



House of Commons
Home Affairs Committee

The Detention of Children in the Immigration System

First Report of Session 2009–10

Report, together with formal minutes

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The Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies.

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Ms Karen Buck MP (*Labour, Regent's Park and Kensington North*)
Mr James Clappison MP (*Conservative, Hertsmere*)
Mrs Ann Cryer MP (*Labour, Keighley*)
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Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via www.parliament.uk

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/homeaffairscom. A list of Reports of the Committee since Session 2005–06 is at the back of this volume.

Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Eliot Barrass (Second Clerk), Elisabeth Bates (Committee Specialist), Sarah Petit (Committee Specialist), Darren Hackett (Senior Committee Assistant), Ameet Chudasama (Committee Assistant), Sheryl Dinsdale (Committee Assistant) and Jessica Bridges-Palmer (Select Committee Media Officer).

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Key Facts

- Nearly 1,000 children a year are detained in UKBA immigration detention centres.
- On average, children spend over a fortnight in detention (15.58 days). Detention for up to 61 days is not uncommon. On 30 June 2009, 10 of the 35 children in detention had been held for between 29 days and 61 days.
- It costs £130 a day to keep a person in detention; in the most extreme situations, detaining a family of four for between 4 and 8 weeks costs over £20,000.
- Over 90% of judicial reviews do not even get leave for hearing.

Report

1. The removal of those found to be living in the United Kingdom illegally must be a central tenet of any coherent immigration policy. Those who fail to leave voluntarily need to be apprehended and then deported. Deportation rarely happens immediately after apprehension so there is a subsequent need for some form of detention or monitoring as a prelude to the removal of those deemed to have no right to live in the United Kingdom. In August 2009, the Home Office produced the *Control of Immigration: Quarterly Statistical Summary, United Kingdom, April–June 2009*¹, which included quarterly figures on the number of people detained in UK Border Agency (UKBA) Detention Centres ahead of their deportation or voluntary removal. For the first time these data included specific information on the numbers of children detained with their families by the UK Border Agency in the past year. The figures revealed that in the period April–June 2009, there were 235 children under the age of 16 held in UKBA detention centres, the majority of whom were held at Yarl’s Wood Immigration Removal Centre, Bedfordshire.

2. These figures led us to undertake a short inquiry into the detention of children in the immigration system. We investigated why children were detained, how long they were detained for and the conditions at Yarl’s Wood Immigration Removal Centre. On 16 September 2009 we took oral evidence from Mr Ali Soyey of the Children’s Society and Ms Amanda Shah of the charity Bail for Immigration Detainees, Mr Dave Wood, Strategic Director of Criminology and Detention, UKBA, and Sir Al Aynsley-Green, the Children’s Commissioner for England. We also visited the Yarl’s Wood Centre on Thursday 15 October. We would like to thank everyone who has helped us during this inquiry.

Why and how many children are detained

3. This inquiry focuses on those children detained with their families at UKBA centres as a final step before their deportation. The vast majority of these families have applied for asylum and “have been judged by tribunals to have no right to remain in the United Kingdom”.² We were told that that while the risk of absconding is generally viewed as the rationale behind detention, “there is no evidence that families with children systematically disappear”.³ Instead, detention is a final step in an immigration process that often begins with an application for asylum; it is meant to be only a short-term measure—a matter of days—and longer-term detention is often a result of final appeals and judicial reviews.^{4 5}

1 <http://www.homeoffice.gov.uk/rds/pdfs09/immiq209.pdf>

2 HC 970-i, Q25

3 HC 970-i, Q1

4 HC 970-i, Q25

5 We have previously produced a Report into the issue of human trafficking (Sixth Report of Session 2008–09, HC 23) which partially addressed the problem of child trafficking—children smuggled into this country illegally, for the purposes of exploitation, often unaccompanied and often by criminal gangs. These children may be picked up by UKBA officials and detained, but “that would be normally for a short time of hours ... in exceptional cases overnight”, as a prelude to further action by social services. Such children are not the subject of this inquiry.

4. We were told that “nearly 1000 children a year remain in detention”,⁶ and we have learned that at any one time up to 35 children are detained.⁷ However, Mr Wood explained that because of legal reviews and appeals of cases there is often a degree of “re-detention”—“there are duplicates in the sense of families detained twice”.⁸ We have been unable to discover how many individual families with children have been detained in the last year. That such figures are not readily available is troubling. **In future, Government statistics should be more informative and state how many separate individuals have been detained, not merely how many people have passed through detention.**

5. **We suggest that local authorities play a greater role in this area. We recommend that when children are detained for any period of time, the local authority in which they are held is informed and then notified once the period of detention is complete. Not only will this improve the collection of statistical information, but it should also encourage local authorities to undertake their statutory responsibilities with regards to child welfare and encourage greater council and social services oversight of the wellbeing of the detained children.**

6. We were also told by Mr Wood that the average length of time that families spend in detention is decreasing: “last year the average length of detention for family units and for children in particular was 16 days. It is 15.58 days this year”.⁹ This is a welcome development; however, it must be borne in mind that even on these improved figures the average length of time that families with children are spending in detention remains over a fortnight, so in our view more must be done. We are also wary of relying too heavily on a crude mean average when assessing UKBA’s performance in this area, as within the average figure of 15.58 days there are many extreme examples. On 30 June 2009, the only date for which figures have been released, 10 of the 35 children in detention had been held for between 29 days and 61 days. This is an unacceptably long time and it suggests that some part of the judicial or immigration system has failed these persons.

7. **We do not understand why, if detention is the final step in the asylum process, and there is no evidence of families systematically “disappearing” or absconding, families are detained pending judicial reviews and other legal appeals. The detention of children for indeterminate periods of time (possibly for 6–8 weeks), pending legal appeals must be avoided. We recommend that after a child has spent an initial fortnight in detention and every seven days thereafter, UKBA notifies the Home Office, and the Children’s Commissioner as to why detention for this amount of time is justified and why the continued detention of this child is necessary.**

8. **We further recommend that UKBA consider the use of electronic tags, reporting requirements and residence restrictions while reserving the right to detain as an alternative to indeterminate detention pending final legal decisions.**¹⁰ More generally

6 HC 970-i, Q17

7 <http://www.homeoffice.gov.uk/rds/pdfs09/immiq209.pdf>

8 HC 970-i, Q43

9 HC 970-i Q38

10 We also note the establishment of a pilot scheme in Glasgow which promises an “alternative to detention” which is a welcome development. However, given the failings of the Millbank pilot in Kent and criticisms already levelled against the Glasgow scheme’s “robustness and experimental design” (see HC 970-i, Q87), we remain unconvinced that this is the optimum solution.

we urge UKBA to work from the principle that the detention of young children must only ever be used as a last resort and the length of time spent in detention should be reduced.

Facilities at Yarl's Wood

9. The conditions at Yarl's Wood have been heavily criticised in the past. In August 2008, Her Majesty's Chief Inspector of Prisons reported that "significant concerns remain" particularly around the "plight of detained children" and "the lack of activity for detainees".¹¹ In a report of April 2009, *11 Million*—the Children's Commissioner for England criticised the lack of emotional and welfare support available to children detained at Yarl's Wood, highlighted the lack of interpretation services and stated that in the opinion of the children questioned, Yarl's Wood remained "very much like a prison".¹²

10. Mr Wood of UKBA told us that "there are locked doors on the outside ... but it does not feel like a prison or anything like that inside. It is family-friendly in how the staff are dressed and how the regime is run there"¹³ while Sir Al Aynsley-Green commented that, "[it is] over four years since the first time I went, [when it] really was a prison, now things are better ... [but] I still think that there may be some way to go".¹⁴ However, when visiting Yarl's Wood on 15 October while we noticed that staff were dressed casually, we were also told informally by some detainees that UKBA staff habitually still wear dark, "prison guard-style" uniforms.

11. Having visited the centre ourselves, it is clear to us that great strides have been made since Her Majesty's Chief Inspector of Prisons' Report of August 2008. We endorse Sir Al Aynsley-Green's comment in that regard. **We note that Yarl's Wood appears to be a much better facility than the one so heavily criticised in the past. We note the new, purpose-built school which suggests UKBA's good intentions for improving conditions for detainees at Yarl's Wood. However, it must be remembered that Yarl's Wood remains essentially a prison. There is a limit to how family-friendly such a facility can be; and while we accept that conditions have improved, we still regret that such a facility is needed in the first place.**

12. We are also disappointed that UKBA have been unable to reveal the costs of operating Yarl's Wood for reasons of "commercial confidentiality";¹⁵ however we were told that "it costs £130 a day to keep a person in detention".¹⁶ In the most extreme examples of detention between 4 and 8 weeks this can mean that the detention of a family of four costs over £20,000.¹⁷ We have also been told that the annual budget for the Criminality and Detention Group including the detention estate[s], foreign prisoner removals and criminal

11 "Report on an announced inspection of Yarl's Wood Immigration Removal Centre: 4–8 February 2008" *HM Chief Inspector of Prisons*

12 "The Arrest and Detention of Children Subject to Immigration Control" *11 Million*, April 2009: http://www.11million.org.uk/content/publications/content_361

13 HC 970-i, Q44

14 HC 970-i, Q80

15 UKBA Written Evidence: Letter to the Committee dated 7 October 2009

16 HC 970-i, Q19

17 HC 970-i, Q19

casework, is £195.1 million.¹⁸ On any understanding the cost of running, maintaining and upgrading Yarl's Wood is therefore immense. The cost, both in terms of expense and time in improving Yarl's Wood may be clearly visible but we cannot help but think that the time, effort and money spent on improving Yarl's Wood would have been better spent reforming the asylum process to reduce the need for detention, particularly for longer periods.

13. We are convinced that the improvements at Yarl's Wood are tackling the symptoms of the problem rather than the cause and that sustained improvements in the treatment of children in the immigration system will be as a result of reform to the overall asylum process. Focusing on the undoubted, very visible, improvements at Yarl's Wood alone does not address the wider issues.

Legal Processes

14. We accept that some detention of young children within the immigration system is necessary if UKBA is to fulfil the tasks set for it. If people who have no right to reside in this country will not leave voluntarily, we see no other option apart from short-term detention as a prelude to their removal. We are therefore willing to accept the detention of families and small children provided that this is for short periods of time which ideally are defined in advance, and when this is the very final stage in the immigration removal process. However, we cannot accept the longer-term detention of young children; it is this which causes the greatest harm to the children who are being detained and creates the largest cost to UKBA and the taxpayer. Reform is therefore most urgently needed in this area.

15. We are extremely concerned at the multiple avenues of legal appeal available to detainees prior to their deportation. We have heard anecdotal evidence that legal processes such as judicial reviews are little more than delaying tactics and are not made with any hope of success. The statistics suggest that such a belief may be correct; "the NAO [National Audit Office] found earlier this year ... [that] over 90% of judicial reviews do not even get leave for hearing".¹⁹ The NAO also suggest that "the low level of success and impact of removals suggests that the Judicial Review is used to block the Agency [UKBA] from taking removal action".²⁰ If this is true, it is extremely worrying—legal processes must not be undertaken purely as a delaying tactic. **The Government must look to reform of the legal system to ensure that the entire process is quicker, with much less scope for numerous, often spurious appeals.**

16. However, any streamlining of the process must also be accompanied by a raising of the standard of legal decisions. While we call for the removal of certain levels of appeal, we also acknowledge that, as of October 2008, 23% of initial decisions were overturned on appeal in asylum cases.²¹ **While the legal system as a whole should be streamlined, the legal processes must also become fairer, quicker and more transparent to reduce the need to**

18 UKBA Written Evidence: Letter to the Committee dated 7 October 2009

19 HC 970-i, Q25

20 UKBA Written Evidence: Letter to the Committee dated 7 October 2009

21 "Borders, Citizenship and Immigration Bill", Fifth Report of Session 2008–09, HC 425, Oral Evidence, Q2.

detain small children and possibly reduce the demand for multiple appeals in the first place.

17. The above problem is exacerbated by the fact that, as Sir Al Aynsley-Green told us, “many of the children [being detained] have been born here, and they see themselves as British. They have been embedded in schools and communities”.²² Given this, it is perhaps unsurprising that detainees exhaust every possible legal challenge to prevent deportation. We are firmly of the opinion that, while the Government should look to the removal of some avenues of legal appeal, and streamline the asylum process from the “supply” side, **UKBA should continue to work hard to quicken the process from the “demand” side; if the backlog of asylum cases were cleared quicker we suspect that there would be fewer legal appeals and a consequent reduction in longer-term detentions.**

18. We also note that Yarl’s Wood, unlike other UKBA immigration detention centres, is not adjacent to major ports or airports. **We recommend that, longer-term, UKBA concentrates its efforts at sites such as Brook House and Colnbrook which are next to Gatwick and Heathrow airports respectively. This will help to underline to both parties that detention is intended to be the final stage in the process .**

Conclusion

19. **In this Report we have made three main recommendations on improvements which can be made to the legal process, the processing of asylum claims and the treatment of detainees pending legal decisions. Any and all of these recommendations will reduce the number of children held in longer-term detention, and UKBA should make every effort to reduce the need to detain small children for sustained periods of time. We fully accept the principles behind detention—we cannot envisage UKBA fulfilling the tasks set for it in any other way—but we insist that this power be used only sparingly, as a last resort and for the shortest possible time.**

20. **While it may be argued that adopting these courses of action may lead to a slight increase in the risk of absconding, we believe that this risk is very low and in both moral and financial terms it is a price worth paying to prevent the long-term, indeterminate detention of small children.**

22 HC 970-i, Q72

Formal Minutes

Tuesday 24 November 2009

Members present:

Keith Vaz, in the Chair

Ms Karen Buck
Mrs Ann Cryer
David T C Davies
Mrs Janet Dean
Patrick Mercer

Gwyn Prosser
Bob Russell
Martin Salter
Mr Gary Streeter
Mr David Winnick

Draft Report (The Detention of Children in the Immigration System), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 20 read and agreed to.

Key Facts agreed to.

Resolved, That the Report be the First Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 1 December at 10.15 am

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2008–09

First Report	Monitoring of the UK Border Agency	HC 77 (HC 381)
Second Report	The Police and the Media	HC 75
Third Report	The Work of the Committee 2007–08	HC 76
		HC 157
Fourth Report	Policing Process of Home Office Leaks Inquiry	(HC 1026)
Fifth Report	Borders, Immigration and Citizenship Bill [HL]	HC 425
Sixth Report	Human Trafficking	HC 23–I
Seventh Report	Knife Crime	HC 217
Eighth Report	Policing of the G20 Protests	HC 418
Ninth Report	Project CONTEST: The Government's Counter-Terrorism Strategy	HC 212
Tenth Report	The cost of policing football matches	HC 676
Eleventh Report	Bogus Colleges	HC 595
Twelfth Report	Macpherson Report—Ten Years On	HC 427
Thirteenth Report	Managing Migration: Points-Based System	HC 217
Fourteenth Report	The work of the Serious Organised Crime Agency	HC 730

Session 2007–08

First Report	The Government's Counter-Terrorism Proposals	HC 43
Second Report	Bulgarian and Romanian Accession to the EU: Twelve months on	HC 59
Third Report	Security Industry Authority	HC 144
Fourth Report	Work of the Committee in 2007	HC 226
		HC 58
Fifth Report	A Surveillance Society?	(HC 1124)
		HC 263
Sixth Report	Domestic Violence, Forced Marriage and "Honour"-Based Violence	(HC 1165)
Seventh Report	Policing in the 21 st Century	HC 364
Special Report	Unauthorised Disclosure of Draft Report	HC 196

Session 2006–07

First Report	Work of the Committee in 2005–06	HC 296
		HC 181
Second Report	Young Black People and the Criminal Justice System	(Cm 7217)
		HC 76
Third Report	Justice and Home Affairs Issues at European Union Level	(HC 1021)
		HC 553
Fourth Report	Police Funding	(HC 1092)

Session 2005–06

First Report	Draft Corporate Manslaughter Bill (First Joint Report with Work and Pensions Committee)	HC 540 (Cm 6755)
Second Report	Draft Sentencing Guideline: Robbery	HC 947
Third Report	Draft Sentencing Guidelines— <i>Overarching Principles: Domestic Violence and Breach of a Protective Order</i>	HC 1231
Fourth Report	Terrorism Detention Powers	HC 910 (Cm 6906)
Fifth Report	Immigration Control	HC 947 (Cm 6910)
Sixth Report	Draft Sentencing Guideline: Sexual Offences Act 2003	HC 1582