to have contacted the office of the children's champion

Bhatt Murphy:

- AJS v SSHD
- Witness statement provided by BID showing that Home Office failures are systematic and frequent and that AJS's case was not a one-off



Looking forward

- BID opposes detention and parents should never be separated from children for administrative convenience
- If a parent is to ever be detained, it must be as a last resort, such as when a flight is booked, the parent has refused voluntary departure and s/he has received legal advice/representation.



Help us #EndDetention

Visit our stand to speak to us about how you can...



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member



Become a
volunteer



Write to
your MP



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