

Ending the detention of children: developing an alternative approach to family returns

Professor Heaven Crawley
Centre for Migration Policy Research
Swansea University



Presentation overview

- Political and policy context
- The reasons for detention
- Alternatives to detention
 - Electronic monitoring
 - Reporting (including incentivised compliance)
 - Supervised accommodation
 - Case support and contact management
- Key features of an alternative approach
- An end to the detention of children?

Political and policy context

- The detention of children in UK for purpose of immigration control has been the subject of growing criticism
- Research for Save the Children (Crawley and Lester 2005) found that nearly 2,000 children a year were detained, sometimes for lengthy periods
- Impact of detention on children's health and well-being increasingly well-documented in UK and elsewhere (Lorek *et al.* 2009)
- Liberal Democrat manifesto included a commitment to end the detention of children which was included in Coalition agreement (May 2010)
- Review established to explore alternatives to the detention of children, findings and policy changes announced in December 2010, new policy process for family returns introduced 1st March 2011

Reasons for the detention of children

- Government/UKBA maintains it is necessary to detain children to prevent families absconding, as a 'last resort' to affect their imminent removal and because families are not prepared to leave voluntarily at the end of the asylum process
- Contested by academics, practitioners and advocates who maintain that children have been detained unnecessarily or for prolonged periods of time because of barriers to removal e.g. legal issues, health issues, travel docs (Centre for Social Justice 2008)
- Concerns about breakdown of trust in asylum system, lack of legal advice and representation, quality of decision making
- Very low take-up of voluntary return options reflects a lack of meaningful engagement during process and failure to address concerns of families (CSJ 2008; Independent Asylum Commission 2008)

Alternatives to detention

- Alternatives to detention are well-rehearsed (Crawley and Lester 2005, Field and Edwards 2006, Jesuit Refugee Service 2008, International Detention Coalition 2009, Crawley 2010)
- Four main alternatives are electronic monitoring, reporting (including incentivised compliance), supervised accommodation and case support /contact management
- Two schemes in US utilise **electronic monitoring** including telephonic reporting, satellite tracking and tagging
- Only allows authorities to know where someone is and absconding unlikely to be a significant issues in families
- Problems with technology can result in increased detention which is also an issue in some **reporting schemes**
- Assisted Appearance Scheme in US has been very successful but involves two-way contact not just reporting

- **Supervised accommodation** is used extensively in Europe (Germany, Switzerland, Netherlands, Belgium) and enables increased contact plus two-way exchange of information throughout the asylum process
- In Belgium, families at the end of the process live independent in 'maisons de retour' → similar to recent UKBA pilots in Glasgow and Millbank but contact provided throughout process
- Various models of **case support / contact management** have been developed (Sweden, Australia, Belgium) → independent case manager (often church or NGO-based) who advises asylum seeker throughout process
- Australian Reception Transition and Processing (RTP) System assigns case worker to asylum seekers (1:30) who provides a 'bridge' between families and immigration authorities → cf. Voluntary Sector Key Worker Pilot in Liverpool

Key features of an alternative approach

- Any alternative approach must reflect an understanding of the reasons why children are detained in the first place
- Families who are 'appeal exhausted' and 'removable' may never have had their cases considered properly in the first place → issues around access to legal representation and quality of decision making
- Alternatively there may new factors affecting the ability or willingness of the family to return (change in family circumstances, health issues)
- Most effective approaches to family returns in other countries are those which improve contact by providing support and information to asylum seekers from the **beginning** of the process
- Increasing 'voluntary' return is not just about improved marketing but engaging with families about reasons for reluctance to return
- Not simply a process of 'going home' but of re-embedding (Ruben *et al.* 2009)

An end to the detention of children?

- As a result of the Government's review of alternatives to detention, a new four-stage process was introduced on 1st March
 - **Improved decision making** and pilots of new arrangements to provide access to early legal advice
 - **Assisted return** through a dedicated family conference to discuss future options and the specific option of assisted return
 - **Required return** giving families who do not choose to take up the offer of assisted return at least two weeks' notice of the need to leave the country
 - **Ensured return** of those who refuse to leave and the creation of an independent Family Returns Panel to consider child welfare issues in these cases
- A new form of **secure pre-departure accommodation** will be established and will remain an option for families who 'resolutely fail to co-operate'

- Alternatives to detention are meaningful only if they exist within a broader system of decision-making that ensures ongoing and consistent contact is maintained
- Case support / contact management system appears to offer the best possibility for ending the detention of children whilst increasing the confidence and trust in the system needed for families to return where their cases have been fully and properly considered
- New process proposed by the Government acknowledges the importance of quality decision-making and legal advice but increases contact with families only at the end of the process
- No provision for independent case support throughout process
- 'Pre-departure accommodation' is detention by another name
- Plans to refurbish family accommodation at Tinsley House for 'criminal or other high-risk families who could not be accommodated safely in the pre-departure accommodation' (Damien Green 8th March 2011)

Centre for Migration Policy Research (CMPR) briefing paper entitled '*Ending the detention of children: developing an alternative approach to family returns*' can be downloaded at www.swansea.ac.uk/media/Alternatives_to_child_detention.pdf

