



# **CHILD DETENTION REVIEW**

## INTERIM ASSESSMENT OF FAMILY RETURN PILOTS

May 2011



# EXECUTIVE SUMMARY

## INTRODUCTION

On 1 June 2010 the UK Border Agency began a review into ending the detention of children for immigration purposes. This led to the creation of a new returns process consisting of three stages:

- Assisted Return
- Required Return
- Ensured Return

The North West and London regions piloted this new process beginning in June 2010. The review into ending the detention of children for immigration purposes was published on 16 December 2010 and an interim assessment of progress made in the pilots, up to 22 November, was published on 7 January 2011. This second interim assessment considers the progress made in the pilots up to 28 February 2011. On 1 March 2011, the process used by the pilot teams was rolled out nationally. Guidance on the new family return process can be found in Chapter 45 of the Enforcement and Instructions Guidance.

## BACKGROUND

- 110 cases from London and the North West were involved in the pilot (up until 28 February 2011),
- In London, the pilot consisted of **44** cases (from an initial 66<sup>1</sup>).
- In the North West, the pilot consisted of **66** cases (initially starting with 16).
- 192 children (under 18), most (146) were under the age of 11.
- The most common nationality was Nigerian or Pakistani.
- In the North West, all were Failed Asylum Seekers (FAS).
- Most lead applicants (76) had been in the UK five years or less.
- In the North West, most families (42) had exhausted their appeal rights against an immigration refusal decision *after* January 2009, in London 18 families had exhausted their appeal rights *before* January 2009.
- Most families (51) from both London and the North West consisted of one child under the age of 18.
- In the North West most families (43) were known to have an individual with a medical condition, in London most did not have any known conditions.

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<sup>1</sup> 22 cases were removed from the London pilot because a conference had not yet been attempted due to operational constraints. Should it be possible to conduct a conference in the future, they will again be included in the pilot and assessment. There is no specific profile to these cases (e.g. 41% are Failed Asylum Seekers, 55% were not reporting)

Further data on the families involved in the pilot is at **Annex A**. Until 22 November 2010, the pilots were only testing the Assisted and Required Return process, but from that date they also had the option of the Ensured Returns process.

Although this will be the last assessment of the pilots there will be a wider evaluation of the family return process next year. This will include further qualitative research on the impacts of the process on the staff and the families involved.

## DATA

Data used in this assessment was manually collected during the pilot phase. Feedback from UK Border Agency staff involved has also been included. All data is therefore from Management Information (MI) and is subject to change, unless otherwise stated.

The lack of historic MI has made comparisons in this assessment difficult. In his report on family removals, the Independent Chief Inspector was critical of MI in respect of families with dependent children not being published and analysed<sup>2</sup>. This is something that the UK Border Agency accepted and agreed to review. From 1 March 2011 internal data systems have been modified to ensure we have clearer and more consistently recorded data on families going through the new returns process.

Moreover, it is difficult to compare the pilots to ongoing non-pilot cases because the process for all cases (nationally) changed twice over the period of the pilot. The non-pilot process was amended on 12 August 2010 so that every family case was offered an Assisted Voluntary Return (AVR) package and self check-in removal directions were attempted, before pursuing ensured return and removal. This was again revised on 16 December when the decision was taken to close the Yarl's Wood Immigration Removal Centre to families with children. Nonetheless, some historic MI has been used wherever possible.

Finally, as there were only 13 case conclusions (12% of cases) during the period of assessment findings should be treated as indicative only.

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<sup>2</sup> <http://icinspector.independent.gov.uk/wp-content/uploads/2010/07/Family-Removals-A-Thematic-Inspection.pdf>

## KEY FIGURES

Between 17 June 2010 and 28 February 2011 there were:

- 110 attempts at a Family Return Conference,
- 90 Family Return Conferences were conducted,
- 13 families applied for an Assisted Voluntary Return for Families and Children (AVRFC) package,
- Three families departed under an AVRFC package,
- One family voluntarily departed without assistance,
- One family removed using “Escorted Return”,
- Two families were returned using detention (of less than 72 hours),
- 41 Self Check-In Removal Directions were not complied with,
- Three family cases were referred to the interim Family Returns Panel which became available from November 2010,
- Five families were granted leave to remain and one family was granted an EEA Residence Permit.

## SUMMARY OF OVERALL FINDINGS

- **A Family Return Conference appears to be more likely to be successful where there has been previous compliance with reporting restrictions** - The London pilot had a large number of cases that were not in contact management (20 cases) and also had the most unsuccessful attempts at a Family Return Conference (17). This impacted on the speed these cases moved through the assisted and required return stages of the new process. In the North West pilot, 64 families were in contact management when they entered the pilot and 57 of the 64 families complied with the request to attend the Family Return Conference
- **Few families breached reporting restrictions or absconded after a Family Returns Conference** - In the North West eight families stopped reporting after the Family Return Conference. In London, five families stopped reporting after the Family Return Conference.
- **The number of AVRFC applications, particularly in the North West, has been encouraging. However, there is still insufficient evidence to judge whether the new approach results in increased AVR departure or voluntary return** - There were 13 applications for AVRFC, one voluntary return and three AVR departures.
- **The Family Return Conference resulted in families raising Further Submissions before Removal Directions were set** - Over 55 barriers to removal were raised before removal directions were set. Providing families with the opportunity to raise barriers to removal

earlier helps families by allowing the UK Border Agency conclude cases sooner, whether the family are successful or not, following the consideration of any barriers or issues raised.

- **However, some families still appeared to be waiting until later in the process to raise challenges** - 13 families raised a barrier once removal directions were set.
- **Self Check-In has not resulted in any departures.**
- **A number of cases have neither challenged the removal direction nor complied with them** - eight cases in the North West were non-compliant or absconded.
- **Ensured Return options were available but not fully tested over the pilot period.** Ensured returns options did not become available until 22 November 2010. The ensured returns process starts with a case being referred to an advisory panel. During the pilot phase considered in this assessment an interim panel was set up from scratch. While panel processes were being developed the panel did not have sufficient opportunity to consider live pilot cases. Three family cases were referred to the interim panel during the pilot phase.
- **The costs of the process are still being examined.** However, the pilot has been found to be resource intensive in terms of staff time, particularly where cases are not concluded.
- **Staff conducting conferences observed that most families appeared uninterested or disengaged in the Assisted Return options presented at the Family Return Conference.** In a number of cases the prospect of removal led to a degree of distress sufficient to require UK Border Agency staff to engage with social services. This has underlined the need for UK Border Agency to build closer relationships with social services going forward. However, staff conducting conferences also observed that where families were interested in taking up an Assisted Return package, they became more enthusiastic towards Assisted Return as they became more engaged in the new process.

# INTERIM ASSESSMENT

## MEASURE 1 - COMPLIANCE WITH REPORTING CONDITIONS AFTER THE FAMILY RETURN CONFERENCE

1. A total of **90** Family Return Conferences out of the 110 cases were conducted between June 2010 and February 2011. There was one conference per family.
2. The intention of a Family Return Conference is to build engagement with the family. The new process should not alter compliance with reporting restrictions nor encourage families to abscond.
3. The Enforcement Instructions and Guidance (EIG) definition of an “absconder”<sup>3</sup> does not reflect all types of non-compliance that may occur in the processes being piloted (e.g. a family may be compliant with reporting restrictions, but will not attend a self check-in).

### Findings on Family Conferencing – London

4. In London, 44 Family Returns Conferences were attempted of which 27 were completed (55%).

<b>Family Conferences: London</b>	<b>Number of conferences conducted</b>
Family Return Conference Conducted at Family Home	14
Family Return Conference Conducted at Reporting Centre	13
Total Completed	27
Family Return Conference Attempted, But Not Completed	17

5. Of the 17 failed attempts, 13 families had not been reporting previously. Of the 27 successful conferences, just seven families had not been reporting previously. The level of prior contact management appears to have affected the likelihood of completing a Family Return Conference. This is because in some cases families were using the address that the UK Border Agency held on file for them solely as an address to receive mail and when receiving the invitation they decided not to attend, or because the families no longer lived at

<sup>3</sup> <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/oemsectiond/chapter19> - “An individual who leaves the border control area without permission, escapes from detention, breaches one or more of the conditions imposed as a condition of Temporary Admission, Temporary Release, Bail, or release on Restriction Order, and whose current whereabouts are unknown.”

the address and so were not aware of the invitation to attend the Family Returns Conference.

6. Subsequent to the 27 successful conferences, 22 families maintained contact management. Of the five families that did not comply with subsequent reporting, three later resumed contact by lodging or attempting to lodge further submissions (but are still not reporting) and two are absconders.

### Findings on Family Conferencing - North West

7. In the North West, Family Return Conferences for all 66 cases were attempted, of which 63 were completed (95%). In nine cases the lead applicant did not attend the Reporting Centre as requested for the conference. This led to six conferences being successfully conducted by enforcement staff in the family’s accommodation:

Table 2: Family Conferences: North West	
Family Conferences: North West	Number of conferences conducted
Family Return Conference Conducted at Family Home	6
Family Return Conference Conducted at Reporting Centre	57
Total completed	63
Family Return Conference Attempted, But Not Completed	3

8. Of the 3 failed attempts, all 3 families *had* been reporting previously. Of the 63 successful conferences, just 2 families had not been reporting previously.
9. Subsequent to the 63 successful conferences, 55 families maintained contact management. Of the eight families that did not comply with subsequent reporting, two were subsequently placed on Voice Recognition reporting, four absconded and have not been located/resumed contact, one absconded but has now been located, and one case has only recently stopped reporting.

### MEASURE 2 – TAKE UP OF VOLUNTARY DEPARTURE & AVR

10. One of the intentions of the Family Return Conference is to raise the possibility of voluntary departure or AVR amongst families who otherwise would be subject to enforced return. During the pilot period (1 June 2010 to 28 February 2011), 13 out of 110 cases made an

application for AVR. During the same period, there were three departures using the AVRFC programme and one voluntary departure:

<b>Type of departure</b>	<b>Take up numbers</b>
Vol Departures	1
AVR Applications	13
<i>AVR Departures</i>	3
<i>AVR Departure pending</i>	7
<i>AVR Withdrawals</i>	3 <sup>4</sup>

11. As noted in the previous assessment, there has been a general increase in the take up of AVR (outside of the pilots) recently. Most of the families (outside of the pilots) departing on AVR were overstayers.

12. When comparing the number of AVR departures from the pilots to AVR departure numbers in the Family Return Project in Scotland, which has been running since June 2009 and which had 48 cases referred to it between June 2009 and 28 February 2011, it is noted that the Family Return Project in Scotland has not seen any AVR departures.

**Findings – Voluntary Departure and AVR take up: London**

13. There was one application for AVR from the London pilot and this application remains pending. In addition, one family departed voluntarily without an AVR package.

**Findings – Voluntary Departure and AVR take up: North West**

14. 12 out of 13 AVR applications made during the pilot were from the North West. This is an increase since the last assessment when there were just six applications. There have been a further two AVR departures since the previous assessment (a total of three).

15. Of the 12 AVR applications made in the North West (not including re-applications), ten were made after the Family Departure Conference (i.e. after removal directions had been set).

16. Of those who left under AVRFC in the North West, the timescales between the date of application and departure were between 10 and 16 weeks.

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<sup>4</sup> Five families withdrew their AVR applications, but two of these families changed their mind, re-instating their AVR application. Hence, the net number of withdrawals is three.

17. In five cases in the North West, the AVRFC application was withdrawn. In four of these cases this was due to non-compliance with the AVR process (e.g. not supplying requested documents) rather than an explicit withdrawal. Of these withdrawn cases, two families reinstated their AVR application.

18. As noted in the previous assessment, the North West team report that they feel they improved the way that they promoted AVR as the pilot progressed. This is reflected by the increase in AVR applications and the total of 12 applications from 63 successful Family Return Conferences (19%). However, this has still not translated into actual departures as yet.

### **MEASURE 3 – SUCCESS OF REQUIRED & ENSURED RETURN**

19. Where families choose not to take up Assisted Return the intention is that the Family Conference process would encourage compliance with Self Check-In Removal Directions (which would be served with a minimum of two weeks notice). A total of 41 pilot cases had Required Return Removal Directions set between 29 June 2010 and 28 February 2011.

20. On 22 November 2010, Ensured Return options were introduced making the full family returns process available. A returns plan for the family had to be referred to the interim Family Returns Panel for advice if the Ensured Return options were considered to be necessary to effect the family's return. During the course of the pilot one family had removal directions set under the Ensured Return route.

#### **Findings on Required and Ensured Return**

21. None of the 41 initial attempts at Required Return were successful. The reasons for unsuccessful Required Return are identified in Table 4 below:

<b>Table 4: Failed Required Return</b>	
<b>Reason for Failure</b>	<b>No. of Families</b>
Judicial Review	7
Failed to Comply	18
Further Subs	6
AVR Application	3
Travel Documentation	5
Out of Time Appeal	1
Granted Leave	1
Total Failed	41

22. “Failed to Comply” means that there were no outstanding barriers to pursuing removal, but the family did not comply with the Self Check-In Removal Directions. Of these, only two families actually absconded (within the meaning described in paragraph 3).
23. There were three second attempts at setting Self Check-In Removal Directions, but these all failed and in all three cases the family simply failed to comply with the re-set Removal Directions. One of these families was then taken to the Ensured Return stage.
24. As noted in the previous assessment there were three families returned outside of the Assisted Return process.
25. While Ensured Return options were available from 22 November 2010, they were not fully tested within the period during which the pilots ran, and excluded the option to securely accommodate a family in Pre Departure Accommodation prior to departure as that accommodation was not available until summer 2011. In several cases, pilot teams were advised by social services that because of the high risk of self harm, the family should be securely accommodated immediately prior to departure.
26. The interim Family Returns Panel was also set up in November 2010 to test the process for having an Independent Family Returns Panel to consider and advise on the method of removal for families where an ensured return was necessary. The interim Panel tested the process for staff referring family cases to it, what the role of Panel members should be and the advice that the Panel should provide.

27. The interim Family Returns Panel was comprised of UK Border Agency staff, the Department for Education and social work representatives. It used case scenarios to test the new process which resulted in significant action learning on various elements. Learning included what information should be provided to the Panel as part of a family returns plan, whether contingencies to agreed plans were needed, and what specialists might be required to sit on an Independent Family Returns Panel. The interim period also established the support a Panel would need to respond to both business and public needs.

28. While Panel processes were being developed, the Panel did not have sufficient opportunity to consider live pilot cases for Ensured Return. However, three live family cases were referred to it during the period under assessment. The first case considered by the Panel was referred back to the Local Immigration Team with a request to obtain more information from social services to inform the removals plan. The second case referred to the Panel was for an initial review and to be resubmitted to the Panel at a later date. The third case referred to the Panel resulted in removal directions being set. However, the Ensured Return failed due to a barrier to removal being raised on the day of arrest.

#### **MEASURE 4 – RAISING BARRIERS TO RETURN EARLIER**

29. One of the goals of the new process is to identify barriers or other issues that are preventing a family returning to their country of origin. This helps families by allowing the UK Border Agency to conclude the family case sooner; a quick resolution of the case is in the best interests of all concerned. It is also to give the family the opportunity to consider their position after any issues they may have held back have been fully addressed.

#### **Findings on barriers raised at the Assisted and Required Return stage**

30. More than half of families who had a Family Return Conference (55) raised barriers at the Assisted Return stage (prior to Required Return Removal Directions):

<b>Table 5: Barriers raised at Assisted Return</b>	
<b>Type of Barrier (at Assisted Return)</b>	<b>No. of Families</b>
Further Submissions	33
Non Asylum Application	7
Out of Time Appeal	2
Judicial Review	4
Other	9
Total Barriers Raised	55
None Raised	35
Total cases to Assisted Return	90

31. However, the Family Return Conference did not always result in all barriers being identified/being raised by the family. There was still a delay in a number of cases.

32. Of the 41 cases that went to the Required Return stage, 22 did not raise a barrier at the Assisted Return stage. Of these 22, 13 families only raised a barrier *after* removal directions had been served. Of the remaining nine families that did not lodge a barrier (either at the Assisted or Required Return stage), eight simply failed to comply with the removal directions and in one case there was a travel documentation issue for a family member.

33. Looking wider at all the cases where removal failed solely because there was a failure to comply with removal directions (18 cases, see paragraph 22), three families were returned (see paragraph 22 and 24) and six applied for AVRFC (of which 2 have departed), but in a number of cases subsequent barriers were raised such as Judicial Review, further submissions or swap over claims.

34. It is noted that there were five cases where the family was granted leave as a result of further submissions being lodged after a Family Return Conference (or where a Family Return Conference is attempted).

35. As of 28 February 2011, of those cases that Required Removal Directions set, the following barriers existed:

**Table 6: Required Return Cases – Current Barriers (28/02/11)**

Type of Barrier	No. of Families
Judicial Review	6
Further Subs	7
Travel Documents	3
Outstanding AVR Application	5
Absconded	1
Other	1
Outstanding Removal Directions	0
Total Open Barriers	23
No Barriers	11
Returned/Departed	5
Granted Leave	2
Total cases to Required Return	41

## MEASURE 5 – COSTS

36. UKBA intends to undertake work to assess the financial costs and benefits of the process as part of the ongoing evaluation. However, the North West team attempted to estimate the costs of two elements of the pilot process. The conferences at Reliance House, conducted by one or two Higher Executive Officers (HEOs), have an estimated cost of between £135 and £161, suggesting a cost between £7,695 and £9,177 (for 57 conferences). This includes average admin costs in setting the interview up, travel tickets for the family, interpreter costs for an hour long interview etc. A Family Return Conference conducted by Immigration Officers (IOs) costs about £250, suggesting a cost of £11,500 (for 46 visits). This is based on average travel times and costs from Reliance House to the family's address and average conference times. The total cost of these elements may be in the region of **£18k to £20k** in the North West.

37. In addition, the team in the North West had an increasing workload; 66 cases entered the return process, 8 were concluded. It is perceived by staff that the level of engagement with the family that the new process requires will put pressure on existing staff resources.

## MEASURE 6 – IMPACTS

38. The intention of the new process is to ensure that the family's wellbeing is safeguarded and that the family are treated in a humane way throughout the new process. As noted in the previous assessment, staff running the pilots perceived there to be a general lack of interest from families in taking an Assisted Return at the Family Return Conference. Staff were also concerned about family wellbeing as a result of reactions to the new process.

### **Findings on costs and impacts of new family returns process**

39. In total there were 16 cases where a decision was made to make a referral to social services due to concerns over family wellbeing. In a further three cases a referral was made to a GP. This represents 21% of all cases where a Family Return Conference was conducted. In eight cases where a referral was made the families progressed to Required Return; the remainder were put on hold either because further discussions with social services needed to take place or because the full range of Ensured Return options were not yet available. The number of referrals remains a concern and will continue to be monitored. Further investigation of why this is happening may be picked up in future evaluations.

## ANNEX A – FURTHER BACKGROUND

**Table 7: Top 3 Nationalities of cases in family pilots**

NATIONALITY	LDN	NW
Nigeria	18	16
Pakistan	5	10
Mongolia	0	6
Other	21	34
Total	44	66

**Table 8: Breakdown of age range of individuals across family pilot cases**

AGE	Under 5	5-11	12-16	17-18	Over 18
NW	48	35	18	14	9
LDN	28	35	11	3	8
Total number of individuals in each age range	76	70	29	17	17

**Table 9: Breakdown of length of residence**

LENGTH OF RESIDENCE	LDN	NW
Up to 1 Year	1	14
2 Years	5	9
3 Years	7	14
4 Years	5	7
5 Years	8	6
6 Years	4	6
7 Years	6	2
8 Years	4	5
9 Years	2	1
10 Years+	2	2
Total	44	66

**Table 10: Breakdown of case type**

CASE TYPE	LDN	NW
Failed Asylum Seeker	20	66
Non-Asylum	24	0
Total number of cases	44	66

**Table 11: Breakdown of pilot cases in contact management**

IN CONTACT MANAGEMENT	LDN	NW
Yes	24	64
No	20	2
Total	44	66

**Table 12: Breakdown of number of lone carers**

LONE CARERS	LDN	NW
Yes	18	38
No	26	28
Total number of cases	44	66

**Table 13: Breakdown of number of family pilot cases with children under 18**

NO. OF CHILDREN UNDER 18	LDN	NW
One	17	34
Two	17	20
Three or More	8	12
Total number of cases under 18	42	66

**Table 14: Breakdown of family pilot cases with exhausted appeal rights**

APPEAL RIGHTS EXHAUSTED	LDN	NW
Jul 2010 - Feb 2011	0	13
Jan 2010 - Jun 2010	8	17
Jul 2009 - Dec 2009	0	6
Jan 2009 - Jun 2009	2	6
2008	9	5
2007	5	3
Pre-2007	4	1
Other (e.g. Certified)	16	15
Total cases with exhausted appeal rights	44	66

**Table 15: Breakdown of known medical conditions**

KNOWN MEDICAL CONDITIONS	LDN	NW
Yes	12	43
No	32	23
Total number of cases	44	66