

**East of England Strategic Migration Partnership's response to the UK
Border Agency consultation 'Review into ending the detention of
children for immigration purposes'**

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Background:

The East of England Local Government Association's Strategic Migration Partnership is one of twelve UK partnerships funded by the UK Border Agency. The Partnership was established in March 2000 - originally to co-ordinate activities regarding the dispersal, accommodation and support of asylum seekers across the region.

Since April 2007, our role has been expanded to incorporate the wider migration agenda and we work closely with the East of England Development Agency (EEDA) to support and develop regional migrant worker networks, support agencies and projects, as well as continue our work with asylum seekers and refugees.

The Strategic Migration Partnership is a tiered regional network which encompasses grass roots organisations and a regional network of multi-agency forums and specialist and task groups which feed into the Migrant Worker Steering Group and the Asylum and Refugee Reference Group, each with a mechanism to feed into the national bodies.

General Points:

The existing research¹, both in the UK and within the wider European context, indicates that detention has an adverse effect on children's welfare and is an extremely traumatic experience, especially in cases when detention extends beyond the shortest appropriate period of time and when children are not aware of the reasons for detention.

In trying to find effective alternatives to detention, it is important to take into consideration both lessons learned and positive outcomes of pilot projects run to date (e.g. Family Return Project in Scotland or the Millbank project in Kent). Soft outcomes should be considered as well, including closer cooperation between agencies and reducing children's distress by making them aware of their families' position and prospects.

Alternative solutions developed by other countries could also be considered for possible adaptation in the British context.

It is vital to find solutions which would prevent children from being separated from their families for immigration purposes, as this would both have an adverse effect on the families involved and increase costs for local authorities having to provide support for vulnerable children.

Responses to consultation questions:

Q1. How can we improve our engagement with families in dealing with asylum applications? For example, do we need to review the contact arrangements with those families and their access to legal representation?

The engagement with families should start at the beginning of the asylum process and be based on a multi-agency approach, with accommodation providers and/or voluntary sector organisations providing advice, and with prompt and unobstructed access to good quality legal advice, interpreters and other relevant services and information.

¹ House of Commons, Home Affairs Committee, 'The Detention of Children in the Immigration System, First Report of Session 2009-2010', [The Detention of Children in the Immigration System](#);

Royal College of General Practitioners, Royal College of Paediatrics and Child Health, Royal College of Psychiatrists and the UK Faculty of Public Health, 'Significant Harm - the effects of immigration detention on the health of children and families in the UK', December 2009, http://www.rcpch.ac.uk/doc.aspx?id_Resource=5829;

11 MILLION, The Children's Commissioner for England's follow up report to 'The Arrest and Detention of Children Subject to Immigration Control', February 2010, [The Children's Commissioner for England's follow up report to: The arrest and detention of children subject to immigration control](#);

Civil Society, 'Report on the Detention of Vulnerable Asylum Seekers and Irregular Migrants in the European Union', [DEVAS REPORT](#).

The families need to be well informed at the beginning of their asylum application process of the possible outcomes of their application (and options available to them in case of a negative decision, including assisted voluntary return). The transparency and swiftness in determining an asylum claim will increase understanding of and trust in the process and encourage compliance with removal orders.

Closer cooperation with the voluntary sector and local authorities will help applicants understand the options available to them at each stage of the process.

Q2. How can we promote and improve the current voluntary return process to increase the take up from families who have no legal right to remain in the UK? What do you believe UK Border Agency's role is here and is there a role for others in engaging with families around this option?

If families are communicated with regularly from the very beginning and presented the options available to them at each stage of the process, a more joined up approach may assist the family in reviewing their options in light of not being able to stay in the UK. Closer working between agencies may lead to an increase in voluntary return, depending on the quality of the work undertaken to prepare the family for return and re-integration.

The Family Return Project currently run in Scotland may be an option to build on, provided assistance is available from the start of the asylum process with each family being assigned a support worker to guide it through the process.

Prompt and fair consideration of applications and families' awareness of the choices available to them at the end of the process (voluntary return vs. removal) is likely to facilitate the uptake of voluntary returns.

Furthermore, closer cooperation with the International Organisation for Migration on improving early information on and access to Assisted Voluntary Return for Families and Children programme may result in increased uptake of this option.

Q3. If a family chooses not to leave the country, with or without support from the UK Border Agency, what might an alternative family returns model look like? How should the UK Border Agency respond where a family refuses to comply with removal (recognising the need to strike an appropriate balance between our section 55 safeguarding duty and the enforcement of immigration rules)?

At the point of an application for asylum becoming all appeal rights exhausted, simply withdrawing support in the hope that the family will leave the UK has been ineffective. Where asylum support is not available at the end of the asylum process, the family is more likely to end up being supported by local authorities under social services legislation. The UKBA needs to actively

assist failed asylum seeking families with no protection needs to leave the UK, not simply leaving them without support.

Support for families who are deemed to have no legal right to remain in the UK should be continued until their departure to prevent destitution. Receiving support during that period will help families plan and prepare for return and for re-integration in their country of origin. With their basic needs satisfied, families can make informed and realistic life choices at the end of the asylum process. A resolution-based focus needs to be maintained; otherwise families, left in limbo for long periods of time, will become increasingly unwilling to return and the rate of voluntary return will remain low.

Support up until removal from the UK should be provided, as removing it does not encourage families to leave the country; on the contrary, they often tend to 'disappear underground' or approach local authorities or voluntary organisations whose funding is limited. Moreover, the removal of support may compromise the UK Border Agency's duty to safeguard and promote the welfare of children.

Finding an alternative model is not easy, but it should be based on managing people's expectations and keeping them informed, while ensuring that the whole process is quick and fair. Under such circumstances refused asylum seeking families are more likely to understand that their case has been given a fair hearing and their chance of a successful appeal is limited. Consequently, they may be more willing to take up voluntary return.

Relevant evidence or research on alternatives to detention in other jurisdictions

The UNHCR report 'Alternatives to Detention of Asylum Seekers and Refugees'² mentions the following alternatives to detention functioning in various countries:

- a) release with an obligation to register one's place of residence with the relevant authorities and to notify them or to obtain their permission prior to changing that address;
- b) release upon surrender of one's passport and/or other documents;
- c) registration, with or without identity cards (sometimes electronic) or other documents;
- d) release with the provision of a designated case worker, legal referral and an intensive support framework (possibly combined with some of the following, more enforcement oriented measures);
- e) supervised release of separated children to local social services;

² O. Field with assistance of A. Edwards, [Study on Alternatives to Detention of Asylum Seekers and Refugees](#), UNHCR, Legal and Protection Policy Series, UNHCR, Legal and Protection Policy Research Series, POLAS/2006/03, Geneva, 2006.

- f) supervised release to (i) an individual, (ii) family member/s, or (iii) nongovernmental, religious or community organisations, with varying degrees of supervision agreed under contract with the authorities;
- g) release on bail or bond, or after payment of a surety (often an element in release under (f))
- h) measures having the effect of restricting an asylum-seeker's freedom of movement (that is, *de facto*, restrictions) – for example, by the logistics of receiving basic needs assistance or by the terms of a work permit;
- i) reporting requirements of varying frequencies, in person and/or by telephone or in writing, to (i) the police, (ii) immigration authorities, or (iii) a contracted agency (often an element combined with (f));
- j) designated residence in (i) state-sponsored accommodation, (ii) contracted private accommodation, or (iii) open or semi-open centres or refugee camps;
- k) designated residence to an administrative district or municipality (often in conjunction with (i) and (j)), or exclusion from specified locations;
- l) electronic monitoring involving 'tagging' and home curfew or satellite tracking.

The response to the consultation from the British Red Cross provides further information on effective alternative solutions in Sweden, USA and Australia.