



## Ending child immigration detention

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The Coalition Agreement committed the Government to ending child immigration detention. This led to the Government developing a new policy on family removals, aspects of which are now enshrined in the *Immigration Act 2014*.

Under the policy, families with children are no longer detained in Immigration Removal Centres before removal from the UK, although they may be held for up to a week in secure “pre-departure accommodation”. This accommodation facility, called ‘Cedars’, opened in August 2011.

The new ‘family returns process’ is:

- Following a case conference with Home Office staff, families are encouraged to make a voluntary departure.
- Those who do not leave have a removal arranged by the Home Office, but can continue to live in the community in the meantime and self-check-in at the airport.
- A tailored ‘family return plan’ is prepared for families who do not cooperate with these processes. The Independent Family Returns Panel considers the plan and may suggest changes. As a last resort, non-compliant families may be accommodated for a few days in the ‘Cedars’ pre-departure accommodation, before being subject to an ‘ensured’ (enforced) removal from the UK.

The Coalition’s policies continue to allow for families and unaccompanied children to be held in short-term holding facilities at UK ports of entry (or in Tinsley House Immigration Removal Centre) pending their admission to or immediate removal from the UK. The Government said that it expected these powers to be used sparingly (for a “few dozen families each year, usually for less than 24 hours”). However figures disclosed suggest that a far greater number of children have been held in these facilities in practice.

Some campaigners question whether the Government can really claim to have ended child detention, given the secure nature of the pre-departure accommodation and the continued use of short-term holding facilities, for example. The Government says that these ‘last resort’ measures are necessary for maintaining robust immigration controls, and are consistent with the commitments it made in 2010.

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## Contents

<b>1</b>	<b>Ending child detention: Government action</b>	<b>2</b>
1.1	The Coalition Agreement commitment	2
1.2	The new family removals process and related initiatives	3
1.3	Enshrining the policy in primary legislation	5
<b>2</b>	<b>Controversies with the new approach</b>	<b>5</b>
2.1	Pre-departure accommodation: detention in all but name?	5
2.2	The involvement of Barnardo's	6
2.3	Continued use of short-term holding facilities: a broken promise?	7
2.4	Detention of children wrongly assessed as adults	8
<b>3</b>	<b>Monitoring the new family removal process</b>	<b>9</b>
3.1	Outcomes of cases dealt with under the new Family Returns Process	9
3.2	HM Chief Inspector of Prisons' inspections of Cedars and family removals	10
3.3	Annual Report of the Independent Family Returns Panel	11
3.4	Home Office evaluation of the family returns process	12
3.5	Evaluation by Barnardo's of its experience of working in Cedars	12
<b>4</b>	<b>Sources of statistics on child immigration detention</b>	<b>14</b>

## 1 Ending child detention: Government action

### 1.1 The Coalition Agreement commitment

The 2010 Coalition Agreement included a commitment to end the detention of children for immigration purposes.<sup>1</sup>

In order to identify suitable alternatives to the detention of children, the Government initiated a "wide-ranging review" in consultation with stakeholders and relevant experts.<sup>2</sup> The then Immigration Minister gave some details about the scope of the review in a Westminster Hall debate on 17 June 2010:

... the UK Border Agency is leading a comprehensive review of present practice on the detention of children. It will look at the actual levels and at how to prevent such detention by improving the current voluntary return process. The review will also consider good practice in other countries, and will look at how a new family removals process can be established that protects the welfare of children and ensures the return of those with no right to remain in the UK. It will come as no surprise to you or to the Chamber, Mr Weir, that in the current climate the review will also have to include value for money as part of its remit.<sup>3</sup>

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<sup>1</sup> HM Government, *The Coalition: our programme for government*, Ref: 401238 / 0510, May 2010, p.21

<sup>2</sup> UKBA news release, 'Update on child detention,' 15 May 2010. For terms of reference, see UKBA, *Review into ending the detention of children for immigration purposes terms of reference*, (undated)

<sup>3</sup> HC Deb 17 June 2010 c211-234WH

The review was to be completed by August 2010, and its recommendations were to be implemented between August 2010 and March 2011, but the August deadlines were missed.<sup>4</sup> Details of the new process for enforcing family removals were announced in December 2010.

## 1.2 The new family removals process and related initiatives

Overnight detention of children at Dungavel House Immigration Removal Centre ceased in May 2010.<sup>5</sup> On 16 December 2010, the Deputy Prime Minister announced that the family unit at Yarl's Wood Immigration Removal Centre would close with immediate effect.<sup>6</sup> He also confirmed that detention of children at Tinsley House Immigration Removal Centre would end by no later than 11 May 2011, and set out some details of a "totally new process for families in the immigration system". A Written Ministerial Statement<sup>7</sup> from the Home Office published on the same day gave further details of the new approach, which began to be implemented at the end of February 2011.<sup>8</sup>

Broadly speaking, the new approach aims to encourage refused families to comply with instructions to depart from the UK at an earlier stage, such as by giving them more control over the circumstances of their departure. It is hoped that this will reduce the need for enforced removals.

Firstly, the UKBA (since replaced by UKVI – UK Visas and Immigration) is working on wider reforms to asylum processes, which are partly intended to improve the handling of cases involving children, in order to strengthen families' trust in the asylum determination process and ensure that families are treated in accordance with the UK's international obligations and statutory child safety and welfare duties. These initiatives include working with UNHCR to improve the quality of decision-making on asylum claims, testing new arrangements to provide asylum seekers with early access to legal advice, and developing specialist skills for Home Office caseworkers working with families.<sup>9</sup>

In addition, a new approach has been introduced for handling family cases once their asylum application has been refused and appeal rights exhausted. It is intended to enable families to leave the UK in a dignified and controlled manner:

- Firstly, a 'dedicated family return conference' with UKVI staff is held for refused asylum seeker families, in order to explain their options for making a '**voluntary return**' to their country of origin (including the financial assistance available through the '**assisted voluntary return**' schemes) and discuss any barriers to the family's removal, such as medical or family welfare issues. The conference is followed up two weeks later by a 'Family Departure Meeting' to discuss the family's thoughts about their options; regular contact is maintained in the meantime (such as through reporting restrictions).

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<sup>4</sup> Home Office, *Draft structural reform plan*, July 2010 and *Structural reform plan monthly implementation update*, October 2010. For related press reports about the 'delay' see *The Guardian* "Home Office delays child migrant pledge", 8 November 2010 and Guardian.co.uk "Response: Lib Dems are keeping their promises on child detention", 16 November 2010

<sup>5</sup> UKBA news release, 'Detention of children in Dungavel ends,' 19 May 2010

<sup>6</sup> Office of Deputy Prime Minister speeches, *Child detention speech*, 16 December 2010

<sup>7</sup> *HC Deb 16 December 2010 c125-7WS*

<sup>8</sup> UKBA update, 'New family returns process begins', 28 February 2011

<sup>9</sup> For further details of progress made on related initiatives, see section 2.6 of Home Office Research Report 78, *Evaluation of the new family returns process*, December 2013

- If families do not make a voluntary return, their return is arranged by the Home Office (this is known as a '**required return**'). Families are not liable to detention at this stage. Instead, they are given a minimum of two weeks' notice of their departure date (rather than 72 hours' notice as previously), and usually allowed to make a self-check-in at the airport on the date of departure.
- In the event that the family fails to cooperate or in other exceptional circumstances (such as if a family member poses a high risk), the Home Office develops a plan for enforcing their '**ensured return**'. The plan is referred to the [Independent Family Returns Panel](#) for consideration. The Panel is a new body comprised of health and child welfare experts as well as government officials. The Panel must consider whether the plan is appropriate, and may advise that changes are made. There is a presumption that the Panel's advice will be accepted.
- Possibilities for enforcing an ensured return include that the family be moved to open accommodation prior to an escorted check-in, and/or that the family be given limited notice of when their removal is scheduled for.
- As a last resort, if a family fails to cooperate with all other options, they may be accommodated for the 72 hours prior to departure in a new type of secure "pre-departure accommodation" in order to facilitate their removal (discussed further in section 2.1 below).

Although Immigration Enforcement seek to keep families together during the removals process, Home Office policies do allow for temporary separation of family members "where there is potential for an ensured return to fail as a result of disruptive behaviour by the family, and it is considered in the best interests of the children to be temporarily separated from their parent(s) in order to safely ensure the family's arrest and return."<sup>10</sup> Children cannot be separated from both parents for immigration purposes, or from one adult in the case of single-parent families if as a consequence the child is taken into care.

The Home Office's caseworker guidance contains more detailed information on handling family cases.<sup>11</sup>

Another change that the Government made following its review into the ending of family detention was to slightly amend the sanctions applied against persons who breach the UK's immigration laws.

The Immigration Rules allow for persons who have previously breached UK immigration laws to be banned from re-entering the UK for a certain length of time following their departure from the UK.<sup>12</sup> The length of the ban depends in part on whether the person left the UK at their own expense, or through an assisted voluntary return, or through enforcement action.

In April 2011 the Government changed the Immigration Rules, in order to shorten the re-entry ban for people who make a voluntary departure from the UK at public expense within six months of their case being finally refused to two years (rather than five years as previously).<sup>13</sup> This was intended to provide a stronger incentive to comply at an earlier stage with a requirement to leave

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<sup>10</sup> UKBA, *Enforcement Instructions and Guidance*, [Chapter 45 'Family cases'](#) v2

<sup>11</sup> UKBA, *Enforcement Instructions and Guidance*, [Chapter 45 'Family cases'](#) v2; *Modernised Guidance*, [Criminal casework: Detention of families](#), v7.0

<sup>12</sup> [Immigration Rules](#) (HC 395 of 1993-4 as amended), paragraph 320(7B)

<sup>13</sup> HC 863 of 2010-12 (in force from 6 April 2011)

the UK, and to encourage more voluntary returns (which the Government considers are preferable to enforced removals).<sup>14</sup> Those who do not leave within six months become liable to a five-year re-entry ban.

### 1.3 Enshrining the policy in primary legislation

Aspects of the Coalition Government's child detention policy are now enshrined in primary legislation through amendments made by the [Immigration Act 2014](#), with effect from 28 July 2014. In particular:

- **Section 2** provides that families with children must be given a 28 day reflection period following exhaustion of their appeal rights, before enforced removal can take place
- **Section 3** establishes the Family Returns Panel as a statutory body and provides for the Home Secretary to make provision about matters connected with the Independent Family Returns Panel by statutory instrument.
- **Section 5** restricts the use of immigration detention for unaccompanied children to short-term holding facilities, except where the child is being transported to or from a short-term facility or a place where their attendance is required for immigration purposes (such as an Embassy or High Commission). Detention can only be subject to certain specified conditions, and for a maximum of 24 hours
- **Section 6** defines "pre-departure accommodation" as a place solely used for the detention of families with children for a maximum of 72 hours, or 7 days in cases authorised by a Minister, and provides that the Home Secretary may make rules for the regulation and management of pre-departure accommodation.

The [Home Office issued a factsheet](#) on these measures whilst the Bill was before Parliament.<sup>15</sup>

## 2 Controversies with the new approach

The Government's announcement to end child detention, and particularly the immediate closure of Yarl's Wood family unit, was generally welcomed by the Children's Commissioner and organisations in the children's and refugee sectors.<sup>16</sup> The OutCry! NGO campaign coalition commended the Government "for taking seriously the need to put children's welfare at the centre of the asylum process", but did highlight some concerns about the plans for secure 'pre-departure accommodation'.<sup>17</sup>

### 2.1 Pre-departure accommodation: detention in all but name?

[Cedars](#), the 'pre-departure accommodation' centre, opened in August 2011. The GOV.UK website contains some practical information about the centre. The name is intended to

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<sup>14</sup> [HC Deb 16 March 2011 c14WS](#)

<sup>15</sup> Gov.uk, Home Office, [Immigration Bill Factsheet: Ending the detention of children for immigration purposes](#), February 2014

<sup>16</sup> Children's Commissioner *press release*, '[Children's Commissioner's statement on the review into alternatives to child detention](#)', 16 December 2010 and Refugee Council *press release*, '[Government announcement on ending child detention: our response](#)', 16 December 2010

<sup>17</sup> OutCry! *press release*, '[OutCry! response to Nick Clegg's announcement on the detention of children](#)', 16 November 2010

reflect the principles staff will work to - compassion, empathy, dignity, approachability, respect and support.<sup>18</sup>

The accommodation is located in a village near Gatwick airport. It has space for up to nine families in self-contained apartments. Each apartment has a kitchen and lounge area, family bathroom and up to three bedrooms (to accommodate up to six people). Families can eat in communal areas or take food from the cafeteria to cook in their own apartments. Facilities within the accommodation centre include children's play areas and exercise facilities, access to the internet, 24 hour healthcare including daily access to a GP and a prayer room.

Families may stay in the accommodation for up to 72 hours before their departure (in 'exceptional cases', this may be extended to one week with authority from a Minister). Tinsley House Immigration Removal Centre can be used to accommodate criminal or other 'high-risk' families considered unsuitable for Cedars.<sup>19</sup>

The private contractor G4S provides security and facilities management. The children's charity Barnardos provides on-site welfare. The accommodation is subject to independent inspection by HM Chief Inspector of Prisons (who is also responsible for inspecting the short-term holding facilities and Immigration Removal Centres), the Children's Commissioner for England, and an Independent Monitoring Board.<sup>20</sup>

The Government has been keen to emphasise Cedars' differences to an Immigration Removal Centre:

This accommodation will not be an Immigration Removal Centre. It will have a family friendly environment, with an entirely different look and feel. The site will be secure but will respect family privacy and independence.<sup>21</sup>

However, some campaigners argue that Cedars is a detention centre in all but name, pointing out, for example, that the accommodation is surrounded by boundary fences, and that family members cannot enter and leave the accommodation or receive visitors at free will (pre-arranged, supervised trips outside the accommodation may be allowed, subject to risk-assessment; visitors are allowed subject to pre-arrangement).<sup>22</sup>

## 2.2 The involvement of Barnardo's

The children's charity Barnardo's attracted criticism for agreeing to provide welfare services in Cedars. Some campaigners believe that its cooperation undermined other NGOs' efforts to end child detention, and question how much influence it will be able to have over the family removal process.<sup>23</sup>

Barnardo's has said that its involvement fits in with its "core purpose" of "supporting the most vulnerable children in the UK".<sup>24</sup> It said that it would not be afraid to withdraw its services if it

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<sup>18</sup> UKBA website [National Archives], 'Pre-departure accommodation - Cedars' (undated; accessed on 2 January 2013)

<sup>19</sup> [HC Deb 23 March 2011 cc1163-4W](#)

<sup>20</sup> [HC Deb 8 March 2011 cc934-5W](#)

<sup>21</sup> [HC Deb 16 December 2010 c127WS](#)

<sup>22</sup> Migrants' Rights Network, Blog, 'Detention by another name?', 10 March 2011; *The Guardian*, 'Child detention: has the government broken its promise to end it?', 17 October 2011

<sup>23</sup> *IRR News*, 'Does Barnardo's legitimise child detention?', 17 March 2011; [OpenDemocracy.net](#), 'Barnardo's and G4S, partners in the child detention business', 19 May 2014

<sup>24</sup> Barnardo's, *press release*, 'Why Barnardo's is providing support for families at new pre-departure accommodation', 10 March 2011

has concerns about shortfalls in policy and practice, and published a set of “red lines” informing its involvement with the Cedars accommodation.<sup>25</sup> These include commitments to ‘speak out’ if any family stays at the Cedars on more than one occasion or for longer than one week due to UKBA error, or if a disproportionate level of force is used on a family travelling to or from the accommodation, or if it has serious concerns about any member of staff’s behaviour towards families and children.

In April 2014 Barnardo’s published *Cedars: two years on*, a report based on its experience of working in Cedars so far (discussed further in section 3.5 of this note).

In light of the Government’s commitment to end child detention, Barnardo’s has also insisted that the Government release annual statistics for the number of families returned to their countries of origin. It said that it will withdraw its services if, after a year (from August 2012), the pre-departure accommodation is used for more than 10% of these families. It expects the figure of families routed through the Cedars accommodation to “fall significantly over time”.

However, the Independent Family Returns Panel has called on Barnardo’s to reconsider whether its “10% red line” supports the best interests of children and their families.<sup>26</sup> It has found that the Cedars accommodation appears to be effective in helping children and families practically and emotionally prepare for their return, and considers that more families would benefit from a stay at Cedars.

### **2.3 Continued use of short-term holding facilities: a broken promise?**

The Government committed to ending the detention of children in Immigration Removal Centres. It did not intend to end the use of short-term holding facilities for families at UK ports of entry.<sup>27</sup> Families and unaccompanied children continue to be held in these facilities (or in family suites at Tinsley House Immigration Removal Centre if overnight accommodation is needed) so that border staff are able to confirm their immigration status in the UK or arrange their immediate return (e.g. if caught trying to enter the country illegally). Detention of families for longer than 24 hours requires authorisation by a Home Office official at Director level.<sup>28</sup> Stays for longer than 72 hours must be authorised by a Minister. Unaccompanied children can be held for a maximum of 24 hours.

The Home Office stated in December 2010 that these powers would be used sparingly:

This will be short detention, for a few dozen families each year, usually for less than 24 hours and only where logistics or safety makes pre-departure accommodation unworkable.<sup>29</sup>

However, evidence suggests that far greater numbers of children have been held in these facilities.

Her Majesty’s Inspectorate of Prisons inspected the short-term holding facilities at Heathrow Airport Terminals 3 and 4 in March 2011. He found that in the three months to February

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<sup>25</sup> Barnardo’s, *press release*, ‘Barnardo’s sets out red lines for involvement in Pre-Departure Accommodation’, 7 July 2011

<sup>26</sup> Independent Family Returns Panel, *Annual Report 2011/12*, paras 2.1 - 2.5

<sup>27</sup> [HC Deb 16 December 2010 c127WS](#)

<sup>28</sup> UKBA, *Review into ending the detention of children for immigration purposes*, December 2010 [DEP 2010-2305]

<sup>29</sup> UKBA, *Review into ending the detention of children for immigration purposes*, December 2010 [DEP 2010-2305]

2011 174 children had been detained, including 16 unaccompanied minors. The average lengths of detention were 8 hours 20 minutes (Terminal 3) and 9.9 hours (Terminal 4). 24 children had been held for over 18 hours (across both terminals), and the longest periods of detention were just under 24 hours.<sup>30</sup> He also observed a child being detained with his father at Terminal 4 without the necessary authority. The child was signed in as a 'visitor', and consequently, his detention would not have been recorded.<sup>31</sup>

According to figures obtained in a Freedom of Information request made by the Children's Society, 697 children were detained between May and the end of August 2011 across all Greater London and South East ports. Almost a third were unaccompanied children. The Society was unable to obtain information on the length of or reasons for their detention.<sup>32</sup>

A Home Office response in October 2011 argued that:

the number of passengers held is very small compared to the millions that we process and tens of thousands we refuse entry to at the border each year...not doing so would weaken border security ...and, equally, to release unaccompanied children before social workers have arrived to support them would put them at great risk.<sup>33</sup>

Management information figures provided in answer to a Freedom of Information request in November 2013 showed that 610 children were held in at English ports between April – July 2013. 474 were held as part of a family group, and 136 were unaccompanied children. 65 were held for over 12 hours. 132 were granted leave to Enter the UK and a further 367 were granted Temporary Admission.<sup>34</sup>

The remit of the Independent Family Returns Panel includes considering the overall handling of cases of families refused entry at the UK border and use of short-term detention. It is notified of cases held in the family unit at Tinsley House Immigration Removal Centre. It has called on the Border Force similarly to provide it with information about the larger number of cases held in non-residential short-term holding facilities. It has inspected some short-term holding facilities, and concluded that they are not suitable for holding families for longer than a few hours. It considers that in some situations, it would be more appropriate to hold families at Tinsley House.<sup>35</sup>

## **2.4 Detention of children wrongly assessed as adults**

Primary legislation and Home Office policy guidance states that unaccompanied children, including age-disputed cases where the person is being treated as a child, must only be detained in very exceptional circumstances (such as whilst alternative arrangements are being made for their care).<sup>36</sup> They should not be detained in Immigration Removal Centres.

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<sup>30</sup> HM Chief Inspector of Prisons, *Report on an unannounced inspection of the short-term holding facility at Heathrow Airport Terminal 4*, 3 March 2011, para 1.41 and *Report on an unannounced inspection of the short-term holding facility at Heathrow Airport Terminal 3*, 3 March 2011, para 1.42

<sup>31</sup> HM Chief Inspector of Prisons, *Report on an unannounced inspection of the short-term holding facility at Heathrow Airport Terminal 4*, 3 March 2011, para 1.47

<sup>32</sup> Children's Society *press release*, 'Almost 700 children detained by the UK Border Agency in three months', 17 October 2011

<sup>33</sup> UKBA, *news and updates*, 'UK Border Agency explains need to hold families in some cases', 17 October 2011

<sup>34</sup> Home Office, *FoI release 28665*, 'Under 18s held at English ports between April 2013 and July 2013', 12 November 2013

<sup>35</sup> Independent Family Returns Panel, *Annual Report 2011/12*, paras 2.13; 5.1 - 5.5

<sup>36</sup> *Immigration Act 1971*, Sch 2, as amended by *Immigration Act 2014*, s5



However, detention is a possibility if the person is being treated as an adult.<sup>37</sup> Home Office policies state that if a detainee subsequently claims to be under 18, a decision on whether to maintain detention or release them should be made as soon as possible.

According to figures from the Refugee Council, in 2013 it secured the release from detention of 36 young people who had been wrongly assessed as adults. The charity said it was also aware of a further six cases in which young people had been released into local authority care pending a new age assessment.<sup>38</sup>

The charity is concerned that these cases represent “the tip of the iceberg”. It is calling for greater safeguards to prevent children being wrongly identified as adults, particularly by giving asylum applicants whose age is in doubt the benefit of the doubt until their age has been established by an independent professional. It is also calling for all asylum-seeking children, including those whose age has not been fully determined, to be appointed a legal guardian to ensure their best interests are safeguarded.

### **3 Monitoring the new family removal process**

#### **3.1 Outcomes of cases dealt with under the new Family Returns Process**

The Home Office began to pilot its new approach to family removals in June 2010, and published assessments of the pilots.<sup>39</sup>

The first Annual Report of the Independent Family Returns Panel, published in September 2012, contained an overview of the outcomes of cases that entered the removal process between 1 March 2011 and 31 March 2012.<sup>40</sup>

665 cases entered the family returns process, of which 195 were concluded. Of those concluded cases:

- 77 were granted leave to remain in the UK,
- 9 were cases not including children, and
- 109 left the UK.

Of the 109 departures:

- 48 did so via a voluntary or assisted voluntary return,
- 8 via a ‘required’ return, and
- 53 via an ‘ensured’ return

106 cases had been referred to the Independent Family Returns Panel.

A larger number of case outcomes were reported in the December 2013 [Home Office Research Report 78](#), which evaluated the new family returns process.

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<sup>37</sup> Home Office, *Asylum Process Guidance*, ‘[Detained Fast Track Processes v 5.0](#)’ (accessed 5 September 2014); *Enforcement Instructions and Guidance*, [Chapter 55 v18.3](#), para 55.9.3.1 (accessed on 5 September 2014)

<sup>38</sup> Refugee Council, ‘[Unlawful child detention must end](#)’, 10 January 2014

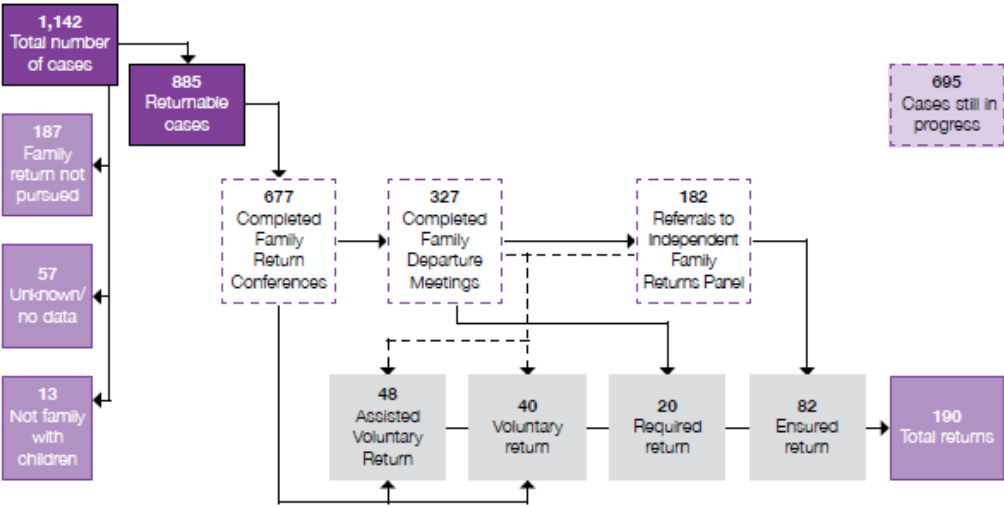
<sup>39</sup> UKBA, *Child detention review interim assessment of family return pilots*, December 2010 and May 2011

<sup>40</sup> Independent Family Returns Panel, *Annual Report 2011/12*, paras 1.6 - 1.11

There had been 1,142 family returns process cases as at 12 October 2012.<sup>41</sup> Of these, 885 were deemed 'returnable cases', of which 695 were still in progress and 190 had left the UK. Of those who had left the UK, 46% (n88) did so voluntarily (i.e. prior to 'required return' stage); a further 11 % (n20) had left at the 'required return' stage.<sup>42</sup>

Figure 2 summarises outcomes for all 1,142 family returns process (FRP) cases as at 12 October 2012 when the data were extracted. Of 885 returnable family cases, 79 per cent<sup>14</sup> (695 families) were still in progress and 21 per cent (190 families) had returned.<sup>15</sup>

Figure 2: Family returns process outcomes<sup>16</sup>



Source: UK Border Agency

**3.2 HM Chief Inspector of Prisons’ inspections of Cedars and family removals**

In spring 2012 Her Majesty’s Chief Inspector of Prisons conducted his first inspection of Cedars.<sup>43</sup> He identified concerns that referral criteria were being applied inconsistently, and concerns about the behaviour of arrest teams and the use of force to effect removal (which included an instance of force being used against a pregnant woman). Overall, however, the report found that the conditions and treatment given to families in Cedars was a considerable improvement on how such cases had previously been dealt with. Unlike findings from past inspections of Yarl’s Wood Immigration Removal Centre, the inspectors found that the conditions and length of detention at Cedars could not be said to cause distress to children and parents, and considered that many practices applied at Cedars should be replicated in other detention centres.

A further inspection report into Cedars and the family removal process was published in April 2014.<sup>44</sup> Further to the finding of the previous inspection, staff had been instructed not to use force against pregnant women, except to prevent harm. Other findings included that:

- 42 families had been held in Cedars during 2013, on average for just over three days

<sup>41</sup> Home Office, [Research Report 78, Evaluation of the new family returns process](#), December 2013 p.15; p.17  
<sup>42</sup> The evaluation noted that some families may have applied for assisted voluntary return prior to entering the family returns process.  
<sup>43</sup> HMCIP, [Report on an unannounced inspection of Cedars Pre-Departure Accommodation 30 April - 25 May 2012](#)  
<sup>44</sup> HMCIP, [Report on an unannounced inspection of Cedars pre-departure accommodation and overseas family escort 6 – 27 January 2014](#)

- Force (mostly low-level) had been used on 10 occasions, suicide and self-harm procedures had been initiated 25 times and there had been two recorded instances of actual self-harm.
- “A number” of families were detained on more than one occasion

The report was complimentary of standards at Cedars, but raised concerns about the behaviour of escort and arrest staff:

While escorts were managed reasonably well, we observed unnecessary light-touch restraint by escort staff, which escalated at least one situation. At our last inspection, families criticised the behaviour of immigration arrest teams and we directly observed them during this inspection. We had cause for concern and found that 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. This would have been terrifying for the children had they been in the property. The reasons given for this tactic, which was not preceded by any attempt to knock on the door, lacked credibility.

(...) More should be done to address the jarring experiences some families have before arrival at Cedars, and to reduce the stress of removal. However, Cedars itself remains an example of best practice in caring for families who are to be removed. It has maintained effective joint working to mitigate the needs of some of the most vulnerable people subject to immigration control, and remains an exceptional facility.<sup>45</sup>

Cedars is also subject to monitoring by the Independent Monitoring Board for Tinsley House Immigration Removal Centre. The IMB's most recent annual report for Tinsley House is for 2011. It found that families were given a high standard of care at Tinsley House, but noted concerns about arrangements for transportation of families to/from Tinsley House.<sup>46</sup> The IMB has not yet published a report on Cedars.

### **3.3 Annual Report of the Independent Family Returns Panel**

The first Annual Report of the Independent Family Returns Panel was published in September 2012. It contained an overview of the new family return process, including the role of the Panel, and commentary on issues which have arose during its first year in operation.<sup>47</sup> The Report noted that the role of the Panel had extended beyond its original remit to provide advice on how to resolve particular cases, to encompass other issues including policy and practice, contract management and engagement with other stakeholders.

In considering overall case outcomes, the Panel considered that the fact that 51 per cent of families who had left the UK did so without the need for an ensured return gave grounds for “cautious optimism”. However, it also highlighted some concerns, such as the slow pace at which some cases progressed through the system - only 29 per cent of cases had reached a conclusion after a year, and only 50 per cent of those cases referred to the Panel had left the UK by the end of the year.

The Panel found that Cedars appeared to be effective in helping children and families practically and emotionally prepare for their return, and considered that more families would

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<sup>45</sup> HMCIP, *Report on an unannounced inspection of Cedars pre-departure accommodation and overseas family escort 6 – 27 January 2014*, p.5

<sup>46</sup> Justice.gov.uk, *publications*, *Annual Report 2011 Tinsley House*

<sup>47</sup> Independent Family Returns Panel, *Annual Report 2011/12*

benefit from a stay at Cedars. The Report contained 32 recommendations for change which related to all stages of the family removal process. Six recommendations were given particular priority. These included that the Home Office review the criteria for use of Cedars accommodation, and ensure that these are consistently applied by casework regions; that it develop a behaviour management policy which includes the use of physical intervention with children under 18; and that it always involve children in major decisions that affect their lives.

### **3.4 Home Office evaluation of the family returns process**

In December 2013 the Home Office published an evaluation of the new family returns process.<sup>48</sup> The researchers used casework data, as well as information gathered from Home Office staff, external stakeholders and families involved with the new process, in order to identify whether the new process was achieving the following aims:

1. Manage the return of families, who have no legal right to remain in the UK, without the need for detention. This is central to the FRP.
2. Increase family take up of voluntary return and Assisted Voluntary Return (AVR).
3. Ensure that enforcement action, when necessary, takes into account the welfare of the children and wider family needs as far as possible.
4. Prepare families better for return and give them the opportunity to take responsibility for their return.
5. Give families the opportunity to make further representations and seek judicial reviews before enforcement action commences.

The report's 'key findings' included that:

- Overall, voluntary/assisted voluntary returns had not increased under the new process.
- The new process had had a positive impact on family welfare.
- Families were felt to be better informed of their options in the new process. Their preparation for return was felt to have been improved, and the new process gave them the opportunity to take responsibility for their return. However, many did not take up this opportunity due to lack of engagement.
- Where families were being detained in pre-departure accommodation, the conditions in which they were held were considerably different to those under the previous process.
- Returns were found to take longer and be more resource intensive under the new process. Families raised slightly more barriers under the new process, but not at an earlier stage than under the old process.
- Most families complied with the process.

### **3.5 Evaluation by Barnardo's of its experience of working in Cedars**

In April 2014 Barnardo's published *Cedars: two years on*, a report based on its experience of working in Cedars thus far.

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<sup>48</sup> Home Office Research Report 78, *Evaluation of the new family returns process*, December 2013

The report concluded that the Government had made “significant and radical” improvements to the asylum process for families and children, such as by ensuring that detention is used as a last resort and for the shortest possible time. However, it said that “there is still much work to do to improve the Families Returns Process and the wider asylum and immigration system.”<sup>49</sup>

The report found that the charity’s presence in Cedars had made a positive “practical difference”, such as by being able to give “advice on the look and feel of the accommodation, ethos and training of all staff”, and by supporting families to come to terms with their situation.<sup>50</sup>

It also argued that it has given Barnardo’s a “unique opportunity” to influence government policy. The report highlighted instances of when Barnardo’s had spoken out when its red lines had been crossed. For example, when a family had stayed in Cedars slightly longer than the one week maximum, and in three cases when disproportionate force was considered to have been used during transfer to Cedars.

The report identified four areas related to the use of Cedars which Barnardo’s considered needed further improvement to better protect children and families:

1. improving the arrest and escorting arrangements for transporting families to Cedars, or to the airport, and then overseas;
2. providing clarity and consistency around managing non-compliant behaviour
3. ensuring children are only separated from their parents when there are safeguarding or welfare concerns
4. challenging the numbers of families for whom Cedars is not the end of the process, and who potentially face re-arrest, transport and return at a later date<sup>51</sup>

Barnardo’s made five recommendations to the Government:

**Recommendation 1:** Arresting officers should only wear personal protective clothing where risk assessments indicate that this is necessary to protect themselves or others. Where possible, officers should not wear uniform, and should transport families in unmarked vehicles.

**Recommendation 2:** The Home Office should put in place a specialist escort team specifically for family returns. This team should include in-country and overseas escorts; and be fully trained in safeguarding and working with children and families.

**Recommendation 3:** Physical intervention should not be used with children or pregnant women except to prevent harm to self or others. The Home Office should develop a behaviour management policy where the emphasis is on techniques that minimise the likelihood of using physical intervention, and use it only as a last resort. The policy must address the definitions and continuum of physical intervention, and be underpinned by shared training to promote consistency of practice. The behaviour management policy should be issued for public consultation.

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<sup>49</sup> Barnardo’s, *Cedars: two years on*, April 2014, p.15

<sup>50</sup> Barnardo’s, *Cedars: two years on*, April 2014, p.4, p.7

<sup>51</sup> Barnardo’s, *Cedars: two years on*, April 2014, p.9

**Recommendation 4:** Children should never be separated from their parent or parents for the purposes of immigration control. Children should only be separated from their parent or parents if there is a safeguarding or welfare concern.

**Recommendation 5:** Any potential family split should be included as part of the return plan or contingency, authorised by the Minister and scrutinised by the Independent Family Returns Panel. There should be clear plans in place for reunification, and any split should take place for the shortest possible time. Family splits should be clearly documented and the outcome reviewed by all agencies as part of ‘lessons learned’ meetings.

The Government has disagreed with the recommendation not to separate families, arguing that there are circumstances when this is unavoidable. It has implemented the recommendation to create family escort teams, and argued that the remainder of the report’s recommendations are largely reflected in current policy.<sup>52</sup>

## 4 Sources of statistics on child immigration detention

The [Home Office statistics pages on GOV.UK](#) include links to:

- monthly management information on the number of children entering detention held solely under immigration powers (covering Immigration Removal Centres, Cedars pre-departure accommodation, and short-term holding facilities suitable for up to seven days detention), but does not include numbers of children held in police cells, Prison Service establishments or short-term holding rooms at ports and airports (for less than 24 hours), or persons held under criminal and immigration powers<sup>53</sup>; and
- national statistics providing information on adults and children in detention (available from quarterly and annual statistics).

A Refugee Council briefing from June 2014 draws some conclusions on recent patterns in child detention levels, using information from the published statistics:<sup>54</sup>

The pre-departure facility Cedars opened in August 2011. Families with children can still be held in short term holding facilities at ports of entry, or at Tinsley House Immigration Removal Centre, pending admission to the UK or removal. Detention at other Immigration Removal Centres is now rare, but does occasionally occur.

The number of children detained has undoubtedly fallen as a result of the changed procedures, but children are still being detained.

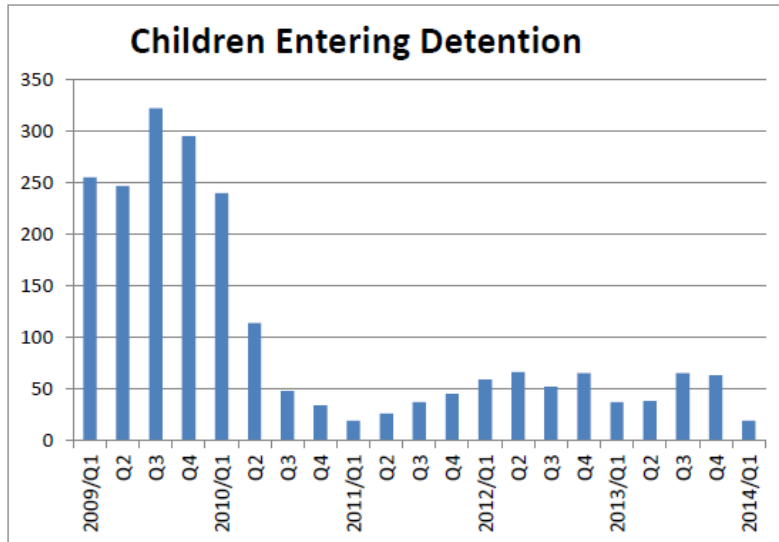
The chart below shows the number of children entering detention each quarter since the beginning of 2009. The numbers dropped sharply during 2010 and have remained relatively low compared with earlier years.

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<sup>52</sup> [HL Deb 18 June 2014 c830](#); see also Letter from Baroness Williams to Baroness Smith, 26 June 2014, [DEP 2014-0965](#)

<sup>53</sup> Numbers of children held in police cells, Prison Service establishments or short-term holding rooms at ports and airports (for less than 24 hours), or persons held under criminal and immigration powers are not included: [HC Deb 24 October 2011 cc41-2W](#)

<sup>54</sup> Refugee Council, *Information*, ‘[Detention of Children](#)’, June 2014



(...) The number of children entering Cedars is shown in the chart below.

