

Fractured childhoods:

the separation of families by
immigration detention

BiD Bail for
Immigration
Detainees

April 2013

I had a childhood
I played the violin

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STRATEGIC LEGAL FUND
FOR VULNERABLE YOUNG MIGRANTS

Foreword

I was pleased to be approached to write the foreword to this important piece of research from Bail for Immigration Detainees.

As Children's Commissioner for England, my remit covers all children in England irrespective of their status. It is important that all Governments in State Parties which have signed and ratified this important treaty understand that in being a signatory to the United Nations Convention on the Rights of the Child (UNCRC) they agree to secure the rights of all children within their territory without discrimination, – including on the basis of their immigration status. A secure childhood, encapsulated in the concept of the best interests of the child, must be a primary consideration in decisions made by administrative bodies such as the UK Border Agency.

However, we must all also appreciate that in a proportion of the cases, some of them considered in this report, the parents concerned had committed serious criminal offences. Therefore there is an argument that their presence in this country is not conducive to the public good. Where this is the case, the position of the children of the families concerned must still be considered. This is not only a requirement of the UNCRC. Section 55 of the Borders, Citizenship and Immigration Act 2009 places a duty on the Secretary of State to make arrangements to ensure his or her functions are discharged, having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom.


This report provides compelling evidence that, whilst there have been improvements since the UKBA decided to remove all reservations and to abide by that duty, the machinery to ensure that this happens is not yet working as it should.

The Section 55 duty requires decision makers to embark on a sufficient and proper decision making process so as to discharge the duty with an open mind. As this report brings to life, some of the key decisions which must be considered in the context of the duty are those:

- To deport a child from the UK,
- To split a child from its parent in order to deport them, or
- To detain a parent under immigration powers following completion of sentence pending any such deportations.

Consideration of the best interests of the child must be evident in every such decision. It is clear that we are at a point in this complex landscape where what is in the best interests of the child, and indeed what weight should be given to those interests, are contested between those subject to the decision making, and the decision makers.

We often hear it said that while the best interests of the child are a primary consideration they are not the only consideration. I consider, and my statutory remit requires that I remind us all, that when we talk about a child's best interests being 'a primary consideration' we take it at face meaning: that this interest must be given an equal standing with other primary interests such as 'the public good' or 'the interests of immigration control'.



I do not have the sense, reading the accounts of the children and family members in this report, that the Government has yet fully developed a process where the interests of the child have always properly or fully been considered in this way.

Decision makers need to look for leadership to the policy makers and senior staff within the UKBA, as workers would in any organisation.

Following the landmark decision in ZH Tanzania, we were promised that guidance would be forthcoming to assist decision makers on how to consider the best interests of the child. This has not materialised. Instead, sadly, we have seen an attempt to narrow and codify the concept of best interests in the Immigration Rules published in July 2012. It is simply not acceptable that this is so.

The best interests and well-being of the child, and his or her right to participate in decision making as the holder of rights contained in the UNCRC should always be looked at individually, taking into account a variety of individual circumstances such as age, level of maturity, the presence or absence of parents and the child's history of different environments and life experiences.

My hope is that the accounts from children presented in this report will act as a spur to the development of the necessary structures and practices to ensure compliance with the UKBA's Section 55 duty and its Statutory Guidance. Only when this happens can the Agency say it is genuinely working towards the realisation of children's rights under the UNCRC.



Dr Maggie Atkinson,

Children's Commissioner for England

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Executive summary

Under s55 of the Borders, Citizenship and Immigration Act 2009, the UK Border Agency has a duty to safeguard and promote the welfare of children.

However, this report presents evidence of cases in which the Border Agency repeatedly failed to safeguard children when making decisions to detain their parents, with appalling consequences for the children concerned.

Research was carried out into the cases of 111 parents who were separated from 200 children by immigration detention between 2009 and 2012. 85 of these children were in fostering arrangements or local authority care during their parents' detention.

Parents were detained without time limit, for an average of 270 days. In 92 out of 111 cases, parents were eventually released, their detention having served no purpose. In 15 cases, parents were deported or removed from the UK without their children.

It is difficult to imagine any other situation where children in the UK could be separated from their parents indefinitely and have such scant attention paid to their welfare. From 1st April 2013, Legal Aid ceased to be available to the vast majority of people making immigration claims. The complexity of immigration law means that it is extremely unlikely that parents will be able to successfully represent themselves. Bail for Immigration Detainees (BID) therefore anticipates that we will be dealing with very many more cases where parents are separated from their children by detention and removal from the UK.

'Dear mummy, I am missing you so much. When are you coming home? I cry in my sleep sometimes I just want my mummy back.'

Sophie, seven years old

Methodology

BID's family team dealt with 115 parents who left detention between January 2009 and July 2012. For this research, data were collected from 111 of these parents and their 200 children.¹

More detailed quantitative data were obtained for a small sample of 27 parents with 53 children, who BID submitted bail applications for between November 2010 and April 2012. Within this sample of 27 families, in-depth qualitative data were obtained from a sub-set of 12 families through research interviews and analysis of BID files. It was possible to obtain UK Border Agency files by Subject Access Request for five of these 12 families.

¹ Three parents did not consent to participating in this research. Another case was removed from the research sample because, after BID's family team began work with the client, it became clear that she did not fit the team's referral criteria. For the purposes of this research parents are defined as parents who were separated by detention from children under 18 living in the UK.

Harm to families

30 of the 53 children in the small quantitative sample of 27 families were British citizens. 11 children were two years old or less when their parent was detained, and 31 children were between three and 10 years old.

Children who participated in this research described the extreme distress they experienced during their parent's detention. They reported losing weight, having nightmares, suffering from insomnia, crying frequently, and becoming deeply unhappy, socially isolated and withdrawn. Some children were aware that their parent could be deported, and were extremely anxious about this.

'When you have a two year old asking "why is mummy in the phone and why can't you see mummy?" You don't know what to say.'

Sonia

Their parent's absence often meant that children's basic practical and emotional needs were not met.

Where single parents were detained, children were placed in care. Some children moved between unstable care arrangements, experienced neglect and were placed at risk of serious harm. Parents and carers outside detention often struggled to cope financially and emotionally. Children were seldom able to visit their parents in detention because of the distances involved and the prohibitive cost of travel, and parents struggled to pay for phone calls to children.

Case study: Beth and Daniel

Beth's grandfather, who was caring for her and her disabled brother Daniel during their mother's detention, became seriously ill and was admitted to hospital three times. Beth had to stop attending school to care for her brother and grandfather and missed her GCSE exams. She also had to deal with proceedings which were started to evict the family due to rent arrears.

Beth found it extremely difficult to look after her seven year old brother, who has very limited motor control and severe behavioural problems. During their mother, Christine's, detention, he was made subject to a child protection plan, deemed to be at risk of emotional and physical harm and referred to Child and Adult Mental Health Services. A Children's Services assessment found that:

'Daniel has found it very difficult being separated from his mother, he is keen for her to return home and often states that she is "coming home today" when she is not and becomes upset when he realises this is not the case.'

'[A] concerned neighbour rang to report that Daniel was playing alone in the road at 8pm, he was seen to fall and lay in the road, which is a bus route... he walks into people's houses and has poor awareness of danger and his own safety.'

Two months after his mother entered detention Children's Services received a report that Daniel had been hit by a car.

Despite receiving reports about the welfare of these children, the Border Agency detained their mother for 160 days before she was released on bail by the Tribunal. She subsequently successfully appealed the Border Agency's decision to deport her.

Young children often could not understand why their parent was not with them. Clare, whose daughters were aged between two and six when she was detained for 327 days, said:

'Their dad told me that the eldest used to cry, regular at night before she go to bed, asking "when is mummy coming home?" There were a lot of questions that they were asking that I couldn't answer. They would say "Oh so you don't love us, why you staying away from us so long?"'

Jenny, who cared for two year old Ella during her mother's detention, described how the toddler lost her appetite:

'She didn't want to eat; you had to force her to eat. She just start crying "mummy, mummy"... you know, the constant crying. Whenever she hear the door open she would go to the door, knocking on the door saying "mummy."'

'My daughter wakes up crying that she's dreamt her daddy's at home, and daddy takes her to school. And then she wakes up and daddy's not there. I want to cry now just talking about it.'

Angela

One of the foster carers who looked after seven year old Hana during her mother's detention said:

'At times she would sit by herself and break down and cry. When you asked her what is the matter, she say "when is my mum coming I want to go home with her."'

Parents described their profound grief at being separated from their children, and said they became extremely depressed and in some cases considered taking their own lives during their detention. Kayla, who was detained for 224 days, said:

'I never knew people could take your kids away out your life, just like that. They don't know the pain that you feel in your stomach, you feel it in your guts. Being with my kids now is like I'm alive again.'

Decisions to detain

The Border Agency did not contact any of the 53 children in the small quantitative sample of 27 families to ascertain their wishes and feelings before or during their parent's detention. In seven of the 10 cases where these data were available, it took the agency more than a year to contact Children's Services to inquire about children following their parent's convictions.

UK Border Agency documents including Monthly Progress Reports, bail summaries and, where these were available, detention reviews, were analysed for the qualitative sample of 12 families. In the majority of these cases, the Border Agency failed to take basic steps to safeguard children. In 11 out of 12 cases, the Monthly Progress Reports produced during parents' detention made no mention whatsoever of their



I feel sad
about my mum

Oliver, 10 years old

children's welfare. Where evidence was presented to the Border Agency that children were experiencing extreme distress or neglect, this did not lead to decisions to release parents from detention in any of the cases surveyed. In 11 out of 12 cases parents were released by the Tribunal on bail, their detention having served no purpose.

The only consideration of the welfare of Richard's children in his bail summary was a sentence stating that permission had been obtained within the Border Agency to split his family. Richard's daughter was hospitalised during his detention following an asthma attack.

In Christine's case, the Border Agency suggested that the existence of a child protection plan for her son addressed the concerns for his welfare, when this was plainly not the case. The third review of Christine's detention in her Border Agency file claimed that:

'Social Services are involved with the control of the children's care and have no issues with her detention at this time.'

In fact, Social Services had raised very serious concerns about the effect Christine's detention was having on Daniel, who was in an unstable care arrangement and at risk of serious harm.

Deportation and removal of parents

15 of the 111 parents in this study were removed or deported from the UK without their children at the end of their detention. Two of these parents were single fathers, and their children were left in care in the UK. In another case, a mother was three months pregnant when she was deported without her husband and two children.

In 14 cases, parents were deported or removed following convictions for criminal offences, and in one case a parent was removed after overstaying his visa. 12 of these 14 parents had committed non-violent offences, and 10 were sentenced to less than two years in prison. In four cases, parents had committed immigration offences such as possession of false documents.

'I love my mum very much and miss her a lot, please send her home to be with us - please don't send my mum to Angola again.'

Simon, aged eight

In some cases, parents feared for their safety on return to their country of origin. One parent in the study was returned to Sri Lanka, another was returned to the Democratic Republic of Congo and two were returned to China.

It is beyond the scope of this research to systematically examine the Border Agency's decisions to deport or remove parents. However, in a number of cases the information available on parents' BID files raised very serious concerns about the Border Agency's processes. In one case, a parent was not given any notice of his removal and therefore did not have the opportunity to take emergency legal action to prevent it. In another case a bail summary stated that a mother's two sons were 'content to remain in the UK under their father and stepfather's care' despite considerable evidence of the children's extreme distress at their separation from their mother.

Deportation decisions

Post-detention data were obtained for the 15 parents in the small quantitative sample of 27 families who had been released for more than six months at the end of the data collection period. Only one of these parents was deported at the end of their second period in detention. In seven cases, parents' immigration or asylum cases were ongoing six months after their release, and in seven further cases parents had been granted leave to remain in the UK at the time of writing.

It was possible to obtain copies of Border Agency 'Notices of Decision to make a Deportation Order' by Subject Access Request for three of these 15 parents. There was no evidence in these documents that the Border Agency considered children's wishes and feelings when making decisions to deport their parents with or without them.

Case study: Paul

Paul was deported from the UK without his two sons, aged 12 and nine, who were left in the care of his ex-girlfriend. Paul claimed asylum when he arrived in the UK, but his claim was refused. After living in the UK for seven years without having the right to work legally, or becoming fluent in English, Paul was convicted of an offence related to cannabis production. The judge described Paul as being part of a criminal organisation where 'the people who make most of the profit use people like you to do the work and take the punishment when caught.'

Paul was held in immigration detention for over a year before being deported. During his detention, his two sons wrote letters in support of an application for him to be released on bail. Dominic, aged 12, said:

Dear Sir/Madam,

It has been 2 years since my Dad was away. We really miss him. On Fatherday, we made cards but he wasn't there to see. Mom said Dad is going come back soon and we keep waiting every day.

Dominic, 12 years old

The Border Agency was aware of Paul's children, who were living with his then girlfriend. The agency did not consider the children's welfare in Paul's 'Notice of Decision to make a Deportation Order', or any of the Monthly Progress Reports or bail summaries on his BID file, beyond noting that Paul had provided limited information about them. The agency never made any inquiries to the children's carer about them, and deported Paul without taking any effective steps to investigate the children's care arrangement or the impact which his deportation would have on them.

Parents' and children's ties to the UK

Many of the children who participated in this research were born and grew up in the UK. Children often had very strong ties to family members in the UK, which would be severed if they were deported.

For example, Simone's partner looked after their son Ray during her prison sentence and detention. Ray was less than one year old when Simone was arrested and nearly four by the time she was released from detention. A children's charity support worker described his distress at not seeing his mother once she entered immigration detention:

'Ray does not really talk to anyone. When their mother stopped coming home [on visits from prison] Ray stopped eating properly for a while and got sick. [He] screams and cries when their mother finishes on the phone.'

The Border Agency planned to deport Simone with her two sons, and argued that her partner could leave the UK with her if he chose. However, Simone's partner has a young daughter from a previous relationship who he would be separated from if he left the UK. Simone explained:

'My partner's saying he's not sending back Ray to [my country of origin]. And they can't blame me for not leaving [my son].'

Simone was released after being detained for 118 days and successfully appealed her deportation.

In some cases, parents had lived in the UK for long periods while they awaited decisions on their cases by the Border Agency. For example, Natalie made a Human Rights claim and subsequently reported to the Border Agency every month for the next seven years. She did not have the right to work and could not claim any state support while awaiting a decision. She was then convicted of a criminal offence, which she said that she committed in order to pay for her son's school dinners.

Reuniting families at the airport

The Border Agency attempted to deport Faith with her partner and children. A bail summary in her file states that:

'It was intended that the four children would be reunited with their parents [at a reporting centre], or at Heathrow Airport, before the family boarded the aircraft.'

One of the children in this family was one year old when his mother went to prison, and had been separated from her for two years and five months. It is extremely concerning to see that the Border Agency thought it would be appropriate to reunite these children with their parents for a few hours to re-establish their relationship during the course of their deportation.

Safeguarding by Children's Services

Evidence was gathered on the action taken by Children's Services to safeguard children in the qualitative sample of 12 families.

Despite the very serious problems experienced by children in these families, in the majority of cases, there was no evidence in parents' BID or Border Agency files that Children's Services raised concerns with the agency about parents' detention or deportation. It is possible that Subject Access Requests for children's local authority files would reveal further contact between families and Children's Services. However, the evidence available from five parents' Border Agency files revealed serious gaps in the information from Children's Services which was considered by the Border Agency.

'Matthew has refused [counselling] as he does not wish to discuss his problems with anyone. His mother said he just locks himself in his room and cries.'

Child's Support Worker

Jenny cared for Lorraine's two year old daughter Ella during her 301 days in detention. The toddler was extremely distressed at her separation from her mother. Jenny explained that Children's Services were supposed to visit her but this never happened:

'Nothing seems to be done. Children's Services never visit my house. They were supposed to come around, see where I live, see how I manage Ella.'

There was evidence that Children's Services provided advice to the Border Agency about parents' deportation in four out of 12 cases. In all four cases, there was no evidence that Children's Services investigated children's wishes and feelings about their parent's deportation, or properly assessed how this would affect the children.

In two cases, parents' UK Border Agency files indicate that Children's Services informed the agency that they had no concerns about situations in which children would be separated from their parents by deportation on the basis of wholly inadequate information. In one case, the evidence on the file indicates that Children's Services approved the deportation of children without assessing how this would affect them.

Barriers to Removal

Parents in this study were detained for long periods for the purpose of being deported or forcibly removed from the UK. However, data from the small quantitative sample of 27 parents shows that, in most cases, these parents were detained despite barriers which meant that it was not possible, lawful or in their children's best interests for the parent to be removed:

- In 18 out of 27 cases, directions were never set for the removal of parents during their detention.
- The 15 parents for whom these data were available had pending immigration or asylum applications for, on average, more than four fifths of their time in detention.
- In 12 out of 27 cases, parents could not be removed for periods during their detention as the UK Border Agency lacked the travel documentation which would be required to effect their removal.

Risk Assessment

The cases surveyed in this research revealed very serious problems with the methods used by the Border Agency to assess parents' risk of absconding or reoffending.

Post-detention data were collected for the 15 parents in the small quantitative sample of 27 families who had been released for more than six months at the end of the data collection period. All 15 parents complied with the terms of their release and maintained contact with the Border Agency. This was confirmed by their legal representatives in the 14 cases where parents were represented.

'I am a bit gobsmacked that he's been told he's high risk'

Probation officer

Parents explained that it would be extremely difficult for them to abscond because of their need to access support, healthcare and schooling for their children. The BID files of the 12 parents in the qualitative sample showed that the Border Agency routinely failed to take into account factors which indicated that parents posed a low risk of absconding, such as long histories of reporting regularly.

In 14 out of 27 cases in the small quantitative sample, information was obtained about how the National Offender Management Service had assessed parents' risk of reoffending or risk of harm to the public on release. In 10 cases, parents were assessed by the National Offender Management Service as posing a low risk of reoffending or harm on release, and four parents were assessed as posing a medium risk. However, the Border Agency repeatedly argued that these parents needed to be detained as they posed a 'significant' and 'unacceptable' risk.

Recommendations

Main recommendations

- Families should not be separated by immigration detention.
- While this practice continues, a time limit should be introduced on the separation of families by immigration detention.
- Any decision to separate a child from his or her parents must be subject to judicial oversight, and such proceedings should be within the scope of Legal Aid.
- Immigration matters should be brought back into scope for Legal Aid.
- Paragraphs 398 – 399B of the Immigration Rules should be revised to reflect the legal requirement for children's best interests to be treated as a primary consideration when decisions are made which affect them.²
- Before individuals enter immigration detention, the UK Border Agency should, without exception, take proactive steps to find out whether they have children, and what the care arrangements for the children are.
- Before a parent enters immigration detention, when their detention is reviewed, and when a decision is made about their removal from the UK, a best interests assessment should be carried out with their children. This assessment should be carried out by a child welfare specialist who is independent of the UK Border Agency, and shared with parents, children and legal representatives. Government resources should be allocated to enable this to take place.
- The Border Agency should publish management information on the separation of families by immigration detention.
- Clear protocols should be established between agencies to ensure that where information about children and parents is shared, this is done in an appropriate and ethical manner.

Specific recommendations for Government Agencies

The UK Border Agency

- In separated family cases, decisions to detain parents should be reviewed on a weekly basis.
- The Border Agency should address the unacceptable delays in provision of Border Agency files in response to Subject Access Requests, which mean that files are frequently not provided within 40 days as required by law, and prevent independent scrutiny of the agency.
- The Border Agency should carry out an urgent and comprehensive review of its guidance and training to staff on the assessment of best interests of children affected by detention, deportation or removal action against their parents.

² *ZH (Tanzania) v Secretary of State for the Home Department* [2011] UKSC 4

- Guidance to Border Agency staff should specify that, when they become aware of children who have been born in the UK and/or lived here for long periods, they should ensure that the children's status is proactively considered by the agency and, where appropriate, they are granted citizenship or leave to remain in the UK in a timely manner.
- The Border Agency should amend its policies to ensure that, where children are to be removed with parents who they have been separated from for any significant period, parents are not detained and can re-establish their relationship with their child in a planned and appropriate way before any removal takes place.
- Decisions to release parents and reunite families should not require authorisation at a higher level in the Border Agency than decisions to detain parents.
- The Border Agency should recognize that the deportation or removal of parents with or without their children is often a complex and lengthy procedure requiring the most careful scrutiny. Clearer policy guidelines should be introduced to ensure that parents are not detained for long periods, and a realistic and evidence-based assessment of the timeframes involved should be conducted prior to any decision to detain and thereafter at every detention review.
- Where parents are detained, the Border Agency should provide details in bail summaries of the steps they have taken to consider the best interests of affected children and what information has been gathered on children's welfare.
- Where parenting capacity assessments are required to progress cases, parents should be released from immigration detention to enable these to take place.
- Border Agency guidance should specify that advice must be obtained from Children's Services before a decision is made to detain a parent, before detention is reviewed and before any decision about removal. Caseowners must explain all the options available to Children's Services, including the option to not detain or remove, outline the agency's preferred course of action, and ask that an assessment of children's best interests is undertaken. In addition, caseowners must request specific information about how parental detention is affecting the child. If this communication and any response is relied upon to support a decision to detain, remove or deport it must be made available to the family and their legal representatives.
- The Border Agency's internal processes for auditing the quality of decision-making on the detention and removal of parents should be further developed.
- Family welfare forms should be filled out from the outset of each family's case, in line with the Border Agency's published guidance.
- If the advice of the Office of the Children's Champion is relied upon to support any decision to detain, deport or remove family members the request for advice and the advice be should be made available to the family and their legal representatives.
- The Border Agency should urgently address the way that caseowners are seeking and using risk assessment information on foreign national ex-offenders from the National Offender Management Service. Caseowners should always seek such information where it is available, and should no longer substitute their own opinions for assessments produced by the National Offender Management Service.
- The Border Agency should take steps to facilitate contact between parents in detention and children outside detention, by providing financial assistance where required so that children can visit parents in detention and speak to them on the phone.
- When parents are released from detention, the Border Agency should ensure that, where necessary, appropriate accommodation is provided so that parents can be reunited with their children, with minimal disruption to the children's education and personal life.

Local Authority Children's Services departments

- Children's Services departments should ensure that social workers who are in contact with children affected by the detention, deportation or removal of a parent are sufficiently trained and supported to understand:
 - Their role in ensuring the child's best interests are protected throughout any procedures in which they are involved.
 - How to assess a child's best interests and present an assessment to the Border Agency or Tribunals.
 - The duties of the Border Agency towards children and the legal context.
- Children's Services departments should designate a specialist social worker to deal with cases involving children affected by the detention, deportation or removal of their parents.
- Information and advice about a family which is given to the Border Agency and the Tribunals by Children's Services should be shared with the parents, children and their legal representatives.
- Where Children's Services departments are dealing with cases where the Border Agency is seeking to remove or deport parents, they should assess how this action will affect children's best interests, and give clear advice to the Border Agency and immigration judges considering deportation and immigration appeals.
- Where Children's Services departments are dealing with cases where the Border Agency has detained or plans to detain a parent, they should assess the effect on children's best interests, and give clear advice to the Border Agency and immigration judges considering applications for release on bail.
- Where parenting capacity assessments or other inquiries are needed in order to ascertain where children's best interests lie, Children's Services should proactively advise the Border Agency of what action is needed to safeguard children's welfare. For example, in some cases a parenting capacity assessment will be needed before a decision should be made about whether a parent should be removed from the UK with their children or not.
- Where Children's Services departments have concerns about a parent's capacity to care for their children, these should always be investigated properly and in a timely manner before advice is provided to the Border Agency. Advice should not be given on the basis of speculation or without children's informed consent.
- Children's Services departments should ensure that they visit and communicate regularly with parents in detention and children in the community. Children's Services must facilitate the appropriate involvement of parents and children in any processes concerning children, such as decision-making about their care arrangements.

The National Offender Management Service

- The National Offender Management Service should ensure that appropriate risk assessments are carried out in all cases involving foreign national prisoners. During any sentence and license period the National Offender Management Service must share that information with the Border Agency in line with the existing Service Level Agreement between the agencies, so that decisions about whether to detain and remove or deport parents from the UK can be properly informed.

Introduction

The UN Convention on the Rights of the Child provides that:

*'In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.'*³

The Supreme Court's judgment in *ZH (Tanzania)* stated that:

*'Where the best interests of the child clearly favour a certain course, that course should be followed unless countervailing reasons of considerable force displace them.'*⁴

In addition, s55 of the Borders, Citizenship and Immigration Act 2009 places a duty on the UK Border Agency to safeguard and promote the welfare of children.

However, this report presents evidence of cases in which the Border Agency has repeatedly failed to safeguard children, with appalling consequences for the children concerned. Parents were held in administrative detention for periods of months and even years. Children who were interviewed for this research described the extreme distress they experienced during their parents' detention. In some cases, child protection concerns were raised by the care arrangements which children were left in. In 92 out of 111 cases, parents were eventually released, their detention having served no purpose. In two cases, single parents were deported without their children.

At the time of writing, the High Court has on two occasions found that Bail for Immigration Detainee's (BID's) separated family clients were unlawfully detained.⁵ Despite the unlawful practices highlighted by the Administrative Court in those cases, many of the flaws which were revealed continued to be features of the cases set out in this report. In addition, BID is aware of a number of separated family cases where legal proceedings were commenced but where the Border Agency has paid tens of thousands of pounds in compensation prior to the case reaching trial.

It is difficult to imagine any other setting in which children in the UK could be separated from their parents indefinitely and have such scant attention paid to their welfare. Detailed processes are followed when children are taken into care because of parental abuse or neglect. And yet people with insecure immigration status who are caring and capable parents can be held in immigration detention without time limit. The decision to detain them is not made by a court but by an immigration officer.

There are serious problems with the quality of UK Border Agency decision-making in immigration, asylum and deportation cases. 36% of appeals of Border Agency immigration and asylum decisions to the First-Tier Tribunal between April 2011 and March 2012 were successful.⁶ In the 12 months to February 2011, 32 per cent

³ UN Convention on the Rights of the Child Article 3(1)

⁴ *ZH(Tanzania) v Secretary of State for the Home Department* [2011] UKSC 4 Paragraph 46

⁵ *MXL, R (on the application of) & Ors v Secretary of State for the Home Department* [2010] EWHC 2397 (Admin) and *NXT, R (on the application of) & Ors v Secretary of State for the Home Department* [2011] EWHC 969 (Admin)

⁶ Ministry of Justice 2012 *Annual Tribunals Statistics 2011-12*

of deportation appeals were successful.⁷ However, from 1st April 2013, Legal Aid ceased to be available to the vast majority of individuals making immigration claims, including parents and children appealing removal and deportation decisions. The complexity of immigration law means that it is extremely unlikely that parents will be able to successfully represent themselves. BID therefore anticipates that we will be dealing with very many more cases where parents are separated from their children by detention and removal from the UK.

Given the grave examples of failures to safeguard children presented in this research, it is extremely troubling to envisage a situation where children and families will be even less able to access their rights. It is instructive to consider the situation in the United States, where more than 46,000 parents of US citizen children were deported between January and June 2011.⁸ In November 2011, a study by the US-based Applied Research Centre estimated that there were at least 5,100 children currently living in foster care in the United States whose parents were either in immigration detention or had been deported. Their research found that:

*'Without any specific policy for addressing the needs of detained parents, child welfare agencies often treat them as if they've abandoned their children.'*⁹

Existing evidence on parental separation and child welfare

The grave consequences of separating parents from their children are evidenced by numerous psychological studies, including research on children in care and parental hospitalisation and imprisonment. The psychological problems which can be experienced by children who are separated from their parents have been well-documented.¹⁰

A 2003 report commissioned by the Office of National Statistics found that 45% of children in care, and 72% of those in residential care, were clinically diagnosed with a mental disorder.¹¹ Studies have shown that looked-after children and young people are several times more likely to have a statement of special educational needs, to be excluded from school, and to leave school with no qualifications.¹² A 1999 study found that children in foster care were seven to eight times more likely to be assessed by a paediatrician for abuse compared with the general population.¹³

A 2008 meta-analysis of existing research found that children of prisoners have about twice the risk of antisocial behaviour and poor mental health outcomes compared to children without imprisoned parents.¹⁴ Research published in 1995 found that 75% of the children surveyed exhibited high levels of post traumatic stress disorder after their mother's imprisonment. Symptoms included problems sleeping and concentrating, depression, anger, fear, blame and flashbacks.¹⁵ A 2007 study of male children found that the longer their parent was imprisoned for, the more likely it was the children would have adverse outcomes.¹⁶ A 2006 study found that the parents caring for

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- 7 Independent Chief Inspector of the UK Border Agency 2011 *A thematic inspection of how the UK Border Agency manages foreign national prisoners*
 - 8 Freed Wessler, S. 3rd November 2011 'U.S. Deports 46K Parents With Citizen Kids in Just Six Months' *Colorlines* <http://bit.ly/vo6Jmb> (accessed 21/03/13). Data obtained from US Immigration and Customs Enforcement by Freedom of Information Act request.
 - 9 Freed Wessler, S. 2nd November 2011 'Thousands of Kids Lost From Parents In U.S. Deportation System' *Colorlines* <http://bit.ly/rL8Raf> (accessed 21/03/13) and Applied Research Centre 2011 *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System*
 - 10 See for example Bowlby, J. 1973 *Attachment and Loss: Vol. 2, Separation: Anxiety and Anger*; Bartholomew, K. & Horowitz, L.M. 1991 'Attachment styles among young adults: a test of a four-category model' *Journal of Personality and Social Psychology* 61(2) pp226-44; Dallos, R. & Shaw, S. 2006 'Attachment and adolescent depression: impacts of early attachment experiences' *Attachment & Human Development* 7:4 pp409-424
 - 11 Office of National Statistics 2003 *The Mental Health of Young People Looked After by Local Authorities in England*
 - 12 McAuley, C. Pecora, P. and Rose, W. (Eds) 2006 *Enhancing the Wellbeing of Children and Families through Effective Intervention: International Evidence for Practice* and Warren, D. 1999 'Setting new national standards for foster care' *Adoption and Fostering* 23(2) pp48-56
 - 13 Hobbs, G.F. Hobbs, C.J. and Wynne, J.M. 1999 'Abuse of children in foster and residential care' *Child abuse & neglect* 23 (12) pp1239-52
 - 14 Murray, J. & Farrington, D.P. 2008 'The Effects of Parental Imprisonment on Children' in M. Tonry (Ed.) *Crime and Justice: A review of research* Vol. 37 pp133-206
 - 15 Kampfner, C. J. 1995 'Post-traumatic stress reactions in children of imprisoned mothers' in Gabel, K. & Johnston, D. (Eds.) *Children of Incarcerated Parents* pp89-100
 - 16 Murray, J. Carl-Gunnar, J. and Farrington, D.P. 2007 'Crime in Adult Offspring of Prisoners: A Cross-National Comparison of Two Longitudinal Samples' *Criminal Justice and Behaviour* Vol. 34 pp133-49

children outside prison were often in distress, and as a result children experienced a decreased quality of parental care and supervision which led to behavioural problems.¹⁷

Deportation of Foreign National Ex-Offenders

Most, but not all, of the parents in this study had committed criminal offences. Foreign national ex-offenders are often depicted by politicians and journalists as a group of people who have committed extremely serious offences and cynically use family ties to prevent their deportation despite having no real involvement in their children's lives.¹⁸

However, this research, which is the first detailed study of the separation of families by immigration detention to be carried out in the UK, shows that single parents may be separated from their children after committing relatively minor offences. In some cases, where parents did not have the right to work or claim benefits, they committed offences to buy food for themselves and their children. 12 of the 15 parents in this study who were removed or deported without their children had been convicted of non-violent offences, and one parent was not convicted of any offence. Two single fathers who were deported without their children were convicted of offences related to cannabis production. The judge who sentenced one of these fathers described him as being part of a criminal organisation where 'the people who make most of the profit use people like you to do the work and take the punishment when caught.'

This report also shows that the immigration detention of parents can have extremely serious consequences for the welfare of their children. Children reported losing weight, having nightmares, suffering from insomnia, crying frequently, and becoming deeply unhappy, socially isolated and withdrawn during their parents' detention. In some cases, children were left in unsuitable and unstable foster care arrangements. In one case, the Border Agency deported a single father without taking any effective steps to investigate his children's care arrangements.

Since 2006, the issue of the deportation of foreign national ex-offenders has been high on the news agenda and numerous changes have been made to legislation, policy and practice to increase the numbers of ex-offenders who are deported.¹⁹ On 9th July 2012, new immigration rules were introduced with the aim of furthering the Government's efforts to deport more ex-offenders. The rules set out very limited circumstances in which parents who have been sentenced to 12 months in prison should not be deported:

'(a) the person has a genuine and subsisting parental relationship with a child under the age of 18 years who is in the UK, and

(i) the child is a British Citizen; or

(ii) the child has lived in the UK continuously for at least the 7 years immediately preceding the date of the immigration decision; and in either case

(a) it would not be reasonable to expect the child to leave the UK; and

(b) there is no other family member who is able to care for the child in the UK;'²⁰

[emphasis added]

¹⁷ Phillips, S.D. Erkanli, A. Keeler, G.P. Costello, E.J. and Angold, A. 2006 'Disentangling the Risks: Parent Criminal Justice Involvement and Children's Exposure to Family Risks' *Criminology and Public Policy* Vol.5 pp677–703

¹⁸ See for example: Theresa May, 4th October 2011, Speech to Conservative Party Conference <http://bit.ly/qWR3dZ> (accessed 22/3/13); *Daily Mail* 2nd January 2013 '4,000 foreign criminals including murderers and rapists we can't throw out. . . and, yes, you can blame human rights again' <http://bit.ly/1185GtR> (accessed 22/3/13); *The Telegraph* 23rd April 2011 'Stop foreign criminals using 'family rights' to dodge justice' <http://bit.ly/gZKKOW> (accessed 22/3/13).

¹⁹ The UK Borders Act 2007 introduced the 'automatic deportation regime.'

²⁰ UK Border Agency *Immigration Rules* Paragraph 399 (a)

In BID's view, these rules do not enable decision-makers to properly consider children's best interests. For example, the fact that there is a family member in the UK who is able to care for a child does not demonstrate that it is in the child's best interests to be brought up by this family member and split permanently from their parents.

However, politicians and newspaper articles continue to argue that more needs to be done to reduce the numbers of deportations prevented by considerations of family life. For example, on 9th March 2013, The Telegraph newspaper published a story with the headline 'Politicians launch bid to stop foreign criminals from abusing human rights laws' which stated:

*'David Blunkett [MP] and Dominic Raab [MP] will this week launch an attempt to tackle the growing number of offenders using the "right to family life" laws to avoid deportation.'*²¹

It is deeply troubling to see that, despite the serious failures by the Border Agency to safeguard children evidenced in this report, the laws which protect these children and families are under attack.

²¹ *The Telegraph* 9th March 2013 'Politicians launch bid to stop foreign criminals from abusing human rights laws' <http://bit.ly/YkdrXe> (accessed 22/03/13)

Methodology

Summary

BID's family team dealt with 115 parents who left detention between 1st January 2009 and 31st July 2012.²² Three parents did not consent to participating in this research. Another case was removed from the research sample because, after BID's family team began work with the client, it became clear that she did not fit the team's referral criteria. Data were therefore gathered on a quantitative sample of 111 parents with 200 children.²³ Key data were gathered on these families, including information about where children were living during their parent's detention.

More detailed data were obtained for a small quantitative sample of 27 parents with 53 children, who BID submitted bail applications for between 1st November 2010 and 15th April 2012. In-depth data were obtained from a qualitative sample of 12 families from this group of 27, through research interviews and analysis of BID files. It was possible to obtain UK Border Agency files by Subject Access Request for five of these 12 families, and these were also analysed.

BID made Subject Access Requests for full UK Border Agency files for 16 of the parents in the small quantitative sample of 27 families. Unfortunately, the UK Border Agency failed to provide complete files for parents in 11 cases. In one case, BID submitted a request 19 months ago at the time of writing, but the Border Agency is yet to provide us with the parent's file, despite the legal requirement for a response to be provided within 40 days. The Border Agency's failure to comply with the Data Protection Act 1998 in these cases has clearly prevented independent scrutiny of the agency's actions.

BID obtained informed consent from all the families involved in the research to use their data anonymously. All participants were informed of the purpose of the research, why this information was being collected, and the way in which information about them would be documented and reported. All names have been changed to protect the anonymity of participants.

BID's work

BID prepares and presents applications for immigration detainees to be released on bail or temporary admission. The majority of our clients self-refer to BID after hearing about our services from other detainees, friends outside detention, visitors' groups, BID's posters in detention centres, or via the internet. In addition, BID runs regular bail workshops and legal surgeries in six Immigration Removal Centres (Yarl's Wood, Harmondsworth, Colnbrook, Campsfield House, Dover and Haslar). Clients are not charged for BID's services.

BID's family team deals with cases concerning children and families, including parents who have been separated from children by immigration detention. The team prioritises cases concerning single parents, long-term

22 For the purposes of this research parents are defined as parents who were separated by detention from children under 18 living in the UK. In one of these 115 cases, BID lost contact with the parent during their time in immigration detention, and it was not possible to establish the exact date they left detention.

23 In one of these 111 cases, the parent was not living with her child as a result of child protection concerns. However, during the parent's prison sentence, a care plan established that she should see her child on a twice weekly basis. These visits were recorded as being successful and progressing well, but once the parent moved to immigration detention it was only possible for her to see her child once a fortnight.

detainees and children and parents with particular vulnerabilities such as ill-health. However, the team also works with cases where a non-detained parent is caring for the children in the community and where parents have been detained for short periods. The team's ability to take on cases and represent clients for bail depends on their capacity at the time when cases are referred.

Small quantitative sample: 27 families

As is explained above, detailed data were gathered from a small quantitative sample of 27 families who BID lodged bail applications for between 1st November 2010 and 15th April 2012. In total, BID's family team lodged bail applications for 30 families in this time period. One parent did not consent to participating in the research. Another parent and child were particularly vulnerable and a decision was made to not to place additional demands upon them by requesting that they participate in research. A third parent was deported from the UK without his child during the research period, and it was not possible for BID to contact him to complete the collection of quantitative research data.

23 out of 27 families in this small quantitative sample were also included in the larger quantitative sample comprising 111 cases. In four cases, parents in the small quantitative sample were not included in the sample of 111 cases because they were not released from detention until after July 2012, and the larger quantitative sample consisted of parents who left detention between January 2009 and July 2012.

Quantitative data for the sample of 27 families were gathered by BID's legal caseworkers who completed questionnaires with parents and analysed their BID case files. Wherever there was relevant information in case files in the form of UK Border Agency documents, legal representatives' letters or medical reports, caseworkers cross-checked client's reports against this. In some cases, data collection was supplemented with inquiries to legal representatives and the UK Border Agency.

The collection of detailed quantitative data for the sample of 27 families ended on 15th April 2012; on this date, 19 of the parents in this study had been released and eight were still in detention. 15 parents had been released for more than six months at the end of the data collection period, and post-detention data were collected for all 15 of these parents.

A number of the parents in this sample of 27 families were held in immigration detention on more than one occasion. Unless stated otherwise, the data presented below regarding a parent's detention relates to the last period which they spent in immigration detention during the data collection period to 15th April 2012.

All 27 of the parents in the sample had committed criminal offences; 26 parents served prison sentences and one received a community order prior to being detained under Immigration Act powers. In 26 of the 27 cases the UK Border Agency was seeking to deport the parent using the powers provided by the Immigration Act 1971 or the UK Borders Act 2007. In one case, the parent had one conviction for a false document offence for which she received a six month sentence. She did not fit the criteria for automatic deportation, but was detained under Immigration Act powers for the purpose of removal as soon as she had served her prison sentence.

Some of the parents in this study had committed other offences in addition to the offence which led to the UK Border Agency initiating deportation action against them. However, unless stated otherwise, where a date of conviction or other data relating to a prison sentence or community order is cited below, this refers to the sentence which triggered the UK Border Agency initiating deportation action against a parent.

In most cases, the parents in this study went straight from prison to immigration detention after completing the sentences which led to the UK Border Agency considering them for deportation or removal. However, in five cases, parents were released on immigration bail for a period following their prison sentence and initial immigration detention, but were later re-detained. In one case, a parent went straight to immigration detention following the criminal sentence which led to her deportation proceedings, but was convicted of a further offence during her detention and went back to prison before moving back into immigration detention. Two parents, from separate families, committed criminal offences and were served with deportation orders, left the UK, and re-entered the country illegally. In both cases, the parents were subsequently re-detained. BID first applied for bail for all eight of these parents between November 2010 and April 2012.

Every effort was made to gather complete data for every client. However, in some cases it was not possible to collect certain information. For example, in some cases parents did not know whether the UK Border Agency had taken particular actions, or on what date specific events occurred. In other instances key information was not recorded in UK Border Agency documents such as Monthly Progress Reports. A number of the parents in the study were detained in prisons under Immigration Act powers, and this created particular obstacles to collecting data from them, as often it was not possible to speak to these parents over the phone and it was necessary to post questionnaires to them for completion instead.


Qualitative data: research interviews and client files

20 semi-structured research interviews were carried out with 10 parents, four children and six carers in 12 of the 30 families who BID lodged bail applications for between 1st November 2010 and 15th April 2012. Resource constraints meant it was not possible to interview members of all 27 families who participated in the research. Families where parents were released from detention during the data collection period were prioritised for interview to avoid the distress which would be caused by discussing a family's separation with parents and children while it was ongoing. Practical considerations including the proximity of families to London, where the researchers were based, were also a factor in deciding which families would be interviewed, as the budget for travel expenses was limited. The research interviews were audio recorded, transcribed and analysed.

The BID case files of all 12 families where family members were interviewed were analysed, and data were gathered on: children and parent's welfare; the conduct of the UK Border Agency and local authorities in safeguarding child welfare; and the parent's risk of absconding or reoffending. Full UK Border Agency files were obtained by Subject Access Request for five of these 12 families.

Subject Access Requests were made for disclosure of full copies of UK Border Agency files for 16 of the 30 parents who BID's family team lodged bail applications for between 1st November 2010 and 15th April 2012. As is explained above, three of these 30 clients were not included in the research sample. In six cases, parents either did not respond to letters and phone calls requesting permission for BID to make a Subject Access Request on their behalf, or did not wish to give consent for this. In one case, BID made a decision that it was not advisable to pursue a Subject Access Request for the client during the data collection period because of their legal situation. In two further cases, it was not possible to contact clients – in one of these cases the client had returned to their country of origin. In one case, a parent consented to the Subject Access Request being made, but the UK Border Agency required written consent from an adult child who the parent was estranged from in order to process the request, so it was not possible for us to make a Subject Access Request. In another case, written consent was obtained from the child in the family for the request to be made. However, the UK Border Agency required that BID verify the child's signature, and it was not possible to do this as resource constraints meant that BID staff could not travel to the part of the UK where the child lived to obtain written consent in person.

Only five of the 16 Subject Access Requests which were made to the UK Border Agency resulted in parent's files being provided to BID. At the time of writing, responses to four requests are still awaited. Two of these requests were made in April 2012, one was made in August 2011 and one was made in September 2011. The Border Agency is legally required to respond to Subject Access Requests in 40 days. Seven requests received responses which were so inadequate that it was not possible to use them for analysis. For example, the UK Border Agency provided BID with a file which was four pages long for a client who arrived in the UK in 1997 and was first convicted in 2006. The client's BID file ran to hundreds of pages; clearly the UK Border Agency must hold very lengthy records for him but these were not provided in their response to the Subject Access Request. BID wrote to the UK Border Agency to complain about the inadequacy of their response to these requests and asked that they send the client's full file. In two cases, BID is yet to receive a response to these complaints at the time of writing. In four cases, the Border Agency responded to BID's complaints after this report had been written up, but again provided entirely inadequate responses containing small parts of client's files. For example, in the case mentioned above the Border Agency again sent the same four pages from the client's file. In a further case, BID wrote to the Border Agency to complain about the incompleteness of a client's file, but the agency responded to this complaint explaining that BID had missed the deadline for complaining about Subject Access Request responses it would be necessary to begin a new request to obtain the client's file.



In the five cases where parent's UK Border Agency files were obtained via Subject Access Request, the files were analysed and information about reviews of detention and action by Children's Services in these cases is detailed in this report. In some cases, the documents provided by the Border Agency including detention reviews were heavily redacted. It was only possible to analyse the data which had been made available.

Subject Access Requests were made for full copies of Ministry of Justice files for 14 of the 27 parents in the research sample. In eight cases, parents either did not respond to letters and phone calls requesting permission for us to make a Subject Access Request on their behalf, or did not wish to give consent for this. In four further cases, it was not possible to contact clients – in two of these cases the clients had returned to their country of origin at the point when their consent was sought. 13 of the 14 files which were requested were provided to BID. In two cases, files were received very shortly before this report went to print, so it was not possible to analyse them for the purposes of this research. At the time of writing, we are awaiting one file from the Ministry of Justice. In some cases, the files provided were incomplete, and in one case further papers from the parent's Ministry of Justice file were only provided to BID seven months after the original request was made. This information was only received after this report had been written up, so it was not possible to analyse it for the purposes of this research.

1

Profile of families

Study size

Data were collected from a sample of 111 parents who BID's family team dealt with between 1st January 2009 and 31st July 2012. These 111 parents were separated by detention from 200 children under 18 living in the UK.

As is explained in the methodology section above, more detailed quantitative data were obtained for a small sample of 27 parents. In total, these 27 parents were separated by immigration detention from 53 children living in the UK who were under the age of 18.

Gender and nationality of parents

In two of the 111 families in the larger quantitative sample, both parents were held in immigration detention. In 47 of the remaining 109 cases the detained parent was a mother, and in 62 cases the father of the family was detained.

14 of the parents in the small quantitative sample of 27 clients were mothers, and 13 were fathers.

12 of these 27 parents were Jamaican, three were Zimbabwean, three were Nigerian, and two were Pakistani. The remaining seven parents were from Sri Lanka, India, the Occupied Palestinian Territories, Brazil, Angola, Cameroon and the European Economic Area.

Length and outcome of detention

It was possible to gather length of detention data for 107 of the 111 parents in this study. These 107 parents were detained for an average of 270 days. In 24 cases parents were detained for over a year, and in seven cases parents were detained for over two years.²⁴

Table 1 sets out the outcomes of detention for the 111 parents surveyed. In 92 cases, parents were eventually released from detention. In 17 cases, parents were returned to their countries of origin without their children.²⁵

²⁴ A number of the parents in this study were detained more than once, but the length of detention data given here only relates to their last period in detention during the data collection period.

²⁵ In one of these 17 cases, a mother was released on bail at the end of her detention, but was subsequently re-detained and re-contacted BID before being deported without her children.

Table 1: Outcome of detention (larger quantitative sample)

Outcome of detention	Number of cases
Released on Temporary Admission	28
Released on bail	62
Released – other ²⁶	2
Convicted of criminal offence and moved to prison	1
Deported	14
Removed from the UK	1
Extradited	1
Assisted return to country of origin	1
Lost contact	1
Total	111

Age of children

Table 2 shows that 42 of 53 children in the small quantitative sample of 27 families were less than 11 years old when their parent was detained, and 11 children were two years old or less.

Table 2: Children's ages

Children's ages when parent was detained	Number of children
0-2 years	11
3-5 years	12
6-10 years	19
11-14 years	5
15-17 years	6
Total	53

²⁶ In one of these cases, the parent was released by the High Court after the legality of their detention was challenged. In the second case, data were not available on whether the parent was released on bail or Temporary Admission

2 Harm to families when parents are detained

The children who participated in this research described the extreme distress they experienced during their parent's detention. Children reported losing weight, having nightmares, suffering from insomnia, crying frequently, and becoming deeply unhappy, socially isolated and withdrawn. Siblings and carers reported that young children could not understand why their parent was not with them, and would repeatedly ask where their parent was or why they had left them. A number of children were aware of the possibility that their parent would be deported from the UK without them, and were extremely anxious about this. Parents described their profound grief at being separated from their children, and in some cases said that they felt suicidal during their detention.

In a number of instances, their parent's absence meant that children's basic practical and emotional needs were not met. Where single parents were detained, children were placed in private fostering arrangements or local authority care. Some children reported that they did not have anyone they could really talk to about their feelings without their parent there. Children's performance in school suffered, and in some cases they took A Level and GCSE exams without their parent's support. Children were served with deportation decisions by the Border Agency and had to deal with solicitors by themselves.

A number of children were separated from their siblings and moved between different private fostering arrangements during their parent's detention. Some children experienced neglect and were placed at risk of serious harm. Parents and carers outside detention often struggled to cope financially and emotionally and the care received by children suffered as a result. Children were seldom able to visit their parents in detention because of the distances involved and the prohibitive cost of travel. When children did have the opportunity to visit, they often became deeply distressed at having to leave their parent in the detention centre.



Oliver, 10 years old

2.1 Parental detention and child welfare

Uncertainty about when or if parent would be released

Children whose parents served prison sentences before entering immigration detention were often focussed on the date when they thought their parent would be released from prison and were very much looking forward to being reunited with them. One child, 'James',²⁷ described the news that his mother would be held in immigration detention indefinitely instead of being released from prison as 'the shell shock of my life', which 'devastated me... and sent me into a horrible negative spiral.'

Children also described the stress and uncertainty of their parent being detained without time limit, and of not knowing whether their parent might be forcibly removed from the UK without them. One eight year old boy, Simon, said in a letter to an immigration judge in support of his mother's bail application:

'I love my mum very much and miss her a lot, please send her home to be with us - please don't send my mum to Angola again.'

In a similar letter, Damian, who was 17 years old when his mother was detained for 224 days, said:

'Not having my mother around has proved to be immensely hard for me, I find it difficult to keep telling my 10 year old brother that our mother is coming home soon, not knowing if she's actually going to come home.'

One mother, Clare, described how her daughter, who was six when Clare was detained for 327 days, used to repeatedly ask when her mother would return:

'Their dad told me that the eldest used to cry, regular at night before she go to bed, asking "when is mummy coming home?"'

Clare's partner, George, described their children's state of mind during her detention:

'They used to be happy children and eat well, but now they are crying and stressing a lot and constantly asking when is Clare coming home.'

Liam, who was 17 when his mother was detained, said his foster carers kept telling him and his 10 year old brother that his mother would be released soon, but this didn't happen:

'Initially they told us she should be home within a week or so...as time went by we were told that it's going to be extended for another two months. So it just kept getting extended... these have been the worst years of my life.'

Liam's uncle Thomas, who cared for Liam and his brother Sam during their mother's detention, was interviewed by a children's charity support worker. In a letter to the Tribunal²⁸ in support of a bail application, the worker reported that:

'Thomas told me that until recently [Sam] would often ask when his mother was coming home, but that as time has gone on and she had not been released, Sam had asked less and less frequently about this. He thought past disappointment had made Sam afraid to get his hopes up. Thomas said that he seldom discusses with the children the topic of when they might be reunited with their mother because they find it too upsetting.'

²⁷ All names of research participants have been changed to protect their anonymity.

²⁸ In this report, the term 'Tribunal' refers to the First Tier Tribunal of the Immigration and Asylum Chamber unless otherwise stated.

Kayla, whose son Max was nine when she detained for 224 days, described her son's frustration about her ongoing and indefinite detention:

'At one point, he says to me, "mum, I want to come in there with you." I said "no, son, you can't, mummy will come out." He's like "mum every day you say you coming, you coming, you coming- and you can't come. And it's painful.'"

In a research interview, Max described how, when his mother was refused bail, he started to cry in the courtroom. In a separate interview, Kayla explained that:

'I've been to court several times and I've not got out. In March I've been to court, and like, the following week was Max's birthday, and he wrote a letter to the judge saying that it's his tenth birthday and he want his mum to be there. He cried all the way back home. And it keep happening and happening constantly.'

Cliff, whose four children were between two and 12 years old when he and his partner were detained, said in a witness statement:

'[My children] ask us when we will be coming home and I cannot give them an answer. I do not want to lie to them but it is difficult to tell them the truth, that I do not know when we will live together again.'

Feelings of abandonment

In some cases, parents were separated by detention from children who were as young as one year old. Young children were not able to understand the concept of immigration detention, and in many cases repeatedly asked their carers and siblings where their parent was and why they couldn't see them.

Stephanie, aged eight, wrote to her father:

'I don't understand why you are not coming back... I am very upset because you did not come for Christmas.'

James, whose younger sister Ella was two years old when their mother was detained for 301 days, described his sister's 'despair and misery':

'She kept asking for mum, "mum, where's mum?" and you know she's a little girl growing up, she doesn't understand.'

Angela's partner was detained for 624 days. She was interviewed during his detention, and explained that her children, who are both British citizens, did not understand why he was in detention:

'They don't understand why he's in detention... It... It's quite hard to explain to a seven and 10 year old. You know, maybe until he got status, wasn't legal within the country and things like that.'

Simone explained that during her detention her three year old son would repeatedly ask her partner where she was:

'He asks the same questions every night "where is mum gone? where is mum gone?" And [my partner] said he explained to him, and he put him down [to bed], and then the next night it's the same thing.'

Sonia, who cared for her sister's four children for part of their parents' detention, said that the children felt that they had been abandoned:

'Yes, it affects the relationship with the parents because- unfortunately to children - they may not use the word abandoned, but they begin to think that they have been abandoned. So when you have a two year old asking "why is mummy in the phone and why can't you see mummy?" You don't know what to say. They never knew from one day to the next what was happening, you know?'

Clare described how during her detention her daughters, who were aged between two and six, would ask if she wasn't coming home because she didn't love them:

'There were a lot of questions that they were asking that I couldn't answer, because you know children don't understand about detention, they don't understand about prison, they don't understand anything like that. They would say "Oh so you don't want to- you don't love us, why you staying away from us so long?'"

Impact on children's well-being

Children, foster carers and parents described the emotional and physical health problems, including acute anxiety, which children developed during their parent's detention.

Damian, who was 17 years old when his mother was detained, said:

'I pray every night and every morning, hoping that my mum will be released from where she is. I seriously feel like I'll literally go mad if she's not released soon. The situation my mother is in has affected me both physically and mentally. I have lost weight, I don't eat a lot, I have nightmares of her never coming home.'

Max, who was nine when his mother was detained for 224 days, said that during her detention:

'[I had] sleeping problems sometimes, 'cause I used to have like nightmares, and stuff like that.'

An Initial Assessment of Max which was carried out by Children's Services found that:

'It is clear that Max's attachment to his mum and the current situation where she is not living in the family home has resulted in him feeling unsafe...his emotional well-being has been impacted. Max becomes very upset and distressed about his mother not living with them.'

Children's Services recommended that Max receive support from Targeted Mental Health Services to help him deal with his situation.

Carers and older siblings frequently described the distress which younger children experienced during their parent's detention. Jenny, who cared for two year old Ella during her mother's detention, described how the toddler lost her appetite:

'She didn't want to eat; you had to force her to eat. You know, even if she start to eat she just didn't want any more, she just start crying "mummy, mummy"... you know, the constant crying. Even when she was sleeping sometimes she just wake up crying "mummy, mummy." Whenever she hear the door open she would go to the door, knocking on the door saying "mummy, mummy."'

Liam, who was 17 when his mother was detained, said his 10 year old brother 'used to be really upset all of the time' after his mother's detention, and cried in his sleep.

Lenny's little brother was six and his sister was 13 when their mother was detained. In a letter to an immigration judge in support of his mother's bail application, Lenny said:

'Since my mum hasn't been around my younger brother has been very emotional - he cries for everything. He often speaks about mum and how he misses her and often cries after speaking to her on the phone. My sister often gets stressed out and frustrated about things. She's at an age where she needs motherly attention. We need our mum to cook and look after us.'

Matthew, who was 16 when his mother was detained, reported that:

'It was one of the hardest things I had to go through... I used to not sleep because I used to get up in the middle of the night...just thinking and watch TV. So I didn't really sleep that much. Other times I would feel lonely and down.'

Matthew also described his three year old brother Ray's distress about their separation from their mother:

'Yeah my brother... He used to ask for his mum all the time. Sometimes he'd cry in his sleep, which is kind of strange. I didn't... I couldn't do anything. So I think something was wrong because every time he asked for mum, that's when he cries in his sleep. So, I think it affected him really bad as well.'

A children's charity support worker interviewed Matthew before writing a letter in support of his mother's bail application. In this letter, the support worker reported that Matthew told her that:

'Ray does not really talk to anyone. When their mother stopped coming home [on visits from prison] Ray stopped eating properly for a while and got sick with colds and so on. [Matthew] said Ray is less talkative than he was before...he is livelier when he has just been in contact with his mother. However, [Matthew] also said that Ray gets upset at the point the phone call comes to an end and screams and cries when their mother finishes on the phone.'

Hana, aged eight, wrote the following letter to an immigration judge during her mother's detention:

TO Immigration
Judge

To whom It may concern,
my name is [REDACTED]
and I am 8 years old and attend
[REDACTED] primary school.

The reason why I am writing this
letter is to let you know how much I
miss my mum, and at times I just sit and
cry.

Hana, 8 years old

Angela's partner was detained for 624 days. She was interviewed during his detention, and described the distress which their two children, aged seven and 10, were experiencing:

'They don't handle it very well at all. I don't know, it's very hard for me to explain all the things my children go through but, you know, to watch my children's faces daily – the heartache and hurt – it's very hard. My daughter wakes up crying that she's dreamt about her daddy and daddy's at home, and daddy takes her to school. And then she wakes up and daddy's not there. I want to cry now just talking about it.'

Sonia cared for her sister Faith's four children, aged between two and 12, for much of their parents' detention. She believed that the family's separation caused and exacerbated physical health problems experienced by the children. For example, she said that:

'One of the children had eczema, and eczema would just get really worse when she's stressed, and truth of the matter is that children in that situation are always stressed.'

She also described how one of the children developed problems with going to the toilet:

'So for instance I had a 7-year-old who wouldn't go to the toilet. He wasn't going to the toilet properly. He had to have a change of clothes at school, because they said that he would defecate on himself. Now that's not normal. And this child is not a special needs child. So I directly associate that with their being separated from their parents.'

When she was released on bail, Faith described her 'shock' at the children's condition:

'When I saw my kids, I was unable to hide how I feel. Although I wanted them to see that I'm happy, but I couldn't hide what I see. They were rough, they have burns, like fungus in their head, which is coming out with puss which is really really bad, they were so skinny, so dry, you know... but obviously you're happy that at least now you're seeing them and you can start to do something.'

Children with special needs

In cases where children had special needs, it was particularly difficult for them to understand the reasons for their parent's absence and cope with the separation. For example, Daniel, who was seven when his mother was detained, is severely disabled. The statement of special educational needs in his mother's BID file records that when assessed, aged five, Daniel was not toilet trained, could not feed himself with a fork or spoon or dress himself, and 'finds it hard to hold a pen or pencil with any real control.' A paediatrician's report compiled during his mother's detention, when Daniel was eight, confirmed that his problems with motor control were still present and stated that:

'Daniel is not able to walk in a straight line. His speech is still poor, and the maximum he could say was a three to four word sentence.'

An assessment by Children's Services during his mother's detention noted the possibility that Daniel was on the autistic spectrum. This assessment also found that:

'Daniel has found it very difficult being separated from his mother, he is keen for her to return home and often states that she is "coming home today" when she is not and becomes upset when he realises this is not the case. He has phone contact with his mother every day and will often watch a video message that she sent him wishing him a happy birthday.'

Daniel developed very serious behavioural problems during his mother's detention, which are detailed on page 37 below. Because Daniel was experiencing extreme distress about his separation from his mother, Children's Services advised her that she should not speak to him on the phone from detention very often – following this she spoke to him much less frequently for the remainder of her time in detention.

Oliver, who was eight when his mother was detained for 576 days, also had a statement of special educational needs, as well as physical health problems for which he had surgery during his mother's detention. His mother reported that she was very worried about him as he cried frequently about their separation and she was not able to support him with his health problems or learning difficulties from detention. A children's charity support worker visited Oliver while his mother was in detention and reported that:

'[Oliver] told me he thought his mum would be coming out of detention very soon. When he visited her...he felt very sad when he had to go. Oliver told me he wanted his mum back and wants her to come and live there with them all the time. [Oliver's foster carer] said he is clearly holding on to the hope that he will be reunited with his mum soon and his expectations are very high. She also spoke to me about her concerns regarding Oliver's learning difficulties and how she feels separation from his mum makes him additionally vulnerable.'

Children becoming withdrawn and socially isolated

In a number of cases, parents and children reported that children became withdrawn and socially isolated during their parent's detention.

For example, Nina, whose two children were aged 10 and 17 when she was detained, described how during and immediately after her detention her children were quiet and fearful:

'They were with my brother [during my detention] but they couldn't speak as much as they could speak to me. They would be quiet. They wouldn't talk, they didn't get up, they didn't cope, they were so scared and then their nature changed.'

James, who was 17 when his mother was detained, explained that he didn't speak to his friends about his problems during his mother's detention:

Edward was seven when his mother was detained. In a letter written during his detention, his Head Teacher commented that:

'Edward does not share things that have happened at home when he is in school, even after holidays.'

Matthew was 16 when his mother was detained. He had to babysit his three year old brother most of the time, because his stepfather was often out working. Matthew described how his isolation affected him:

'Um, all the fun stuff went away, so it was just me by myself. Because my stepdad was away most of the time, I was mostly babysitting. So I didn't really get to talk that much, so ... it was kind of a long time. Like, I didn't have good friends back then. Because I didn't really talk to anyone, I used to be by myself. No one used to know about all my problems and so there was no one that could actually help.'

Matthew's mother, Simone, informed a children's charity support worker that Matthew had been offered counselling by a voluntary organisation. The support worker explained in a letter to the Tribunal that:

'Matthew has refused this [counselling] as he does not wish to discuss his problems with anyone. Simone said he just locks himself in his room and cries.'

In some cases, children's isolation was compounded by being separated from siblings and half-siblings during their parent's detention due to separate care arrangements. For example, Richard explained that his daughter from a previous marriage rarely saw her half-sisters during his detention:

'She didn't get to see them on a more regular basis that she would if I was around. When I was about she comes every weekend.'

Behavioural problems

In some cases, parents, carers and older siblings said that children developed behavioural problems during their parent's detention.

For example, James said that the behaviour of his little sister Ella, who was two when her mother was detained, changed during their mother's detention.

'You can imagine, you kind of need your mum at that stage, you know what I mean? She started to get a bit naughty. But she's all right now, you know what I'm saying? Her mum's back and she's good as gold.'

During Faith's detention, her five year old daughter Grace was in her aunt's care. Faith described how Grace became aggressive to other children:

'She would pinch other children in school, she just beat them up, and the school used to call me all the time "Grace is so bad today, she stopped the class, she abused the teacher, she runs around." I think she takes the anger, you know, the situation that happened at home and she take it to school. And because of that they didn't let her play with the other children, so that's really affected Grace very much. She had a very, very bad time at school.'

Faith said that Grace would refuse to leave at the end of the school day as she didn't want to go back to her aunt's house:

'The teacher would be chasing her, when it's time to go home, she doesn't want to go home. And they will be chasing her to get in the car.'

Faith received frequent phone calls from Grace's school regarding concerns about her behaviour. Faith didn't want to tell her daughter's teachers that she was in detention, and so instead told them that she was working away from home. She reported that one of Grace's teachers expressed very serious concerns about the effect which the family's separation was having on the child:

'It hurts me when somebody [Grace's teacher] is advising you that "I'm telling you as a mother myself that this child needs help, you know, she can't carry on, she's only five, she can't carry on like this, you need to come home"'

Matthew, who was 16 when his mother was detained, described making friends with people who were a bad influence on him during her absence:

'I got around with bad crowds. Started doing stuff like, stuff that I shouldn't have done. So that affected my life. Because I didn't have no one to be there and guide me, so I just went off the path and then went, meet bad people. It was quite hard.'

Christine's son Daniel, who was seven when she was detained, is severely disabled; an assessment during his mother's detention noted that he may be autistic. During Christine's time in prison, Daniel was able to visit her every week, and anticipated that he would be reunited with her at the end of her sentence. However, Christine

was instead detained under Immigration Act powers on the day she completed her prison term. Daniel was not able to visit his mother in immigration detention due to the greater distances involved, the cost of travel, and the fact that his carer had become seriously ill.

Christine described how Daniel's behaviour deteriorated during her detention:

'After I go to detention centre, he knows I'm not coming home. Because he...the bullying...swearing...fighting because he waiting I'm coming, but I'm not coming. He all the time fighting and they tell him "mummy's coming, mummy's coming soon" but the soon no happen.'

In a witness statement, Daniel's older sister Beth explained that she thought Daniel's behavioural problems were the result of his separation from his mother:

'I think Daniel is angry and behaving badly because he is confused and misses his mum so much. He's always asking when is my mum coming home. He often gets upset and I cannot comfort him. He just wants his mum.'

A 'Core Assessment Record' produced by Children's Services two months after Christine entered detention noted that Daniel had been excluded from school twice in two weeks as a result of violent behaviour, and stated that 'Daniel's aggressive behaviour has escalated in the last month.' A 'Strategy Discussion Record' produced by Children's Services two days earlier noted that:

'There are concerns that Daniel is affected emotionally by his mother being in the detention centre and the uncertainty of their future. Daniel's behaviour and presentation has deteriorated significantly over the recent months. Daniel recently stabbed [a family friend] in the hand. Daniel is physically violent towards school staff and other pupils... last week Daniel ran off school site, his behaviour is constantly challenging all day every day.'

A month later, Christine's probation officer stated in a 'Home Circumstances Report' that:

'[Daniel's social worker] is of the opinion that Daniel's behaviour would improve if he was living with his mother.'

In two cases, parents and carers suggested that children had become unclear about how to relate to authority figures as a result of their parent's detention. Sonia, who cared for her sister Faith's children for part of their parent's detention, said that the children did not recognise her authority:

'because they didn't recognise me as the parent, you have to get the parent on the phone to reinforce what you're saying to the child... it's very, very difficult to discipline children that are not yours.'

Conversely, Faith also described the difficulties which she had in influencing the behaviour of her five year old daughter Grace while she was in detention:

'She pinched other children, and you know, she was so bold about it, she said "yeah mommy, I pinched them, they get on my nerves". When I tried to talk to her, oh my God, the words that were coming out of her mouth - "Who are you? You're not here, don't tell me what to do."'

Richard, whose eldest daughter was nine when he was detained, explained that she developed behavioural problems and refused to acknowledge a teacher's authority because he was not her father:

'The eldest, she was getting into the most trouble. Yeah, not wanting to be at school, causing problems with other kids. I think the teacher speak to her, she said to him "oh you're not my dad." So that was a problem she telling the teacher who's telling her to do something, and she telling him he's not her dad.'

Lack of parental care for children

Children who participated in this research said that, as a result of their parent's detention, they were not able to access the emotional support they needed. Foster carers also explained that they weren't able to replace the care which children would have received from their parents.

Hana, who was eight when her mother was detained, said that one of the reasons she missed her mother was that, before her imprisonment and detention 'I could always talk to her... when I get upset.'

One of the foster carers who looked after Hana during her mother's detention commented that:

'Hana misses her mum very much. At times she would sit by herself and break down and cry. When you asked her what is the matter, she say "when is my mum coming I want to go home with her.'"

Similarly, Sam, who was 10 when his mother was detained, explained to a children's charity support worker that his mum had been his main source of emotional support. In a letter in support of Sam's mother's bail application, the support worker said:

'[Sam] told me that he feels very sad that his mum is not with him because he can "tell my mum everything but can't express my feelings to other people." Sam said that he spoke to his mum every day on the phone but that it was difficult to say some things to her when she wasn't there, so he didn't say them to anyone. If he got into trouble at school he would like to tell his mum when he got home, but instead he just didn't say anything.'

Sonia, who cared for her sister Faith's children for part of her detention, described the difficulties she had relating to the youngest child, Nicholas, who was two years old when his mother was detained:

'The younger one would cry for everything... he was not used to me as well, I mean the poor thing- it was just too tough. He was still in nappies, he wasn't really talking that much, I didn't know how to interpret how he was feeling or what to do to make him feel better...I think it's very difficult because they don't understand why you are not a parent. They're calling me mommy, but they understand that I am not mommy, you know.'

Faith, the children's mother, said that she didn't really feel that she could be a mother to her children, despite having daily phone contact with them, due to the limitations imposed on their relationship by detention:

'I think while I was in detention you have to stop being mom, isn't it? Because of the things that you do for your children, you are not able to do... I so much wanted to come home and be mom. And just be there for my children, and do everything I wanna do and just support them.'

Furthermore, Faith described her concerns about her relationship with her son, who was one year old when she was convicted of a criminal offence and two when she entered detention:

'I find it very upsetting to think about my youngest son and how he does not really know me as his mother. I worry about whether I will be able to bond with him when we are reunited.'

Jenny, who cared for her friend's two year old daughter Ella during her detention, reported that:

'She kept crying for her mum, and it was a bit frustrating to know that there's nothing you can do about it, and you try to comfort her in whatever way you can, but you can do so much and no more because I'm not her mum. It was very sad, there was nothing to feel good about.'

Lorraine, the child's mother, said that she felt her relationship with her daughter was a 'bit broken' by detention:

'I saw [Jenny and Ella] not very often. It's like once a while. So that bond we had before it was a bit like broken down a bit. Yeah, she's also so young and need that mother attention and love.'

James, who was 17 when his mother was detained, lived with various friends during her detention. He described how, as the child of a one parent family, he particularly missed his mother:

'A mother's care, you know what I'm saying, guidance and everything. You know, because she's all I got really. She's all I had really, because I didn't have my dad.'

As well as not being able to provide their children with emotional support during their detention, some parents described their concerns about not being able to offer their children guidance. For example Kayla spoke about her concerns for her 17 year old son:

'I was more worried to be honest about Damian, because I know when you get teenager, I don't know what my son is out there doing.... He could have gone on in gangs, all sorts. So that was doing my head in like, "please God let my son be on the right track, please don't let him get in no bad company, doing nothing that he not supposed to do."'

Similarly, Lorraine commented that she worried that her teenage son might get involved in crime while she was in detention:

'I have my son outside, and I know about these teenage, these crimes that is going on in the streets, this stabbing, you understand? My little boy, I think about him on the outside, to get into any trouble, any problem, you know? It was really worrying.'

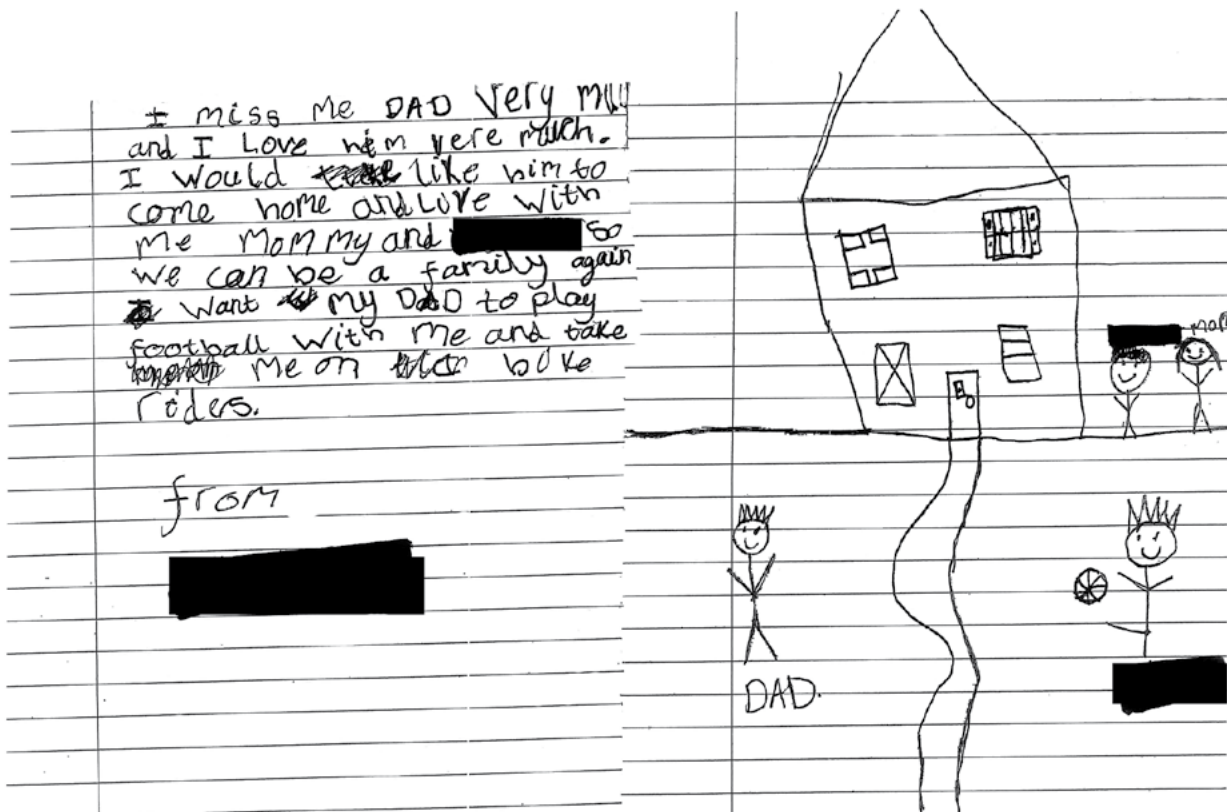
Lack of paternal or maternal care

In two parent families where one parent was in detention, parents reported that children suffered from not having a father or mother involved in their daily care.

For example, Angela described how her son Scott, who was 10 when his father was detained, found it painful to hear about other children going to football with their fathers:

'[My son] finds it hard when people talk about their daddies, and they've been to football, and they've done this with their daddies. He's like: "Why can't I do that with my daddy?" They haven't got their daddy there either to support them.'

Scott wrote the following letter to an immigration judge during his father's detention:



Scott, 10 years old

Clare's three daughters were aged between two and six when she was detained. Clare explained that she wanted to be with her daughters at this time to show them how to care for their bodies:

'I know that [my husband] was capable of caring for them, even though I worried when it comes onto girls now, because you know the bonding time, and to show a woman, a girl, a little girl how to properly wash herself. It wasn't a man's job.'

Children undergoing major life events without parent's support

In some cases, children took GCSE and A Level exams, had operations and dealt with their own deportation proceedings during their parent's detention.

For example, Richard's one year old daughter was hospitalised during his detention:

'While I was in detention my youngest she had an asthma attack, and I didn't know what was going to happen because she had to be admitted to hospital. We have lost a child to asthma before so we didn't know what was going to happen with this one. Immigration never really cared. They weren't really listening to anything I have to say.'

Nina's two children, who were aged 10 and 17 when she was detained, were both served with deportation decisions during her detention. Nina described how her elder child tried to make his own application for leave to

remain in the UK but had this returned to him as he submitted the wrong type of application. Nina subsequently arranged for her children to go to a solicitor to discuss the matter; she explained that:

'It's really so stressful for them when they find that ok - deportation order - and in my absence both of them have to go to my solicitor to sign.'

A children's charity support worker described how Nina's elder son, Liam, was affected by the situation:

'[Liam] feels very anxious because of the uncertainty about his future... he is currently studying for 'A' levels and hopes to go to university next year.'

Kayla described the pressure which her 17 year old son was under to meet with her solicitor to discuss his case, and arrange lifts to the Tribunal for himself and his family members when his mother had bail hearings:

'His friends [had] to take them to court, because he has to go [another city], to pick his brother up, and his aunt up, it was too much for him. So like my solicitor, my son had to go see him, get drive from his friends. And it was stressing him out, bad, on top of me being in there.'

Children's concerns about parents in detention

Children reported that they often worried about their parents in detention and that this contributed to their distress.

For example, Matthew, who was 16 when his mother was detained, described how his concern for her affected him:

'I felt bad because my mum and all, she's in there. Don't know if she's feeling okay. Sometimes she'd be on the phone crying. That would hurt me. Because hearing mum cry...'

Kayla reported that her younger son, Max, who was nine when she was detained, was very worried about her in detention:

'He was worried about his mother a lot. Because he has been assisted by a psychiatrist also, yeah. It was affecting him.'

James, who was 17 when his mother was detained, explained that he tried to give his mother the impression that he was well in order to manage her distress:


'I can imagine it wasn't easy for her. So she was worrying about everybody and I'm trying to show her "yeah mum, I'm alright." You know what I mean? We spoke on the phone and I tried to give her that assurance and keep her strong.'

Impact of repeated moves on child welfare

In a number of cases, children had to move repeatedly between different care arrangements during their parent's detention. Parents and carers reported that this had a detrimental impact on children's well-being, and that children often struggled to make new friends and adjust to new school and home environments.

For example, Natalie described how her son Oliver, who was eight when she was detained, moved back and forth between informal private foster arrangements during her 576 days in detention:

'The little one was at my cousin's. They took him from her, sent him to his godmother, then from his godmother to her, and then they took him back again from her to his godmother.'



Similarly, Rosemary's daughter Hana moved between foster care arrangements four times during her mother's prison sentence and subsequent immigration detention. Hana was four when her mother was sentenced, and eight when she was released from immigration detention. Hana's first foster carer was hospitalised, and a further carer returned to her country of origin.

Faith described how repeatedly moving during her imprisonment and detention affected her four children, particularly her eldest daughter Dinah who was 12 when she was detained:

'They changed schools five times and they moved home only God knows how many times, during the time I wasn't home, so I think socially and emotionally that kind of like depresses her, she didn't have any friends.'

Faith's sister Sonia, who helped to care for her children, said:

'By the time they got to me, they'd moved so much they were not sure whether they're going to stay. So to set up and get used a new environment, a new set of rules, a new household, a new way of eating, it was just too much for them. And they didn't understand me and I didn't understand them.'

The school which Faith's eldest daughter was attending before her mother went to prison wrote a letter which confirmed that Dinah has special educational needs, and stated:

'We believe that we address her needs and that it would be unsettling if she had to change schools because of her home situation.'

Dear Judge

Date; 7th November

My name is [REDACTED] and I am 8 years old. My mum is [REDACTED]. I miss her very much and want her to come home to be with me.

So she can take me to school and see my teacher and friends. I miss her cooking and cakes. Since she left there is no one to take me to football club.

I love my mum very much and miss her a lot. Please send her home to be with us. Please don't send my mum to another place again.

Simon, 8 years old

2.2 Children's performance in school

Children, parents and carers repeatedly said that children's performance in school suffered during their parent's detention. Children reported that they were unable to concentrate in school because of the distress and worry caused by their parent's detention. In addition, parents were not able to provide children with practical support, and children's education suffered as a result of moving schools repeatedly and missing parts of the school year. In some cases, children were not able to focus on or even attend school because of the responsibilities which they had to take on while their parent was in detention. In a number of cases, children and parents said that children's school performance improved after their parent was released.

Children's Services carried out an Initial Assessment of Max, who was aged nine when his mother was detained. They found that:

'It appears Max's upset around mother is beginning to impact on his school work... Targeted Mental Health Services, Max's teacher and his father feel that Max's education and ability to absorb new information is reduced due to the difficulties with his emotional well-being at this point in time.'

In a research interview, Max said that he found it difficult to focus on schoolwork during his mother's detention:

'It was miserable. Like, um, in school like I'm saying - I weren't really doing very good. Because sometimes I was thinking about mom. So...it kind of affected my life.'

Damian, who was 17 when his mother was detained, said in a letter to the Tribunal in support of her bail application:

'The situation my mother is in has affected me both physically and mentally... I do not go to college because of the lack of concentration I now possess. In school I was an A student however when it came to doing my exams I did not do well, due to the stress and worry I have on my mind, day in day out.'*

Similarly, Simone said that her son Matthew's studies were 'going down the drain', as he wasn't able to concentrate while she was in detention. Matthew explained that:

'Oh, my schoolwork. I couldn't pay attention. I got around with bad crowds. Because I didn't have no-one to be there and guide me. So when I'm meeting bad people, schoolwork got off the cards. My grades started failing. Attendance started failing.'

Matthew also said that, after his mother was released, his schoolwork improved:

'I've got somebody there again. So then I started doing my work, leave the crowd I was in, moved houses. And so I started getting into new people. Started doing my college work more, attending, everything increased basically.'

Nina reported that, at a parent's evening, a teacher told her that her son's performance in school improved significantly after her release from detention:

'One and a half months [after my release] there was the parent's meeting. So when I went he said that within this few weeks we could see a lot of change in him, his homework and everything much better.'

Lack of parental support with schoolwork

In a number of cases, children said that they struggled with schoolwork because their parent was not there to help them with homework and provide them with support.

For example, Matthew said that while his mother was detained:

'That was hard because I didn't have no-one to help with schoolwork and stuff, because [my stepfather] was busy trying to provide for the family. So, yeah, schoolwork was hard... yeah, 'cause it was a new school. New college. And then I had no one to help me through it.'

Liam, who was 17 when his mother was detained, said that he tried to help his 10 year old brother with his homework but could not provide him with the same support that their mother used to:

'He suffered as well, in regard to his studies. Because previous my mum used to help him out quite a lot.

And I only could do a certain bit, so I kept him on track but I couldn't obviously push him forward. If he wanted help with something really badly then he couldn't ask anyone directly, so he had to come to me instead.'

Richard said that his eldest daughter, who was nine when he was detained, did not always attend school and was sometimes late, as he was not there to take her to school:

'She had a problem with her schooling, going to school and being in school on time. And just misbehaving because I wasn't around to bring her school.'

Moving schools

As is explained on page 41 above, in a number of cases children had to move between different care arrangements during their parent's detention. In some cases, children were not able to get a school place for weeks or months and so missed substantial periods of the school year.

Faith's sister Sonia cared for her four children during part of her detention. Sonia described how the children struggled to settle in the schools which she found for them:

'I think they had changed school so many times, they just didn't like it. They didn't like the teachers, it was difficult to make new friends, and I think the thing is nobody ever told the children what was happening to them. They found it very distrusting, because they never knew from one day to the next what was happening.'

Faith said that moving between schools particularly affected her eldest daughter:

'She's still having problems in school now, you know, educationally she's still very slow, and underachieved... when you miss some skills and some key points in primary school it can affect you when you get to secondary school, because you need those skills, in order to keep up with your work.'

Children taking on parental responsibilities

In some cases, children reported that they were unable to focus on their schoolwork as much of their time was taken up with new responsibilities created by their parent's absence.

For example, Beth's grandfather, who was caring for her and her severely disabled brother during their mother's detention, became seriously ill and was admitted to hospital three times. Beth had to stop attending school to care for her brother and grandfather and missed her GCSE exams.

2.3 Effect of detention and separation on parents

Parents said that during their detention and separation from their children they became extremely depressed, feared for their sanity and in some cases considered taking their own lives. They described the pain of being separated from their children and the fear of being removed or deported without them.

In some cases, parents reported that while in detention they had witnessed people self-harming or attempting suicide, that they had been poorly treated by detention centre staff, and that they had not been able to access appropriate medical treatment.

For example, Christine said:

'It is a hopeless kind of place. Just the other morning, I woke up to hear alarms going off. Two women had tried to kill themselves by cutting their wrists. It is very hard being separated from my children and being here. I have been to see the doctor and they have referred me to a counselor.'

To Daddy
have a great
Father's day
I love you daddy and
miss you.
Can you pick me up from
School see you soon.
Love from [redacted]
X X X X X X X X

Sylvie, 8 years old

Christine was extremely worried about her children during her detention as they were in the care of their grandfather who was seriously unwell and was admitted to hospital on three occasions. She later reported to BID that she had started taking medication for stress and depression in detention. She said that at times she couldn't talk and her body and head would shake, and that she was not eating properly.

Parents said that the treatment they received from detention centre staff varied; while some staff were respectful and helpful, others mistreated them. Clare said that she was 'jeered at' by staff, and Faith said:

'They just ridicule you, it makes you feel like you're nobody. It makes you feel, what is the point, you know? Somebody treats you like you are dirt, it just make you, just want to kill yourself.'

Simone said that during her detention her eldest son sent her a Mother's Day card with some money as a present. She explained that the card went missing from the detention centre office and she never received it:

'I said to the officer "where's my card?" And he was like, "it went missing." There's three officers that see that letter with my name on it. How it walk out of the office? "We don't know." I said, "Sorry, I don't care if you take the money, I just want my card." They didn't care, they just say "sorry."'

Feelings about being separated from children

Parents described the extreme distress which they experienced as a result of being separated from their children.

Faith, who was detained for 206 days said that:

'It was hard. I'm telling you, you think childbirth is the most painful thing you'll ever go through in your life. No, it's not. Away from your children is the most difficult cruel thing to do for somebody.'

Similarly, Kayla, who was detained for 224 days, said:

'I never knew people could take your kids away out your life, just like that. They don't know the pain that you feel in your stomach, you feel it in your guts. Separated from my kids, it's like my life has been taken away from me. Being with my kids now is like I'm alive again, and I am so grateful for that.'

Clare, whose three daughters were between two and six when she was detained, described her sadness about the year of her children's lives which she missed:

'At night and when I'm alone I cried, but when I'm on the phone to them I didn't want to distress them, so I try not to let them know it's hurting me so much. Devastated, nothing can replace that, even though we're back together again. I wasn't there for my little girl's start of school and that can never come back. And I wasn't there for their birthday.'

Impact on parent's mental health and well-being

A number of parents reported that they became extremely depressed during their detention and feared for their sanity. In some cases, parents said that they thought about taking their own lives.

Richard, who was detained for 310 days, said:

'Yeah, [I was] thinking about taking my life and stuff like that. Like I'm no use to my family; I can't be there to help them, while they're going through certain situations. Yeah, it was hard.'

One of the parents who participated in this research had been trafficked to the UK and forced to work in prostitution. During her prison sentence, she received regular counselling through a women's charity, but the Border Agency would not provide transport for her to continue to access this support from detention. She reported that after a woman she shared a cell with in detention was removed from the UK, she became deeply distressed and fearful that she would not see her children again:

'I cry a lot. My second roommate - she was like my sister - she get sent back home. I think I lost my mind after she went. I went crazy, I didn't eat, I just couldn't eat nothing at all. They said to me "you have to eat something or we're going to have to lock you up." About eight days...I just curled up in a bundle. I couldn't move. I wasn't hungry and I wasn't thirsty. It was just like I'm numb. When it went, it's like in my head it's saying that I'm never going to see my kids again.'

Lorraine, who had a history of mental health problems, explained that she became extremely worried about her children in detention and feared for her own mental health:

'I've got my kids outside, they don't know what's going to happen to you, if you should go, leave your kids back here, you don't know. I keep worrying and thinking about them. It's like, I was going mad, I'm telling you if I didn't come out of that place right now, I think I would be in a mental hospital. That's how bad it was.'

2.4 Children's care arrangements

As can be seen from Table 3, 85 of the 200 children in the larger quantitative sample of 111 families were in fostering arrangements or local authority care during their parents' detention.

Table 3: Number of children in different types of care arrangements (larger quantitative sample)

Care arrangement	Number of children
With other parent	115
Informal private fostering arrangement	65
Local authority care	20
Total	200

As Table 4 shows, 16 out of 53 children in the small quantitative sample of 27 families were housed in informal or formal private fostering arrangements.

Table 4: Number of children in different types of care arrangements (small quantitative sample)

Care arrangement	Number of children
With other parent	34
Informal private fostering arrangement	12
Formal private fostering arrangement	4
Unknown	3
Total	53

In the majority of these 53 cases, children who were in care while their parent was detained were from single parent families. However, in one case both parents in the family were in immigration detention, and in two further cases one parent was in immigration detention and the other parent was in criminal custody.

In a number of cases, there were serious problems with children’s care arrangements which meant that their needs were not met. In one case out of our small quantitative sample of 27 families, which is detailed below, there is clear evidence that a child was being subjected to physical and emotional abuse by her foster carer. As is set out below, in several cases, children’s carers were not capable of looking after them effectively. In a larger number of instances, while there was no evidence of abuse or neglect of which BID is aware, children clearly suffered as a result of the financial and practical strain caused by only having one of their two parents available to care for them.

Table 5: Concerns about children’s care arrangements

Does the parent have any concerns about the care arrangements their children are in?	Number of cases
Yes	13
No	11
Unknown	3
Total	27

As Table 5 shows, in 13 out of 27 cases parents had concerns about their children’s care arrangements. In many cases, parents faced barriers to exercising control over their child’s care arrangements while in detention.

Abuse

Gemma was 13 when her mother, Natalie, entered detention. Natalie was detained for 576 days and during this time Gemma was in a foster care arrangement with Natalie’s stepmother, Harriet. Natalie was also cared for by Harriet as a child, and Harriet had been very involved in Gemma’s care since she was a baby. However, Natalie’s relationship with Harriet was strained, and after Natalie had been in detention for seven months, Harriet stopped answering the phone to her and prevented Gemma from contacting her mother. Natalie was very distressed about this situation but couldn’t see any way to resolve it while in detention.

Shortly before Natalie was released from detention on bail, Children’s Services received a referral from Gemma’s school. A letter from Children’s Services explained that:

‘Gemma was seen at school by a Social Worker. Gemma expressed her unhappiness at home as [her foster carer] treats her differently to her own son. Gemma was tidying up the living room when [her foster carer] came from behind and punched her in the neck and back telling her that she hadn’t done the sofa properly. Gemma also reported that she is frequently criticised for no reason. Gemma reports persistent verbal and emotional abuse.’

After she was released on bail, Natalie collected Gemma from her foster carer’s home.

Inadequacy of care arrangements

In three of the 12 cases where families were interviewed for this research, parents, children and carers described very serious shortcomings in children’s care arrangements. In one case, Children’s Services were aware of these care arrangements and had serious concerns about them.

One older child who was interviewed for this research became effectively homeless during his mother’s detention. James, aged 17, moved between different friends’ houses at this time:

'I didn't have no money, my mum was my support money-wise. I lived mostly staying at a couple of friends' houses, here and there, so that I can, you know what I mean, survive. It came with its own challenges, if you understand what I'm saying? It wasn't the best part, but I got by.'

Sonia cared for her sister's four children, who were aged between two to 12, during much of her detention, and described the inadequate care arrangements which they were in before she began looking after them:

'Everywhere they had been before, they were sleeping on the floor, you know, until they got to me. Now, before they could get to me, my younger son who was about 18 was the one who took the responsibility for them. He was the one looking after them, you know, unbeknown to anybody. So, it was- it was a very, very difficult and unstable time.'

Daniel, who was seven when his mother Christine was detained, is very severely disabled. Daniel's grandparents came to the UK from their country of origin to care for Daniel and his 15 year old sister Beth during their mother's imprisonment and detention. However, their grandmother had to return to her country of origin due to ill health during Christine's prison sentence. The grandfather's deteriorating health and difficulties in understanding Daniel's complex needs meant that he was not able to provide Daniel or his sister with adequate care. Two months after his mother entered immigration detention, Daniel was made subject to a child protection plan and referred to Child and Adult Mental Health Services. He was deemed to be at risk of emotional and physical harm by the Local Safeguarding Children's Board, and during Christine's detention the board were considering taking steps towards taking Daniel into care.

A few weeks before the end of Christine's prison term, her daughter Beth stopped attending school in order to care for her brother and grandfather. Beth anticipated that she would be able to go back to school when her mother was released from prison; however, this did not happen, as Christine was detained under Immigration Act powers. Beth's grandfather was admitted to hospital three times during her mother's detention, once for an operation. As her grandfather did not speak English, Beth had to arrange medical appointments for her brother and grandfather as well as dealing with immigration lawyers and Children's Services and doing the shopping, cooking and cleaning. She also had to deal with the housing solicitor and others when proceedings were started to evict the family due to rent arrears. Beth therefore remained at home and missed her GCSE exams as a result.

In a witness statement for a bail application, Christine said that she was 'desperately worried' about her son Daniel. She explained that Daniel:

'needs a lot of extra care and patience to be understood. He needs to be supervised every moment that he is awake...he is on a child protection plan because he is not getting the care he needs from me, his mother. Beth is far too young to be carrying out the amount of responsibility she has.'

An assessment by Children's Services noted that on numerous occasions concerned neighbours had reported incidents where Daniel's safety was in danger. For example, on one occasion the assessment records that:

'Concerned neighbour rang to report that Daniel was playing alone in the road at 8pm, he was seen to fall and lay in the road, which is a bus route... he walks into people's houses and has poor awareness of danger and his own safety.'

Two months after his mother's detention Children's Services received a report that Daniel had been hit by a car. A Children's Services 'Strategy Discussion Record' noted that:

'Daniel's clothes are dirty and his general personal condition is not good. This is a general pattern since the grandparents have been caring for Daniel. Daniel has special needs and he is not supervised appropriately to meet his needs.'

Despite receiving reports about the welfare of Christine's children, the Border Agency continued to detain Christine for 160 days before she was released on bail by the Tribunal. She subsequently successfully appealed the decision to deport her.

Children being treated poorly by carers

In some cases, children and parents reported that children were not always treated well by foster carers, although they did not disclose abuse or neglect of the kind described above.

Liam and his young brother stayed with their uncle and aunt during their mother's detention. Liam described his uncle and aunt's frustration at the length of his mother's detention:

'It was ok in the start, I would say for about two to three months, it wasn't bad, they supported us a lot, but then when they found out that this is going to go for quite a while obviously they were frustrated themselves, but they did still support us. And they obviously had their own kids, so they gave- we had to live by their rules and we didn't have much.'

Faith reported that her sister Sonia disciplined her children harshly at times, and that this was partly because she was so depressed about having to give up her job to care for four young children:

'So [my children] had a very rough time with her, so they always bring that up, you know. She was so depressed, and I think that makes her sometimes so harsh on the children, in a way. She didn't do it on purpose, but you know, she couldn't express herself, why she was missing a career and her life, she couldn't do anything because of the kids. Her career actually suffered from it. And she is still suffering for it now, because she's been out of work for a while.'

Sonia acknowledged that the way she treated the children at times would not have been acceptable to her sister:

'I think that there will be a lot of things that I would have done that probably were not acceptable to her, but I did it.'

Problems caused by only having one parent

In the majority of cases, children were in the care of their other parent while their mother or father was in detention. In these cases, the absence of one parent placed practical and emotional strain on families who were often already struggling financially, and meant that the care arrangements for children suffered.

Parents outside detention described the strain which their partner's prolonged and indefinite detention placed on their relationship with their partners and children. For example, Angela, whose partner was detained for 624 days, said:

'Caring for children, it's hard; but it's even harder by yourself. And at times I do feel depressed by it and very alone... If either of us [me or my partner] are having a bad day for whatever reason, we sort of like snap at each other instead of when before we used to sit down, and we used to talk about our problems. Help each other out.'

Clare's husband George was caring for her three daughters who were aged between two and six when she was detained. George had to bring the youngest child with him to work; she was often outside in the winter and became ill with a cough which lasted for several months. Clare explained that:

'She was constantly in the cold. She had a nasty cough when I spoke to her on the phone, and her dad was telling me she's ill, and even though the doctor intervened the Home Office didn't give a toss. Even up until now, she's got a cough.'

In a letter in support of Clare's bail application, George said that: 'I am in desperate need of my wife.' The couple's eldest daughter Leah also wrote to the Tribunal – she said:

am sad mum is not here to hug,
cook and read bed time story my
dad is very tired and dont have time
~~with us~~ with us because, looking for
play he always busy

Leah, 6 years old

Simone's two children were aged three and 16 when she entered detention. Both children were cared for by her partner Andrew for most of her detention. Simone described how Andrew was 'losing it' during her detention:

'Sometimes he get frustrated. And that even hurt me more when he saying "I can't do this no more, this is too stressing, I'm tired, I'm drained. I'm gonna go crazy, I can't deal with these two kids, they need their mum. I'm losing it. My kids won't listen."

In a letter in support of Simone's bail application, Andrew said:

'[I] am finding it hard to cope financially and emotionally. I can't pay my bills and I can't afford to buy food...am not far away from giving up, am stress I can't cope any more. Her big son is stress out I have to keep on talking to him to prevent him from doing anything silly I had enough, am fed up, just about to crack open.'

The older child, Matthew, did a lot of the housework and often babysat his brother during his mother's detention. He explained that his stepfather struggled to cope with working and caring for the children:

'[My stepfather] was finding it hard because he's always out working. Getting money, providing for the family. So it was kind of hard without somebody else in the family to try and provide.'

Matthew explained that once his mother was released he had a lot more support:

'Yeah, it was more easier. With mum around. Because she was here to help with school, with this house, and just life in general. And then, we used to do like fun stuff, like go out, have dinners and stuff.'

Aaron cared for the couple's 10 year old son while his partner Kayla was detained for 224 days. After her release, he said:

'It was really hard for me to be dad and mum to the kids, you know. [Kayla and I] were very close, you know, and she's was away so long, it is very very draining... [Now it's as] good as it gets. It's wonderful. We're together again, you know.'

Kayla and Aaron's son Max said that:

'My dad he was unhappy as well, because like, um, he hasn't seen my mom for a long time, and like cause they were together, and now he's come back smiling and stuff.'

Unfortunately, after these research interviews were carried out, Kayla was re-detained and deported to her country of origin without her partner and children.

Financial problems for carers

In many cases, the absence of a parent created financial problems for carers which affected the children in the family.

As is explained above, Christine's elderly and infirm father came to the UK to care for her children during her imprisonment and detention. He was unable to speak English and the family were nearly evicted from their home due to lack of funds and the difficulties he faced in applying for benefits to which they were entitled.

Sonia cared for her sister Faith's four children aged two to 12, and had two older children of her own. She explained that she had to stop working to care for the children, and it was very difficult for the family to subsist:

'I couldn't work, because these were four children. I mean, they were going to three different schools... you're constantly on the road picking up a child. You don't have enough money, you stop paying the bills because you've got to feed them, you've got to clothe them, you got to take care of their medical needs.'

Richard's partner Anita looked after their two children, who were aged four and one when he was detained. Richard doesn't have the right to work in the UK and had been very involved in the children's daily care. Once he was detained Anita struggled to manage:

'Financially she couldn't manage because she had to take time off work. When I wasn't here she had to work less hours and drop them to school and come back to pick them up. We were paying the rent and if the kids need anything she have to buy it and support them. And then so financially it didn't really add up financially... I save the small amount I earn from my duties at the detention centre to give my children when they visit.'

Assistance from Children's Services to carers

None of the carers who were interviewed for this research, all of whom were private fosterers, described being provided with any assistance by Children's Services in caring for the children. Sonia, who cared for her sister's four children during her detention, said that:

'They [Children's Services] didn't place the children with you, so they're not going to give you any money, they're not going to help you with the social problems, they're not going to help you with the educational problems, they're not going to help you with psychological problems. I could not get any help from anywhere. No help.'

2.5 Contact between parents in detention and children

The parents who participated in this research rarely saw their children once they entered immigration detention, despite in many cases having had regular visits during their prison sentence. Parents were often held in detention centres which were much further geographically from their children than their prison had been. In addition, unlike people serving criminal sentences, immigration detainees are not provided with financial support to pay for children and carers' travel for visits. Faith explained that she was not given any assistance with maintaining contact with her children during her detention:

'Nothing is done to help you, to help the children, or to try and close the gap between the two of you, do you understand?'

Article 9(3) of the UN Convention on the Rights of the Child states that:

'States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.'

In January 2012, the then Immigration Minister Damian Green provided a written response to a parliamentary question about the separation of families by immigration detention, and stated that:

*'In cases where a parent detained in an Immigration Removal Centre has a child in the community, the UK Border Agency will seek to facilitate contact between the parent and child, subject to the wishes of the family, and in liaison with the local authority where appropriate.'*²⁹

However, the UK Border Agency does not provide any practical assistance to families separated by immigration detention to enable contact between parents and children. On 7th October 2011 BID wrote to the Director of Detention Services outlining our concerns about this situation. The response BID received from the UK Border Agency dated 26th October 2011 stated that:

'With regard to your request for the introduction of a scheme similar to the existing Assisted Prison Visits Scheme, we do not believe this could be justified in the current economic climate.'

As can be seen from Table 6, in the majority of cases children seldom saw their parents while they were in detention, and in eight cases there was never a visit by children to parents in detention.

Table 6: Regularity of visits by children to parents in detention

How often does the parent in detention see their children?	Number of cases
Never	8
Rarely	2
Less than every 3 months	8
Monthly	4
A few times a month	2
Weekly	2
Unknown	1
Total	27

Jenny cared for Lorraine's two year old daughter Ella during her detention. She described Ella's eagerness to see her mother on the occasions when they were able to visit:

²⁹ Hansard HC Deb, 16 January 2012, c464W

'When we reach to the centre, where her mum was, she run straight through to the securities, 'cause she know where to turn, she know where to look for the door where mummy's coming through.'

Kayla's partner Aaron described the effect on her 10 and 17 year old sons of not being able to visit their mother regularly:

'Real bad, because we came to see her sometime but you couldn't get to go as much as we want, you know so in that area it did affect them a bit. They would like to see their mum more but couldn't.'

While Matthew's mother was in prison he was able to see her for five days every month when she was released for a home visit. However, once she entered immigration detention she was no longer permitted to visit her children and Matthew saw her very rarely:

'I got into the routine where I got to see her once a month and now that has been taken away from me. Once that was happening I started to worry again. They should give you more time, like visiting time and stuff. It was once every three months, and then it would just start again and all three months I'd have to wait. It was hard.'

As can be seen from Table 7, in 17 cases parents received more visits from children when they were in prison than after they moved to immigration detention.

Table 7: Comparison of regularity of contact between children and parents in prison and immigration detention

Did the parent see their children less when they moved from prison to immigration detention?	Number of cases
Yes	17
No	8
Not applicable ³⁰	1
Unknown	1
Total	27

Barriers to visits

Parents, children and carers explained that they were prevented from visiting by the long distances involved, the fact that families could not afford to pay for train and bus tickets, and the other pressures on carers' time which made it difficult to spend a day travelling.

Angela, whose children were aged seven and 10 when her partner was detained, said:

³⁰ This parent received a community order rather than a prison sentence

'It's a big strain on their relationship, they haven't got their daddy there. Because he's so far away as well, it's like contact is limited to how often I can go. It's very expensive to get there and it's so far away. So the only real contact they have with their dad is on the phone or writing letters.'

James was 17 when his mother was detained. He slept at various friends' houses as he had nowhere else to live, and struggled to find the money to visit her:

'I had to pay what - £40? - every time I want to go on the train, before that you got to pay the underground and it's expensive, so when I knew that I was going to visit I would, you know what I'm saying, scrape as much money together.'

Sonia, who cared for her sister's four children, explained that she was not able to take the children to see their parents in detention as she was struggling to pay the bills:

'It's a case of should we pay the bill, or should we not pay the bill and spend the money on the train tickets and go and see their parents? It was completely impossible for us to get there, for them to maintain the bond with their children, you know.'

During Rosemary's detention her eight year old daughter Hana was in foster care. She explained:

'I didn't see her because it was too far away, so there was no one to take her to see me because of the distance and how much bus fare it would cost or train fare. So that was really, really hard for both myself and her, because we didn't see each other for nearly six months or so.'

In addition to the cost of travel, parents and carers were often prevented from visiting because of other commitments such as having to work at the weekends. Jenny, who cared for Lorraine's two year old daughter, explained:

'[We visited] sometimes once for the month, sometimes twice. But as I said, we work, you have to schedule your time for that travel. Even though we wanted to go almost every week, we couldn't, and because it wasn't even near.'

Matthew explained that his stepfather was always busy and wasn't able to take him and his brother to visit his mother often:

'No, 'cause, um, my dad was always busy. So he didn't have the time to take us up there, so we used to go like once every three months. Something like that, so I didn't get to see her that much.'

Matthew's mother, Simone said:

'The distance is so far, that long journey, [my partner] has to drive nearly four, five hours to spend two hours, it's crazy. He'd have to get the baby like up from six am to get the baby ready to make the visiting.'

Distress experienced by children during visits

A 2011 study on children of imprisoned parents in Denmark, Italy, Poland and Northern Ireland found that individual children's experiences of visiting incarcerated parents vary hugely. While some children look forward to visits, others are scared and anxious, and having to say good-bye at the end of the visit can cause considerable distress.³¹

31 University of Ulster, Bambinisenzabarre, Eurochips and the Danish Institute for Human Rights 2011 *Children of Imprisoned Parents*

Parents and carers in this study reported that children frequently became extremely distressed on having to leave their parents in detention, and that the long journey to and from the detention centre was difficult for young children to cope with. In some cases, parents said that visits were not organised because of the distress children experienced during or after visiting.

Kayla described her sons' distress on leaving her in detention:

'They come and visit they don't want to go, they cry, they come back "Oh mum, I'm going back leaving you." When they come and see me, it's like, it hurt them more leaving without their mother.'

An assessment of Kayla's 10 year old son Max by Targeted Mental Health Services found that:

'[Max] sees his mum about once a fortnight and after these visits he becomes incredibly distressed and takes quite a while to settle... it can be very hard to contain Max's distress and each time he visits his mum the distress becomes more apparent.'

Similarly, Angela described her 10 year old son's distress at leaving his father in detention:

'Last time we went in February, Scott got very upset that he had to leave daddy behind. He didn't understand why he had to leave him behind, because he thought [his dad] was allowed to come home because he's been a good boy.'

Clare explained that visits were 'never enough' for her young daughters:

'When they're leaving detention, that's the worst feeling because they looking for me to comfort them, and I am looking to be with them a bit longer. And time is never enough. And when they come, to see them traumatised again going away, and it just blows me.'

James said that his two year old sister would cry a lot when leaving the detention centre:

'When we went to see my mum, she was, you know what I mean attached, and she didn't want to leave, and crying a lot. Yeah, man. It wasn't easy.'

Ben wrote the following letter to an immigration judge, describing how difficult it was to leave when he visited his mother in detention:

Dear Judge,
 I miss my mam and I really want her to come home.
 It's going to be my birthday soon and I would really
 like her to be there. I miss her so much when
 I visit her I don't want to go home and I
 cry some time because it makes me sad.

Ben, 7 years old

Phone contact between parents and children

As can be seen from Table 8, in most cases parents spoke to children on the phone very regularly. However, parents explained that they often struggled to pay for credit to phone their children, and that in any case phone contact was not an adequate means of maintaining their relationship with their children.

Table 8: Regularity of phone contact between parents in detention and children

How often does the parent in detention speak to their children on the phone?	Number of cases
Never	1
Weekly	3
Daily	23
Total	27

In the one case where the parent never spoke to the child on the phone, this was because the child was only one year old, and so was not able to talk on the phone.

In a number of cases, parents reported that they had to rely on relatives, friends and in some cases older children to provide phone credit so that they could speak to their children. Two mothers reported that they were given 61p per day towards phone credit in detention. However, as the mobile phones they were given in the detention centre had high call costs per minute this meant they were only able to speak for very short periods. In other cases, parents reported that they were not given any phone credit while in detention. Clare commented:

'They don't give credit. Where you could say "available for emergency" and so forth, there's no such thing. Considering you've got children on the outside. It is very demeaning and devastating.'

Matthew said that although he spoke to his mother regularly, this was not enough:

'I phoned my mum every day just to hear her voice, but that hadn't help that much because I wanted to see my mum. It was difficult to hear her voice and not see her. And they just shut off the phones sometimes and you don't get to talk to your mum. It's really hard.'

As is explained on page 33, Matthew also said that his three year old brother would scream and cry when his mother had to end a phone call with him.

Faith said that speaking to her children every day did not alter their feeling that she had 'left' them:

'I speak to my children every day but speaking to them is not as being with them. It hurts you. The speaking on the phone only puts more distance between us. You have to let them hear your voice, but you can't deal with situation on the phone. You are not being there and they see you as, "oh, mommy left us."'

2.6 Families reintegrating after detention

In the majority of cases, when parents were released from detention, they were reunited with their children shortly afterwards. However, in some cases, there were delays in parents being reunited with their children as a result of factors including parents being allocated accommodation by the UK Border Agency which was only suitable for a single adult, and requirements for Children's Services to carry out parenting assessments before the family could be reunited.

Despite the very positive response which children had to their parent's release, families faced multiple difficulties in rebuilding their lives. These included the ongoing distress and anxiety experienced by parents and children following their separation, financial problems and ongoing uncertainty about whether families would be granted leave to remain in the UK.

In 19 of the 27 cases in the small quantitative sample, parents were released from immigration detention during the data collection period. As Table 9 shows, in the majority of these cases parents were reunited with all their children on or shortly after their release.

Table 9: Number of parents reunited with children on release from detention

Was the parent reunited with children on release from detention? ³²	Number of cases
Yes - some of their children	2
Yes - all of their children	12
Joint custody with other parent	1
No	4
Total	19

The two cases in which parents were only reunited with some of their children both involved fathers who had a child from a previous relationship in addition to the children and partner who they went to live with on release from detention. Both fathers were in regular contact with their children from former relationships but did not live with them as they had separated from their mothers.

In three of the four cases where parents were not reunited with any of their children immediately on their release from detention, the family had still not been fully reunited six months later – details of these cases are given below. In one case, the family were reunited within six months of the mother's release. The mother saw her daughter regularly after release and Children's Services were planning to carry out a parenting capacity assessment in order to make a decision about whether the mother and daughter should be reunited. However, Children's Services then decided that as the child was 16 years old she could make her own decision about this, and the family were reunited over two months after the mother's release.

15 of the 27 parents in the small quantitative sample had been released from detention for six months or more at the close of the data collection period. As Table 10 shows, 11 of these parents had been reunited with all their children six months after their release from detention.

³² This table provides information about the number of cases in which parents were reunited with children under the age of 18. For example, one mother was reunited with her son who was over 18, but not with her younger child who was aged 10 – for the purposes of this table she is recorded as not having been reunited with her child on release from detention.

Table 10: Number of parents reunited with children six months after release from detention

Six months after release was parent living with children?	Number of cases
Yes – some of their children ³³	2
Yes – all of their children	10
Joint custody with other parent	1
No	2
Total	15

Natalie was one of the parents who were reunited with some of their children six months after their release from detention. She was released from detention to hostel accommodation provided by the UK Border Agency which was only suitable for a single adult. Repeated requests were made to the Border Agency, by BID and the family's solicitors, that Natalie be moved to accommodation where she could be reunited with her children. The Border Agency did not respond to the letters containing these requests.

Natalie's older child Gemma was abused by her foster carer during her mother's detention, and Natalie collected her from this care arrangement after her release. However, Natalie was not allowed to stay in her mother's accommodation for single adults, and she effectively became homeless and moved between her mother's room and various friends' houses. Six months after her release from detention, Natalie's immigration claim had been successful but she was still waiting for the Border Agency to provide her with her papers so that she would be able to work legally. At this point Gemma was living with her in her single room in a hostel for adults. As a result of her accommodation situation, Natalie continued to be separated from her younger child, whom she was seeing regularly. Natalie was very distressed by their continued separation, and the care arrangement for this child was increasingly problematic as the couple who were fostering the child had separated. A letter from Children's Services over two months after Natalie's release noted the situation but Children's Services did not assist her in any way:

'Natalie Jennings can collect Oliver from [the foster carers] whenever she wishes... We understand that the hostel where she is currently living does not allow children.'

In a second case where the parent was not living with their children six months after their release from detention, this was a result of the relationship between the former detainee and his wife breaking down. The mother retained custody of the child, and the father, who had been in detention, was dispersed to accommodation provided by the Border Agency. The father continued to have regular contact with his child, speaking to him on the phone and seeing him regularly.

In a third case, the mother, Kayla, was allocated accommodation in London by the Border Agency on her release. BID requested on Kayla's behalf that she be allowed to move to the same city as her partner and younger child but the Border Agency refused. The family visited each other regularly, but as Kayla's 10 year old son was in the middle of the school year, the parents decided not to move him until the summer holidays. They planned that, at this point, the father and son would move to London so that the family could be together. Kayla's 18 year old son had been living with her in London since her release. However, before the family could be reunited, the Border Agency re-arrested the mother, who by this time was three months pregnant, and deported her to her country of origin by force, separating her from her family in the UK.

33 One of these two cases is also included in Table 9, and involved a father who had a child from a previous relationship in addition to the children and partner who he went to live with on release from detention. As is explained above, he had regular contact with the child from a former relationship but did not live with them.

Release from detention: positive experiences

Children, parents and carers described the moment they heard that bail had been granted and parents would be released as extremely moving and joyful. Parents also described the happiness they felt at being able to care for their children again and carers repeatedly said that children had changed markedly since their parent's release.

Max, aged 10, said that when he heard his mother would be released:

'I was excited; I was just jumping around the house.'

Jenny, who cared for Lorraine's two year old during her detention, described the child's reaction when she told her about her mother's release:

'Yeah, we said "we're going for mummy", I said "yes mummy coming." She was like "Yaaaaay," like a little baby "Yaaaaay."'

Lorraine's older son, James, said:

'Well, I was over the moon man. I was smiling, yeah, [laughter] I started to shout. That was a joyous day. A proper good day.'

Liam was about to go into an A Level exam when he heard about his mother's release:

'I got a text from my uncle saying that she has gone to bail. And I think I was arriving for my exams and was like that "Arrgh!" I was just over the moon. I was completely happy.'

Matthew, who was 16 when his mother was detained, described his feelings about her release:

'I felt happy, to be honest. Because- I finally thought- we wouldn't get back the way we were straight away, but eventually get there. And I felt like, yeah I've got somebody there again. I hadn't seen her face in a really long time. So it was really, really good, because I was like, yeah, I've got my mum back.'

Matthew's mother Simone described how overwhelmed she felt when she was granted bail:

'I was trembling, I just pressed out of the room, and I dropped on my two knees, and I just couldn't stop crying. And the officers they come to me, they were like "oh my God, you got pale." They were like "you know what, you deserve to go home to your kids."'

Similarly, Richard said how moved he felt to know that he would see his children:

'I did feel- I cried because I know I'm going to be able to spend time with my kids again. It was a very good moment for me.'

After release, Clare described the joy and relief of being able to be with her children day to day:

'When they wake up at morning, yes, it's lovely. And they see me and I'm there, it's like you can see the relief that I'm there. And when they finish school, they saw me pick them up, they see that I'm still there.'

Similarly, Faith said:

'When I take them to school whether they're embarrassed or not I hug them, and I kiss them and I tell them I love you, be good in school. When they come home I can't wait and my hands is like this and I'm so excited, even though I might be tired, to have them back home, they can't wait to see me as well, you know.'

Faith's sister Sonia described the change which she could see in the children since being reunited with their mother:

'I've seen them recently and I think that they're really, really well settled now. You know it's a joy to know that they don't have to go anywhere. They're not fighting for stability. They've almost managed to forget, you know the trauma of the past.'

Jenny, who cared for Lorraine's two year old during her detention, described the child after her mother's release:

'She's happy, she's vibrant, she's alive. She's more outspoken, she's more go get, she's not sulky and sucking the thumb, and holding the teddy bear and just looking sad anymore. She's happy.'

Aaron described the change in his wife Kayla's sons since her release:

'Well, it's such a dramatic change. They're happy, they're smiling again, they're playing around, you know. They never used to do much of that, you know what I mean?'

Similarly, Kayla said:

'Friends that saw my kids, and saw them before I was out, is like "oh my God look at them." I can see the difference in the boys, they're just, they've got a different look, they're glowing, they're smiling, they're relaxed, and that's really good.'

Difficulties faced by families after release

After parents were released, families faced multiple difficulties in rebuilding their lives, and lived in fear that parents could be re-detained and deported without their children.

Effect of separation on children post-release

Parents said that after their release from detention their children continued to be anxious about any separation and fearful that their parent would be taken away from them again.

For example, Faith described how, after her release from detention, her eldest daughter Dinah continued to worry that her mother would leave again:

'So she's very much affected, it's like, she's not sure what's gonna happen next. She's insecure... and they ask you questions, the questions was a difficult part for me, you know questions like "so are you going again?" you know, "you left us, you left."'

Similarly, Rosemary said that her daughter, who was eight when she was detained, was very reluctant to be separated from her mother at all:

'It makes her moody and clingy. Now, if she's going to have a shower I've got to be in the bathroom with her. If she's downstairs I've got to be downstairs as well, and if she's upstairs I've got to be-we've got to be in the same place at the same time.'

Clare said that her eight year old daughter constantly wanted to be cuddled and that her children continued to fear that she would leave them again:

'When I left she was in that cuddly stage, and now it's like she's coming back to that, constantly wanting that cuddling. Every time I'm going through the door, it's like she's asking me if I'm coming back. If [the children] don't see you for a while, they're thinking the worst. When you see them, you can see the relief on their faces. And then they come to you and hug you, and the question they ask, you can see that they're dreading- they don't want to see the separation ever again.'

Simone's son Ray was three when she was detained. She described how if he wakes up without her beside him in bed, he becomes extremely distressed:

'He used to sleep fine. He's start to scream in sleep sometime like he have bad dream. He scream a lot and cry a lot. When I put him to bed I read him story and he fall asleep, and then come up, to watch telly. Give it an hour, if he turn and I'm not in that bed, he scream and in fact running out looking for me. He'll search the whole place and look at me. And then I'll put him on my lap, and I say, "go back to bed, I'm right here." And he'll go back. My baby is only four, and now I'm going to have to look for some psychiatrist to help him to sleep. To forget all these things. To bring him back to knowing that I'm here for him now.'

Simone also explained that when Ray started school he only attended for half a day at a time because he was extremely anxious about being separated from his mother:

'When he had just start school he wouldn't go inside, because he said "mum, you're not coming back, you leaving me." And I said "I'm not leaving you." They didn't do him full day. Because of this. And I have to be at that gate by the same time when he looks out that I'm there.'

Simone said that her older son, Matthew, who was 16 when she was detained, becomes very anxious when she goes to sign at the UK Border Agency reporting centre, as he fears that she will be re-detained:

'I sign on every other Wednesday. And every Wednesday it's like a magnet. My phone keeps ringing, and when it's not my kids' dad it's [my son]. Texting, "mum, where are you at now? Have you finished signing on? Are you out of the place?" The only time he stops text is when I say I'm on my way home.'

Difficulties re-establishing parent-child relationship

In some cases, parents reported that it took time for them to rebuild their relationship with their children. Parents had missed months and in some cases years of children's lives during their time in prison and detention.

Nina described how her 10 year old son responded when she first saw him after release:

'He just kept looking at me, because those seven months when I was in the detention, we didn't meet, we were talking on the phone. He just stood there, and slowly then he came close to me and started talking. I could see he wanted to make comments, speak to me, but he was quiet.'

Richard said that initially his children were reluctant to approach him, but after some time they would come and look for him when they got home:

'First when I came out yeah, if I'm sitting on the chair they come to sit down they probably want to sit away. They're not used to being there. And after a while I can see that they're used to me being there and they come look for me straight away.'

Faith said that her children had developed behavioural problems during her detention and would not listen to her at first:

'At first, you know, sometimes I cry so much, because it looks as if your children don't love you and the way they behave at times. Discipline was out of the window. It's like you're starting all over again. These are the children that you speak to them, and they'd say "yes mommy", and now they will challenge you. But then again you don't know which tone to use, you know. So I think it savaged our family life, it create distance between us and our children.'

Effect of detention on parents post-release

A number of parents said that after being released they continued to experience extreme anxiety and fear related to their detention.

Clare said that she was very fearful that she would be re-detained and this made it difficult to sleep:

'Whenever the doorbell rings, or whenever you hear the footstep coming up the stairs it's like- you get stressed. You're wondering what is happening now, are they coming to take you? Or they coming to separate you from your children? At night when you lay down to sleep, it's like you wake up at the slightest sound, you got to remember they can come there at any time.'

Clare also said that if she heard keys jingling this would trigger frightening memories of detention:

'In my house we don't use keys, because it's like being in that place, the jingling of the keys... we try not to use anything to bring back that memory of being locked up. Because the keys making that noise- you just automatically jump up to open eyes, then you realise that, oh you're not there.'

Simone said that following her detention, she was trying to cope with the effect it had on her:

'Try to deal with what I've seen, how to handle it, how to not have nightmares about it, and to adjust that I'm out. Because I can't sleep, like I'm being like tied down, I'm still...'

Natalie said that she continued to have panic attacks following frightening experiences she had in detention:

'[In detention] sometimes they all of sudden come in and they shout things, and it make my heart go "boom, boom" and I still have trouble with that now. They slam the door 'Boom!' and it shaking my heart out. If somebody say my name when I didn't expect it... panic attack.'

Electronic tagging and curfews

Two mothers, Nina and Clare, reported that after detention their liberty continued to be restricted by electronic tags and curfews.

Nina was electronically tagged and could not leave the house for periods of the day:

'Mentally it was so depressing, it was evenings six to eight and mornings six to eight. So I couldn't go and drop my son to school, in the morning I wanted to go with him but I couldn't. And the evenings, it was nearly summer time, I couldn't go out, because six to eight is the time when they go out to play, I couldn't go out with them to the park.'

Clare was not allowed to leave the house between 10pm and 6am and said that Immigration Officers would come to the house late at night on occasion to check that she was there:

'The first [Immigration Officers] were very, very rude. Yes, and coming at anti social hours, they know that young children are there, and they have to sleep to go to school. They rang the buzzer after 12, its all noise. The children get startled, they fright because the buzzer is loud, they want to know what's going on.'

Unresolved immigration matters

As part of this study, post-detention data were gathered from the 15 parents in the small quantitative sample of 27 families who had been released from immigration detention for over six months before the close of the data collection period. In 11 of these 15 cases, parents' immigration or asylum cases were ongoing six months after their release, and in the remaining four cases, parents had been granted leave to remain in the UK. As is explained in on page 111, in some cases parents' appeals against their deportation were successful, but the UK Border Agency chose to appeal this decision in the Upper Tribunal.

Children and parents reported that ongoing uncertainty about their immigration status and fear of re-detention and deportation made it difficult to re-establish their lives and make any plans.

For example, Liam, who was 17 when his mother was detained, explained that, months after her release he was still waiting to hear the outcome of his claim:

'My application's still pending, they are just not actioning the application at all. And in the meantime I can't do anything, so I can't get in university, or I can't work. I used to have a couple of jobs, which I've lost just 'cause of that, and yeah I'm just pretty much stuck at the moment.'

Rosemary said that the uncertainty of her situation made it difficult to make any plans:

'You don't know what's going to happen. And where do you go from here, should I do this, should I move her school, because we don't know what's going to happen.'

Similarly, Clare expressed her frustration that her case had been delayed so many times:

'It has been put back so many times, it's been dragging, dragging. And I wish everything could be sorted out soon, so that we could all get back to a normal life, because it's like, it's a detention. Whenever you look forward to it coming up then it gets put back again.'

DEAR SANTA

I need my dad back, for christmas
also, I would like a dog that moves
and a doll.

That is all I wanted.

Thank you.

From

[REDACTED]

[REDACTED]

Sylvie, 8 years old

3 Decisions to detain and safeguards for children

This section will examine the extent to which the UK Border Agency took child welfare into account when making decisions to detain parents.

Section 3.1 sets out a case study, from the larger quantitative sample of 111 families, in which the Border Agency did not properly consider child welfare when deciding to detain and continue the detention of a parent.

Section 3.3 explores how child welfare was considered in Monthly Progress Reports, bail summaries and, where these were available, detention reviews, for the qualitative sample of 12 families.³⁴ In the majority of these cases, the Border Agency failed to take basic steps to ascertain where children's best interests lay. Where information was presented to the Border Agency which showed that children were experiencing extreme distress or neglect during their parent's detention, this did not lead to decisions to release parents from detention in any of the cases surveyed. In most cases, parents were eventually released by the Tribunal on bail, their detention having served no purpose.

Section 3.4 examines evidence on the action taken by local authority Children's Services departments in the qualitative sample of 12 families. Despite the very serious problems experienced by children in these families, which are set out in section 2, in the majority of cases, there was no evidence in parent's BID or Border Agency files that Children's Services raised concerns with the agency about parents' detention.

3.1 Decisions to detain: a case study

Some of the 111 cases in the larger quantitative sample raised particular concerns in relation to Border Agency decision making. A case study from this sample is set out below.

Ruth

Ruth came to the UK after experiencing extreme domestic violence at the hands of her husband in her country of origin. Ruth's house was raided by immigration officers and her eight year old son, Jack, was found alone. Ruth was arrested for overstaying her visa and child trafficking. After being held in a police cell for a short period, she was detained in Yarl's Wood under Immigration Act powers. Jack was taken into care.

During Ruth's detention, three family court hearings were arranged to consider what the care arrangements should be for Jack. Ruth missed all three hearings because transport was not organised by the Border Agency to enable her to attend from detention. The allegations that she had trafficked Jack were dropped as it became clear that she was his mother. Ruth explained that she had left Jack in the house alone because she was waiting for him

³⁴ As is explained in the methodology section, the BID case files of a qualitative sample of 12 families where family members were interviewed for this research were analysed in detail, and data were gathered on the conduct of the UK Border Agency and local authorities in safeguarding child welfare.

to secure a place in school. She was home educating him in the meantime and explained that she felt she had to go out to work so the family could subsist:

'I didn't feel comfortable doing this, but I had no money and I needed to work so we could eat.'

Ruth was released by the Tribunal on bail after being detained for over two months. She was able to attend her family court hearing the next day and was reunited with her son. During her detention, Ruth found it very difficult to contact Children's Services to discuss her child's situation. A social worker was supposed to visit her in detention but this never happened. Jack's foster carer reported to Ruth that Jack said every night that he missed his mother. In the correspondence from the Border Agency in Ruth's BID file, including a bail summary, a Monthly Progress Report and two refusals of temporary admission, there is absolutely no reference to the welfare of her son.

3.2 Advice from the UK Border Agency's Office of the Children's Champion

The Office of the Children's Champion is a department within the UK Border Agency which has responsibility for promoting the duty to safeguard and promote the welfare of children within the agency.³⁵ A 'Global Process Communication' produced by the Border Agency's Criminal Casework Directorate in January 2011 stated that:

'The views of the Office of the Children's Champion must be taken into account in considering the impact of separation on a child and the steps that might be taken to mitigate this should the parent be detained.'

Further policy guidance on the separation of families was produced in November 2011, and the Border Agency has not been able to provide BID with clear information as to whether the process communication quoted above is still being used by caseowners at the time of writing. However, the Office of the Children's Champion wrote to BID on 17th January 2013 stating that:

*'There is no guidance currently which requires OCC [Office of the Children's Champion] to be consulted prior to the detention of a parent but we are reviewing this.'*³⁶

In four of the 12 cases in the qualitative sample, there was no evidence in the parent's BID file that their Border Agency caseowner had contacted the Office of the Children's Champion when making a decision to detain, remove or deport the parent. In all four cases, these parents were detained during 2011 and so the guidance quoted above requiring the caseowner to seek advice from the Children's Champion regarding detention would have applied.

In a number of cases, caseowners did not contact the Children's Champion until parents had been in detention for some time. Furthermore, in some cases where the Children's Champion was contacted, this did not lead to proper consideration of children's welfare. In Rosemary's case, a letter from the Border Agency five months into her detention noted that 'referral to the Office of the Children's Champion has been sought in this case.' However, there is no further mention of the Children's Champion in her file and it is not clear that advice was ever received.

In an 11 month detention review in Natalie's full UK Border Agency file, the caseowner supports his decision to continue detention with reference to the fact that:

'The Office of the Children's Champion have no objection to continued detention.'

³⁵ The Border Agency has a duty to safeguard and promote the welfare of children under s55 of the Borders, Citizenship and Immigration Act 2009.

³⁶ See Appendix I, in which the Office of the Children's Champion's letter to BID of 17th January 2013 is reproduced in full.

The extreme distress experienced by Natalie's children Gemma and Oliver during her 576 days in detention is detailed on pages 35 and 49.

3.3 Consideration of children when detention reviewed

BID's legal files for the qualitative sample of 12 cases were analysed to assess whether child welfare was taken into account in UK Border Agency Monthly Progress Reports or bail summaries. Full UK Border Agency files were obtained via Subject Access Request for five of these 12 families and the detention reviews in these files were also analysed.

The bail summary is a document which is produced by the Border Agency when a detainee applies for bail, outlining the history of the case and the agency's reasons for opposing release on bail.

Chapter 55.8 of the UK Border Agency's Enforcement Instructions and Guidance sets out the requirement for detention to be reviewed at least every 28 days, and for the agency to write to the detainee explaining its reasons, if a decision is made to continue detention. The Monthly Progress Report is the template document which is used by Border Agency staff when they write to detainees explaining the reasons for their continued detention. The guidance on reviewing detention explains that:

*'Where detention involves or impacts on children under the age of 18, reviewing officers should have received training in children's issues (i.e. Tiers 1 and 2 of Keeping Children Safe) and must demonstrably have regard to the need to safeguard and promote the welfare of children.'*³⁷

However, in the majority of cases there was no consideration of child welfare in Monthly Progress Reports, bail summaries and detention reviews. In some cases, child welfare was reviewed on the basis of inaccurate information or flawed reasoning, and in every case these Border Agency documents failed to mention significant information about child welfare which was included in the parent's BID file. As is set out in section 4.4, the Border Agency did not contact any of the 53 children in the small quantitative sample of 27 families to ascertain their wishes and feelings before or during their parent's detention.

Monthly Progress Reports

In 11 out of 12 cases, there was no mention whatsoever of child welfare in the Monthly Progress Reports which were contained in the parent's BID file.

Natalie's was the only case in which child welfare was mentioned. There was no mention of child welfare in the first three Monthly Progress Reports in her BID file. The first report on the file which mentions child welfare was produced five months into Natalie's detention. It states:

'We are making enquiries to determine the immigration status and welfare of your children and are awaiting responses from HM Revenue & Customs, Social Services and your representatives in order to fully consider your case.'

This sentence is repeated in three subsequent Monthly Progress Reports. In addition, two Progress Reports which were produced nine and 10 months into Natalie's detention state:

'It has been established that your children have no legal status to remain in the United Kingdom. In order to follow current procedures relating to the welfare and safeguarding

³⁷ UK Border Agency 2013 *Enforcement Instructions and Guidance* Chapter 55 <http://bit.ly/10MIO00> (accessed 14/03/13)

of your children we are awaiting a response from Social Services as to any concerns they may have about your children being removed with you to [your country of origin]. We have been advised by Social Services that your eldest child is subject to a residential order and that your youngest child is happy residing with his foster mother. It is noted that you have refused in the past to provide any information regarding your children to UK Border Agency, however, it would be advisable to inform us of your intentions concerning their future welfare should you be deported from the United Kingdom.'

As is set out on page 35, Natalie's younger child Oliver has special needs and was very distressed about his separation from his mother; his foster carer was very concerned about him for this reason. The abuse which Natalie's older child was experiencing at the hands of her foster carer during Natalie's detention is detailed on page 49. The assessment of the children's situation set out in Natalie's Monthly Progress Reports is wholly inadequate.

Bail summaries

Table 11 sets out the extent to which child welfare was considered in bail summaries for the qualitative sample of 12 families.

Table 11: Consideration of child welfare in bail summaries

Question	Yes	No
Is there evidence that the Border Agency considered any information about how the parent's continued detention was affecting their children?	2	10
Are there inaccurate statements relating to child welfare in the bail summary?	3	9
Does the bail summary fail to mention significant information about child welfare which was included in the parent's BID file?	12	0
Is there any evidence that the Border Agency contacted Children's Services to gather information about the children's situation?	5	7
Is there evidence of information or advice regarding the children being provided to the Border Agency by Children's Services?	4	8

Adequacy and accuracy of information on child welfare

In some cases, there was little or no information about their children in the parent's bail summary. In Lorraine's case, a standard paragraph acknowledging the Border Agency's duty to safeguard children was included in her bail summary, but there was no information about the children's situation or the impact her detention was having on them. In Richard's case, the only consideration of child welfare beyond a standard paragraph was a sentence stating that permission had been obtained within the Border Agency to split the family. This is particularly concerning given that children in these families experienced serious problems during their parent's detention. For example Richard's one year old daughter was hospitalised following an asthma attack. The carer for Lorraine's two year old child reported that she constantly cried and asked for her mother and lost her appetite during her mother's detention.

There was only evidence that the Border Agency accessed information about how children were being affected by their parent's detention in two out of 12 cases, those of Christine and Natalie. However, very significant information about their children's situation was still missing from these parent's bail summaries, and the reasoning used to consider the children's welfare was seriously flawed. For example, in Christine's case, the Border

Agency suggested that the existence of a child protection plan for her son Daniel in itself addressed the concerns for his welfare. This was plainly not the case and the Local Safeguarding Children's Board had concluded that Daniel was at risk of emotional and physical harm. During his mother's detention, Daniel was frequently seen playing in the road at night by neighbours and was hit by a car.

In the majority of cases, there was no evidence that the Border Agency had considered any information about how children were being affected by their parent's detention, and in seven out of 12 cases there was no evidence in the bail summaries on file that the agency had contacted Children's Services. For example, Rosemary was detained for 173 days and separated from her seven year old daughter, who moved between different private fostering arrangements which were known to Children's Services. However, it appears that the Border Agency did not even take the basic step of confirming the child's whereabouts, and the bail summary states that 'the applicant claims that her daughter is being cared for by a family friend.'

In one case, that of Nina, although there was no evidence that the Border Agency had contacted Children's Services in the bail summary, the client's Subject Access Request file shows that there was contact between these agencies in this case, and details of this are set out in section 3.4.

In three out of 12 cases, there was inaccurate information about child welfare in the bail summary. For example, three of Kayla's bail summaries state that her children are 'content to remain in the UK under their father and stepfather's care.' The Border Agency does not offer any evidence to support this assertion, and it is contradicted by reports from Children's Services and Targeted Mental Health Services who were supporting Kayla's younger child as a result of his extreme distress at being separated from his mother.

Flaws in reasoning when child welfare considered

Where child welfare was considered in bail summaries, in some cases problematic reasoning was employed. In two cases, the Border Agency suggested in parents' bail summaries that the fact of parents' criminal offences removed the need for the Border Agency to properly consider child welfare. For example, Rosemary's bail summary states that:

'The UK Border Agency has a duty of care to children and accepts that, in most cases it is in the children's best interests that both parents and children form a functioning family unit where the parents and children live together and, that both parents play an active role in their daily lives and upbringing. However, it is considered that it is through her own actions that the applicant removed herself from her family unit.'

At this point, Rosemary had served her criminal sentence and was separated from her child as a result of the Border Agency's decision to hold her in immigration detention. Here, the agency appears to argue that the family's separation is the inevitable result of Rosemary's criminal offence, and fails to recognise it's own responsibility to make a decision about whether to hold Rosemary in detention, taking into account her child's welfare.

In Christine's case, the Border Agency sought to justify the continued separation of the family by reference to the fact that the children had been unable to visit their mother in detention. One of the bail summaries states:

'The grandparents have continuously been given money by Social Services so that they could take the children to visit Christine Peters but we have no evidence that they have ever done so.'

The Border Agency was aware of the considerable distance which the family would have to travel to visit, the fact that the children's elderly carer was seriously ill and unable to meet the children's basic needs, and that the younger child had severe special needs which meant that he had difficulty walking and limited motor control. In this context, it is unsurprising that the family were unable to visit, and this ought to have been taken into account by the Border Agency as a factor in favour of release rather than a reason to continue detention.

In Kayla's case, the Border Agency argued that her application to be released to accommodation provided by the agency suggested that she did not have strong family ties with her sons. This reasoning ignored the practical barriers

to Kayla living with her husband and son on release. If Kayla had moved into the house where her husband and son were staying at this time it would have become overcrowded, they would have imposed further on the relative who was housing them and Kayla would not have been able to access any financial support. On Kayla's release, the family planned to move together to new accommodation in a different city after the youngest child had completed the school year. However, the Border Agency deported Kayla from the UK before this could happen.

Detention Reviews

Full UK Border Agency files were obtained by Subject Access Request for five parents in the qualitative sample of 12 families. Table 12 sets out how child welfare was considered in the Border Agency's reviews of decisions to detain parents in these files. In Nina's case, there were no detention reviews in the full file provided to BID by the UK Border Agency.

In three out of four cases where there were detention reviews on file, there was no evidence that the Border Agency considered any information about how the parent's continued detention was affecting their children in these reviews. In all four cases, detention reviews failed to mention significant information about child welfare which was included in the parent's BID file. In one case, there were inaccurate statements relating to child welfare in reviews of a parent's detention.

Table 12: Consideration of child welfare in detention reviews

Question	Yes	No	Unknown
Did the Subject Access Request file contain a detention review for every 28 days which the parent spent in detention?	1	4	0
Is there evidence that the Border Agency considered any information about how the parent's continued detention was affecting their children?	1	3	1
Do the parent's detention reviews fail to mention significant information about child welfare which was included in the parent's BID file?	0	4	1
Are there inaccurate statements relating to child welfare in the parent's detention reviews?	1	3	1

Detention reviews missing from files

Detention reviews were missing from Simone and Christine's files for one month of their time in detention, and reviews were missing for two of the months which Natalie spent in detention.

There were no detention reviews in Nina's UK Border Agency file, despite the fact that she was detained for 271 days. Reference was made to one detention review in a note on the file, which was referred to as the 'seventh detention review'. The note states:

'In the review there is mention that decisions to make deportation orders were sent to the children's address. However, there are no details of any children included. How many children are there? How old are they? Who's (sic) care are they under? Does the review mean we are looking to deport them with Nina Holmes? I have considered Nina Holmes'

release in accordance with Chapter 55 and consider it appropriate to refer this case for release – especially if there are children involved.'

It is very concerning to see that no details of the children's ages or care arrangements were provided in the detention review. Despite the statement that her case would be referred for release, Nina went on to be detained for over three months after this note was written. She was eventually released by the Tribunal following a bail application which was opposed by the Border Agency. BID submitted a fresh Subject Access Request to the Border Agency to seek full disclosure of Nina's file, but a response to this is still awaited at the time of writing.

Family Welfare Forms

In order to safeguard and promote the welfare of children, UK Border Agency caseowners are required to complete a 'Family Welfare Form' at regular intervals during a family's case. The contents of the form ought to inform key decisions, such as a decision to detain a parent.

Chapter 45.1 of the UK Border Agency's Enforcement Instructions and Guidance states:

*'It is very important that a FWF [Family Welfare Form] is included on each family case file from the start of each family claim, and that the information in the FWF[Family Welfare Form] is detailed, fully accurate and regularly updated with any changes to the family's circumstances.'*³⁸

However, none of the five UK Border Agency files which we obtained by Subject Access Request contained a copy of the Family Welfare Form. In Simone's case, the Border Agency confirmed that there was no Family Welfare Form in the records they held for her, and in Natalie's case the agency informed us that 'the records are missing and have been designated as lost by the Agency.' BID submitted fresh Subject Access Requests to seek full disclosure of Nina, Christine and Michael's files, but responses are awaited at the time of writing. It appears the Border Agency did not take the basic safeguarding step of completing Family Welfare Forms in these cases, as required by the agency's own policy.

Submissions by case owners for parent's release

In Simone's case, three referrals were made to the Chief Executive of the UK Border Agency by her Border Agency caseowner, arguing that she was suitable for release from detention and highlighting concerns about her children. In all three cases, the referrals were refused and Simone remained in detention. The Border Agency files of Natalie, Nina, Christine and Michael do not record any such referrals to the Chief Executive of the agency by caseowners.

Consideration of child welfare in detention reviews

Details of how children's welfare was considered in detention reviews in the four cases where these were available are set out below.

Simone

Simone was detained for 89 days. Her detention reviews record Children's Services' advice to the Border Agency that they had previously been involved with Simone's family but this involvement had ceased and there was 'no further action' to take on the case from their perspective.

The reviews also detail advice which was received from the Office of the Children's Champion, which recommended that Simone's Border Agency caseowner should investigate whether her children had or should be granted leave to remain in the UK. Simone's older son had lived in the UK for eight years at this point. It appears

³⁸ UK Border Agency 2013 *Enforcement Instructions and Guidance* Chapter 45 <http://bit.ly/YnePvo> (accessed 13/3/13)

from Simone's Border Agency file that the agency considered her older son's status in the space of one day, without making inquiries about his situation, and decided to deport him with his mother.

Simone's detention reviews do not contain any information about how her detention was affecting her children.

As is detailed on page 33, Simone's eldest son Matthew reported that his little brother became withdrawn, stopped eating properly and screamed and cried when Simone had to get off the phone to him during her detention. Her older son's school attendance dropped, he became very isolated and had to spend much of his time caring for his infant brother.

Natalie

Natalie was detained for 576 days and there were 18 detention reviews on her UK Border Agency file.

For the first six months of Natalie's detention, the only substantive references to her children in detention reviews referred to inquiries being made about their nationality and a response being awaited from Children's Services. The fourth review notes that:

'Once the nationality of her children is established Natalie Jennings can be served with a signed deportation order.'

It appears that the Border Agency was primarily concerned with seeking birth certificates for the children with a view to obtaining travel documentation for them and deporting them with their mother. The third detention review concluded that:

'taking into account all known and available information there are no compassionate circumstances to mitigate detention.'

The seventh review of Natalie's detention notes that:

'A deportation decision is on hold pending decisions by Social Services as to whether Natalie Jennings' children should be returned to [her country of origin] with her.'

Throughout Natalie's detention, the Border Agency stated in her detention reviews that she had failed to provide information to the agency about her children. Natalie advised her subsequent legal representatives that she had felt that any discussions she had with the Border Agency about her children should take place through the legal representative she had at that time. However, the person who was representing her during the first part of her detention failed to advise her properly about this matter, and to respond to the Border Agency's requests for information about her children. 10 months into her detention, detailed information about Natalie's children was provided to the Border Agency during her deportation appeal. However, information about Natalie's children was in any case available to the Border Agency through Children's Services, so the failure of Natalie's legal representative to provide the agency with information during the first part of her detention can in no way explain the agency's failure to properly consider the children's welfare.

The first detailed consideration of the situation of Natalie's children during her detention appears in the ninth review, which notes:

'Natalie Jennings' children are currently cared for by two separate people (Natalie Jennings' mother and friend) who are happy to look after them and have legal right to take care of them. Social Services are aware of these children and are concerned to remove both the children to [their mother's country of origin] as they are concerned with Natalie Jennings' parenting. Case owner has referred this case to [the Office of the Children's Champion] to split the family.'

The twelfth review states that:

'Although she has two UK born children the authorities believe her parenting skills are in doubt and a response from the Children's Champion is expected.'

As is set out on page 35, Natalie's younger child Oliver has special needs and was very distressed about his separation from his mother; his foster carer was very concerned about him for this reason. The abuse which Natalie's older child was experiencing at the hands of her foster carer during Natalie's detention is detailed on page 49. The children's profoundly negative experiences were not taken into account in the reviews of Natalie's detention. As neither the Border Agency nor Children's Services had investigated the situation of Natalie's older child, they were not aware that she was being abused by her foster carer. As is set out on page 80, 10 months into Natalie's detention, a children's charity support worker wrote a letter in support of Natalie's bail application. She stated that Children's Services had informed her that they would be happy for Natalie's younger child, Oliver, to live with her on her release. However, this information was not taken into account in any of the subsequent detention reviews in Natalie's UK Border Agency file.

The eighteenth, nineteenth and twentieth reviews on Natalie's file acknowledge that Natalie's younger child, Oliver, is in a temporary care arrangement, and that inquiries by Children's Services to establish what should happen to Oliver are ongoing. However, the final review notes that:

'Family splits have been agreed at Director level. Pending the outcome of the appeal removal remains a realistic prospect as an [emergency travel document] has been agreed.'

Natalie was released from detention on bail after being held for 576 days, and was subsequently granted leave to remain in the UK with her children.

Christine

Christine was detained for 160 days. The four detention reviews in her file detail contact between the Border Agency, Children's Services and the National Offender Management Service and inquiries made by the Border Agency to Christine concerning her children.

There is evidence in the third and fourth reviews that some of the information which was provided to the Border Agency by Christine and Children's Services was noted when detention was reviewed. For example, the reviews note that the children's carer had been admitted to hospital, and the fourth review mentions that the family's house was in danger of repossession. However, as is explained below, very significant information about the children's situation was not included in these reviews. The third review of Christine's detention states:

'Case discussed with Social Services explaining why we did not grant release on Temporary Admission. Information was received in return that the child protection team has concerns about the care that Christine Peter's son was receiving from his grandfather.'

However, details of these child protection concerns are not included in the fourth and fifth reviews, which instead state:

'Information was received in return that the child was being cared for by the grandfather.'

As is outlined below, it is clear from Christine's BID file that Children's Services had growing concerns about Daniel's care arrangement at this time. It is therefore very concerning to see that these concerns had been written out of the detention reviews at this stage, before Christine was released on bail by the Tribunal.

In addition, the third review of detention states that:

'Social Services are involved with the control of the children's care and have no issues with her detention at this time.'

As is outlined on page 34, Christine's son Daniel has very severe special needs. During his mother's detention, the Local Safeguarding Children's Board concluded that he was at risk of emotional and physical harm, and were considering steps towards taking him into care. Daniel had become increasingly physically violent and distressed

during his mother's detention, was frequently seen playing in the road at night by neighbours and was hit by a car. A 'Core Assessment Record' noted concerns that Daniel's grandfather was not meeting all of his health needs. A 'Strategy Discussion Record' produced by Children's Services noted that:

'There are concerns that Daniel is affected emotionally by his mother being in the detention centre and the uncertainty of their future. Daniel's behaviour and presentation has deteriorated significantly over the recent months. Daniel recently stabbed [a family friend] in the hand... Daniel has special needs and he is not supervised appropriately to meet his needs.'

A month later, Christine's probation officer stated in a 'Home Circumstances Report' that:

'[Daniel's social worker] is of the opinion that Daniel's behaviour would improve if he was living with his mother.'

Christine's daughter Beth was unable to attend school during her mother's detention and missed her GCSE exams as she was caring for her brother and grandfather. However, no mention of this situation was made in Christine's detention reviews.

Michael

Michael was detained for 624 days. A Subject Access Request was made and Michael's full UK Border Agency file was received during his detention, so this file only contained the first 13 reviews of his detention.

None of the detention reviews in Michael's file contained any information about how his continued detention was affecting his children. The reviews detail concerns raised by the National Offender Management Service and Children's Services about the risk which Michael could pose to the public and members of his family given his previous convictions for drugs and domestic violence. One review, which took place 10 months into Michael's detention, notes that his family had visited him in detention.

In a witness statement on Michael's BID file, his partner Angela states that she believes that his previous violent behaviour was linked to alcohol abuse, his mother's death, and his concern about his two younger siblings, who he arranged passage for from his country of origin to the UK. A witness statement from Michael also notes that he was previously released from detention on bail and lived with his partner and children for over two years without incident. An independent psychiatric report which was produced 15 months into Michael's detention found that:

'Michael Taylor is currently of low risk of committing acts of serious violence when matched with a similar offending cohort.'

In a witness statement, Michael's partner Angela states that:

'Both children have a very strong bond with Michael. They love him dearly and miss him very much. They need him to be around and be active in their lives. They talk about him every day and there are times at night they wake up crying for him.'

As is noted on page 82, Michael was subsequently released from detention and stayed with his partner and children for the weekend several times in the following months. Over three months after his release, his probation officer provided BID with a letter in which she stated that she would 'fully support' Michael moving back in with his partner and children.

3.4 Children's Services and safeguards for children

Under section 11 of the Children Act 2004, local authorities, alongside other public bodies, have a duty to safeguard and promote the welfare of children. This duty includes all children, regardless of their immigration status.

Parents' BID files were analysed to ascertain what action was taken by Children's Services' departments to safeguard children in the qualitative sample of 12 cases. In five of these 12 cases, parents' full UK Border Agency files were obtained by Subject Access Request, and these were also analysed. In the majority of cases, there was no evidence in parents' BID or UK Border Agency files that Children's Services gathered information about how parental detention was affecting children or raised concerns with the Border Agency.

Subject Access Requests were not made for full copies of children's local authority files, and there may well have been relevant information on these files which has not been accessed in this research. Additionally, in cases where, for example, parts of telephone conversations with Children's Services were quoted by Border Agency staff, these may not provide a full picture of all the information which was shared with the agency by Children's Services. However, in the cases where full UK Border Agency files were obtained, the Border Agency ought to have disclosed all letters and assessments provided by Children's Services which would have been available to the agency when they made decisions to detain parents.

As is set out in section 4.4, in a number of cases there were serious delays in the Border Agency contacting Children's Services for the small quantitative sample of 27 cases. In six of these 27 cases, it was possible to obtain data on how long it took for the UK Border Agency to receive a response from Children's Services after they first contacted them to gather information about children. In these six cases, this process took an average of 27 days. In one case, the Border Agency received a response from Children's Services on the same day; the longest period which it took for the agency to receive a response was 85 days.

Table 13 sets out findings from BID and UK Border Agency files on the action taken by Children's Services in the qualitative sample of 12 cases.

Table 13: Children's Services and safeguards for children

Question	Yes	No	Unknown
Any evidence that Children's Services had involvement with the family?	9	3	0
Any evidence that Children's Services raised concerns about the effect of parental detention on children?	2	10	0
Any evidence that Children's Services assessed the effect of parental detention on children?	3	8	1

Assessments of care arrangements by Children's Services

As is outlined in section 2, many of the children in the qualitative sample of 12 families experienced very serious emotional and practical problems during their parent's detention. However, as can be seen from Table 13, BID and UK Border Agency files indicate that Children's Services only raised concerns about the effects of parental detention on children in two out of these 12 cases, those of Christine and Kayla.

As is outlined on page 50, the Local Safeguarding Children's Board concluded that Christine's son Daniel was at risk of emotional and physical harm during her detention, and were considering steps towards taking him into care. A 'Strategy Discussion Record' produced by Children's Services noted concerns about the emotional impact on Daniel of his mother's detention. It is clear from Christine's UK Border Agency file that information about Christine's children was shared between Children's Services and the Border Agency, but as the file is redacted it is not clear how much information was shared and at what point.

In Kayla's case, an initial assessment of her 10 year old child, who was being cared for by his father, was carried out five months into her detention. Children's Services concluded that no further action was required by them, but recommended that Targeted Mental Health Services should work with the child because of the distress which his mother's detention was causing him:

'It is clear that Max's attachment to his mum and the current situation where she is not living in the family home has resulted in him feeling unsafe...his emotional well-being has been impacted. Max becomes very upset and distressed about his mother not living with them.'

Cases where Children's Services had no involvement or limited involvement

In three cases there was no evidence in parent's files that Children's Services had any involvement with families during the parent's detention. In five further cases, which are set out below, parents' files and research interviews indicated that Children's Services' involvement with and assessment of the children's situation was very limited. The extreme distress which was experienced by the children in these families during their parents' detention is set out in section 2.

Jenny, who cared for Lorraine's two year old daughter Ella during her 301 days in detention, explained that Children's Services were supposed to visit her but this never happened:

'Nothing seems to be done. Children's Services never visit my house. They were the ones that started the process and they were supposed to come around for me to sign all the papers, see where I live, see how I manage Ella and stuff. It didn't finish because Lorraine came out, I haven't had to do it.'

Rosemary contacted Children's Services to make them aware of the care arrangements for her daughter Hana during her detention. There is no documentation regarding Children's Services in Rosemary's BID file, but Rosemary informed BID that her daughter's care arrangements were being monitored by Children's Services who did not have any concerns about the foster carers. There is no evidence from Rosemary's BID file that Children's Services had any contact with the UK Border Agency regarding the child.

In Simone's case, Children's Services had some involvement with her children during her prison sentence. Before Simone was detained the Border Agency contacted Children's Services. Simone's bail summaries state that:

'They [Children's Services] informed us that they had been involved with the family from [dates] with no further action.'

There is no further information about Children's Services' involvement with the family in Simone's UK Border Agency file. It appears that Children's Services did not provide the Border Agency with any advice or information about the effect which Simone's detention was having on her children.

A bail summary in Faith's BID file states that Children's Services visited her children during her detention and informed the Border Agency that:

'The children's welfare requirements are being met and they are attending school.'

Again, there was no evidence in Faith's BID file that Children's Services provided the Border Agency with any information about the effect which Faith's detention was having on her children.

Nina's UK Border Agency file shows that when she was first arrested for a criminal offence, Children's Services carried out an assessment of her children which stated that:

'Neither child stated any concerns with the previous care received by their parents and Liam stated that he would like to return back to their care when they are released from prison. Liam stated that his mother calls them every day from prison.'

However, 20 months later, during her detention, a social work assistant wrote to the Border Agency in response to an inquiry stating that:

'An assessment was carried out on the children and family on [date 20 months previously] and the case was closed as the children went to live with their aunt and uncle, who are still caring for them. There are no other concerns regarding this family.'

It therefore appears that Children's Services were not in contact with the children during the parent's detention and did not provide the Border Agency with any information about their welfare.

Communication between Children's Services, parents and the Border Agency

Natalie's UK Border Agency file indicates that Children's Services did not inform Natalie when her daughter, Gemma, disclosed that she was being abused by her carer. In addition, there is no evidence on the file that Children's Services informed the Border Agency about Gemma's situation, despite Natalie's prolonged detention and the relevance of the situation to a bail hearing which was to take place the following week.

Natalie's file indicates that Children's Services did not have any contact with her daughter, Gemma, during her detention until she had been held for 569 days. Gemma was 13 when her mother was detained. She was in the care of Natalie's stepmother, who had been very involved in her care since she was a baby. The stepmother had previously wrongly informed Children's Services that both of Gemma's parents were living overseas and obtained a residence order for her. She refused to allow Gemma to see or speak to her mother after she had been detained for seven months. One week before Natalie's release Gemma disclosed to her school and then Children's Services that she was being abused by her carer. Natalie explained that she was not informed of this by Children's Services and only discovered what was happening after her release, and that:

'She was still [with her foster carer] when I came out. Before that she run away. I don't know where to find her. Police couldn't find her. Until they [looked in] her friend's house. When I came out I went and took her away.'

Over two months after Natalie's release on bail, Children's Services wrote to Natalie's solicitor explaining that:

'A referral was received on [date] from XXXX High School. A friend of Gemma's saw she was crying when she called for her in the morning to go to school. Gemma informed her that she had been hit by [her foster carer]. Gemma was also punched in the neck and back and previously had been hit with a shoe heel which Gemma confirmed.'

Gemma was seen at school by a Social Worker on [date], who found Gemma to be a quiet, withdrawn child. Gemma expressed her unhappiness at home as [her foster carer] treats her differently to her own son. Gemma was tidying up the living room when [her foster carer] came from behind and punched her in the neck and back telling her that she hadn't done the sofa properly. There were no marks or injuries on the body. Gemma also reported that she is frequently criticised for no reason. Gemma reports persistent verbal and emotional abuse.'

There is no evidence to suggest any reason why Gemma could not return to the care of her mother Natalie Jennings. If it were not possible for Gemma to return to her mother's care, then an attempt would be made to identify and assess other suitable family members who would be able to provide long term care for Gemma.'

By this point, Natalie had already collected Gemma from her foster carer's home.

Assessments of parenting capacity

In two of the 12 cases in the qualitative sample, those of Natalie and Michael, Children's Services stated that there would be obstacles to the parent being reunited with their children on release from detention. In both cases, Children's Services said that parenting capacity assessments were needed. However, in both cases, these assessments never took place after the parent was released. Natalie was reunited with her older child after being released on bail, and was only prevented from living with her younger child, who she saw very regularly, by her accommodation situation. In the months following his release, Michael visited his children several times and spoke to them on the phone daily.

Natalie

Seven months into Natalie's detention, Children's Services produced an unsigned statement regarding her son Oliver, who was eight when she was detained. This stated that:

'Oliver has come a long way in his educational development and has improved considerably since living with [his foster carer]. This is in contrast to when Oliver was being nurtured by his birth mother... For Oliver's age, he had a delay in speech. It appears this was related to poor stimulation/interaction from his mother... Social Services would be concerned for Oliver to be placed back in the care of his birth mother, as there is evidence to confirm that he experienced neglect issues and poor parenting when he lived with her.'

There is no evidence in Natalie's UK Border Agency file to support the claims made here that Oliver was neglected by his mother and that his speech impediment was a result of poor stimulation from her. None of the subsequent statements from Children's Services in Natalie's file mention neglect. Oliver has special needs and had a throat operation during his mother's detention which partly addressed his speech impediment.

10 months into Natalie's detention, a children's charity support worker wrote a letter in support of a bail application by Natalie which said that she had been in contact with Oliver's social worker who informed her that:

'If Natalie is successful in her bail application, Children's Services would not have a problem about Natalie residing at the same address as Oliver... Children's Services perceived there to be no major issues or barriers against working towards Natalie becoming the primary carer of Oliver in the future and this is what they would envisage happening if she is not deported.'

A further letter from this support worker 17 months into Natalie's detention stated:

'On [date], I had a conversation with [Oliver's social worker's] manager. She said that if Natalie is released on bail, once Children's Services have established that Natalie's desire is to resume the care of Oliver, they would be encouraging her to do so.'

18 months into Natalie's detention, Children's Services visited her. They then informed her support worker that Children's Services needed to carry out two assessments, to establish whether Natalie had learning difficulties and to assess her parenting capacity. A letter from the support worker states:

'[The social worker] explained that these assessments would enable Social Services to assess Natalie's needs and to determine if any additional support needs to be put in place around her parenting of Oliver. She said she could not comment on Natalie's parenting skills until these assessments have been completed and that the parenting assessment, in particular, would require Natalie to be in the community.'

However, over two months after her detention, Children's Services wrote to Natalie's legal representative stating that an assessment was not required:

'We confirm that as [Oliver is living in] a private fostering arrangement made by your client, she can collect Oliver from [the foster carers] whenever she wishes.'

Natalie was unable to collect her child as she was living in shared accommodation for single adults provided by the UK Border Agency, and was not allowed to bring her children there.

As well as stating that Natalie had neglected Oliver, the unsigned statement which was produced by Children's Services seven months into Natalie's detention addressed the issue of Oliver's wishes and feelings, and stated that:

'[His foster carer] stated that Oliver is aware of the previous Social Workers visiting the family home and was worried that he will be taken away... Oliver portrayed happiness and said that he wanted to stay with [his foster carer]. When I asked him what he would like to be different in the home, he replied he doesn't know. On asking if he has any worries or concerns he replied "no." He also said that he would like to continue to live here, when asked where he would like to live in the future. He didn't know if there was anyone he would like me to contact for him. He said that he feels well in his self. These are Oliver's wishes and feelings that he spoke to me about on [date]... He has expressed that if his mother was to be released from detention he would only want to stay with her on the weekends.'

It appears that Oliver was not asked directly about his feelings about being separated from his mother as part of this assessment. It would seem likely that Oliver's statements about his wish to stay with his foster carer were informed by his fears that he would be taken away from her and placed in a third care arrangement.

A children's charity support worker visited Oliver during his mother's detention and reported that:

'[Oliver] told me he thought his mum would be coming out of detention very soon. When he visited Natalie he felt very sad when he had to go. Oliver told me he wanted his mum back and wants her to come and live there with them all the time. [Oliver's foster carer] said he is clearly holding on to the hope that he will be reunited with his mum soon and his expectations are very high. She also spoke to me about her concerns regarding Oliver's learning difficulties and how she feels separation from his mum makes him additionally vulnerable.'

It is greatly concerning to see that, seven months into her detention, Children's Services produced an assessment raising obstacles to Natalie being reunited with her son, and yet subsequently raised no objections to the family being reunited and did not carry out the planned assessment after her release. This initial assessment informed the UK Border Agency's decision to continue to detain Natalie for a considerable period, and their decision to separate the family by deporting Natalie without her children. Natalie's UK Border Agency file indicates that Children's Services did not take any proactive steps to correct the information they had provided to the Border Agency, and only provided limited information in response to inquiries from BID, Natalie's charity support worker and the Border Agency. No subsequent assessment was carried out of Oliver's situation, and there is no evidence on the file that Children's Services raised any concerns about the effect on Oliver of his mother's detention for a period of 576 days.

Michael

In Michael's case, Children's Services advised the Border Agency that they had concerns about Michael's parenting as a result of previous domestic violence against his partner. Over a month into Michael's detention, a note from Michael's Border Agency caseowner in his Border Agency file states that Children's Services shared the following information with him:

'There is no current involvement. [Children's Services] previous involvement was due to Domestic Violence concerns which resulted in an initial assessment being completed by their department in [date – over two years previously]. It was believed that Michael would... be deported at the end of his sentence. They had no welfare concerns regarding the children.'

In a subsequent letter to the Border Agency, Children's Services stated that:

'If Michael Taylor was not deported and was released into the community and resumes his relationship with [his partner]...an assessment would have to be undertaken by XXXX Child Protection Team.'

Michael was released after being detained for 624 days, and was housed in UK Border Agency accommodation. He visited his partner and children for weekends several times and stayed with them for an extended period over Christmas. However, Children's Services did not carry out any assessment of Michael's parenting capacity or the children's situation. It is not clear whether Children's Services were informed that Michael had been released by the Border Agency or his probation officer. It is concerning to see that, again, Children's Services stated that a parenting capacity assessment was needed during detention but this was not carried out after the parent was released. There is no evidence in his UK Border Agency file that Children's Services assessed how Michael's detention affected his children. Over three months after his release, Michael's probation officer provided BID with a letter in which she stated that she would 'fully support' Michael moving back in with his partner and children.

4

Deporting or removing parents - with or without their children

In 15 out of 111 cases in the larger quantitative sample, parents were removed or deported from the UK without their children at the end of their detention.³⁹ In all 111 cases, the Border Agency detained parents with a view to deporting or removing them with or without their children. However, in the majority of cases, this was prevented by legal action.⁴⁰

Section 4.1 sets out some information about how a parent's deportation or removal would have affected families in the qualitative sample of 12 families and small quantitative sample of 27 families. Many of the children who participated in this research were born and grew up in the UK. If their parent were to be removed or deported, they would face the impossible choice of being separated from that parent or leaving behind their family and life in the UK.

Section 4.2 examines the 15 cases in which parents were removed or deported without their children, and section 4.3 details a case where the Border Agency planned to reunite a family at the airport for deportation.

Section 4.4 shows that, in the majority of the 27 cases in the small quantitative sample, the Border Agency did not take steps to ascertain parents or children's views about what should happen to children if parents were removed from the UK. In addition, there were considerable delays in the Border Agency contacting Children's Services in these cases.

Section 4.5 considers three cases in which key documents relating to deportation decisions were included in parents' full UK Border Agency files. In all three cases, these documents show that proper consideration was not given to children's welfare when decisions were made to deport parents. Finally, section 4.6 looks at the advice provided to the Border Agency by Children's Services on the deportation of parents.

4.1 Effect on children of parents' deportation

The distress experienced by children during their parents' detention, and the inadequacy of the care arrangements which some children were in, are set out in section 2 of this report. While it is beyond the scope of this research to consider in detail how children are affected by their parents' deportation, children and parents in the qualitative sample of 12 families did in some cases describe how their family would be affected by the parent's deportation.

Max was 10 when his mother, Kayla, entered immigration detention. The extreme distress he experienced during this period is described in section 2. After Kayla was released on bail, a research interview was carried out with Max. He was asked about his hopes for the future and responded that:

³⁹ In one of these 15 cases, a mother was released on bail at the end of her detention, but was subsequently re-detained and re-contacted BID before being deported without her children.

⁴⁰ See section 5 for further information about the barriers which prevented parents' deportation and removal in the small quantitative sample of 27 families.

'Well, that I'm always with my mom. And we have a nice big house, and stuff like that, and um like I would never imagine her being away and stuff, so she'll always be with me so I don't need to worry.'

After this interview took place, Kayla was arrested while pregnant with her third child and deported without her husband and two children. Before her deportation, Kayla told researchers that it would ruin both her and her children's lives:

'You wanted to remove me again from my kids, what you want me to end up dead? My kids to grow up not knowing their mother, so they will grow up and have hatred. Because sometimes when you grew without a mother or without love, you don't know what love is, so you ain't going to give love back. And that make your life dark, you understand?'

Matthew, who was 16 when his mother was detained, expressed his fears about the effect his mother's deportation would have on him and his brother in a witness statement:

'If I wasn't to see my mom again my life would turn upside down because I wouldn't know what to do. My brother would grow up thinking he hasn't got a mom. He would see his baby pictures with his mom and would be wondering what had happen and probably blame it on himself.'

In a subsequent research interview after his mother's release, Matthew said that if his mother was deported, he might go down 'another path'; he had previously described getting into 'bad crowds' during her detention:

'Even though I'm 18 I think, if I didn't have her, I think I might go down another path again. And I'm scared that might happen. She actually keeps me straight and on the right path, and without her I think I would just stray again.'

Parents repeatedly stated that if they were allowed to stay in the UK, they would work to make a better future for their children. Richard said that if he was deported his relationship with his children would break down. Richard was involved in a family court case involving his eldest child from a previous relationship. The Court of Appeal described Richard as a 'caring and loving father' and his eldest child's mother as 'an irresponsible and selfish mother who puts her own interests and enjoyment above the needs and welfare of [her daughter]'. Richard said:

'If I got removed my relationship with my partner and my kids would definitely break down. I won't be able to watch them grow and be involved in their schooling and their activity in their daily life. My eldest daughter, I would not have any communication with her. If I'm here I can make a better future for them. I can get a job working and support them and give them a proper schooling.'

Fear of return

Three of the parents in our small quantitative sample of 27 cases were from Zimbabwe, one was Sri Lankan, and one was from the Occupied Palestinian Territories. Qualitative data were gathered on 12 of these 27 families. In six of these 12 cases, there was evidence from the parent's BID file or research interviews that parents feared for their safety if they were returned to their country of origin.

It is beyond the scope of this research to consider the quality of UK Border Agency decision-making on asylum claims. However, parents were strongly influenced by their perceptions of the determination process and the level of safety they thought they would enjoy if they were returned to their country of origin. Brief qualitative data on this matter are therefore set out below. Various pieces of research have found that the quality of UK Border Agency decision-making in asylum cases can be compromised by time limits, varying quality in asylum

interviewing practice and selective use of country of origin information.⁴¹ In 2012, 27% of appeals against UK Border Agency decisions on asylum cases in the First-Tier Tribunal were successful.⁴²

In two cases, mothers in the qualitative sample of 12 families reported that they became pregnant as a result of being raped in their country of origin. In one case, a mother reported that she was trafficked to the UK and forced to work as a prostitute.

The child of one parent who cited fear of return to her country of origin, also described his own fears about return:

'I don't really know anyone there anymore. I don't know the streets, people; because [my country of origin] is quite dangerous. I've seen stuff I shouldn't have seen. And I don't want to go back. So it'd be hard to going back there without no-one there that I know.'

A father in the sample was involved in a protest during elections in Zimbabwe. An independent psychiatric report on his file recorded our client's account that:

'[The authorities] took people that were involved and beat them...one of his friends was paralysed as a result. His mother became concerned and took him to a friend's house where she decided to send him to the UK, to escape.'

In another case, a mother said in a witness statement:

'I came [to the UK] to escape violent gangs who wanted to kill me after I had been to the police when I witnessed a murder of a family friend... witness protection in [my country of origin] is very poor.'

Ties of children and parents to the UK

As Table 14 shows, the majority of children in the small quantitative sample of 27 families were British citizens. In a number of cases, they had a non-detained parent who was also a British citizen. On average, parents who were detained arrived in the UK nine and a half years before they entered immigration detention. As can be seen from Table 2 on page 28, 42 out of 53 of the children in this sample were 10 years old or less when their parent was detained. Many of these children will therefore have been born and grown up in the UK. In some cases, children did not have any leave to enter or remain in the UK despite having been born in this country or lived here for several years.

Many of the children who participated in this study had never been to their parent's country of origin, did not speak the language and did not know anybody there. In some cases, young children had been separated from their parent by a prison sentence and immigration detention for periods of years. During this time, they had often formed close bonds with relatives and friends in the UK who were caring for them.

⁴¹ See for example: Immigration Advisory Service 2010 *The Refugee Roulette: The role of country information in refugee status determination* and United Nations High Commissioner for Refugees 2006 *Quality Initiative Project: Third Report*

⁴² Home Office 2012 *Asylum part 2: appeals, unaccompanied asylum-seeking children, age disputes and dependants* <http://bit.ly/WLIAIP> (accessed 15/03/13)

Table 14: Immigration status of children (small quantitative sample)

Immigration status of children during their parent's detention	Number of children
No leave to enter or leave to remain in the UK	12
Application pending	5
Indefinite Leave to Remain	1
British	30
European Economic Area National	2
Unknown	3
Total	53

Table 15: Number of years between parent arriving in the UK and date their most recent period in immigration detention began

Number of years between parent arriving in the UK and their most recent detention ⁴³	Number of cases
0-2 years	1
3-4 years	1
5-6 years	3
7-8 years	1
9-10 years	8
11-12 years	7
13-14 years	1
15-16 years	2
17-18 years	2
Unknown	1
Total	27

A number of the parents in this study were children themselves when they entered the UK. For example, Dennis was 12 when he came to the UK from Zimbabwe with his mother.

⁴³ In a small number of cases parents had spent periods outside the UK since arriving here.

In some cases, there were very serious delays in the Border Agency deciding parent's claims. For example, Natalie made a Human Rights claim and subsequently reported to the Border Agency every month for the next seven years. She did not have the right to work and could not claim any state support while awaiting a decision. She was then convicted of a criminal offence, which she said that she committed in order to pay for her son's school dinners.

Children's ties to the UK

Children and parents in the qualitative sample of 12 families described the ties which children had to the UK.

Simone's partner, who has leave to remain in the UK, looked after their son Ray during her prison sentence and detention. Ray was less than one year old when Simone was arrested and nearly four by the time she was released from immigration detention. He is a British citizen. The Border Agency planned to deport Simone with her two sons, and argued that her partner could leave the UK with her if he chose. However, Simone's partner has a young daughter from a previous relationship who is resident in the UK, who he would be separated from if he left the UK. Simone explained that she did not think Ray should be separated from her or her partner:

'My partner's saying he's not sending back Ray to [my country of origin]. And I can't leave [my son]. That's what I said to the judge: "It's either- you're going to cut him in half." That's his child. And they can't blame me for not leaving [my son].'

Simone's older son, Matthew, explained that he has grown up in the UK:

'I came here from the age of like eight, nine. Now I'm 18. I have all friends, school, and stuff like that... and my brother is born here as well. So I think it would be quite selfish to just take away the family life that we have in this country.'

Similarly, Liam, who was 17 when his mother was detained, described the strength of his links to the UK:

'You just make a lot of connections in your life. I started living here since I was about 12/13, and I think that's like when you grow. You can't just leave a person, who has lived here for that long through no fault of your own, and I did my studies here, my GCSEs; I did A-levels, it would just be a complete waste. I just find it absurd. It doesn't really make sense, that I got a deportation order.'

James, who was 17 when his mother was detained, explained he has grown up here and has a strong emotional bond with his uncle in the UK:

'We've grown up here. 11 years now. They're the only family I got literally, you get me? Really, close, you know what I'm saying. I've got [my mum], my sister and my uncle. That really it though. So for me it would just practically ruin my life, like.'

Richard's three children, who were all British citizens, were aged one, four and nine when he was detained. He explained that their extended family were all here:

'Their friends, their family, cousins, sisters, aunty, uncle, grandparents, everybody is here. So for me- for me to take them go to [my country of origin] they'd be going somewhere that they don't know.'

Sonia, who cared for her sister's four young children for much of her detention, said that it would have been very difficult for them to cope with being deported, particularly after having been separated from their parents by detention:

'It has taken enormous effort to end the nightmares, the behavioural problems, fear and separation anxiety. You now have three children that are special needs in school in England. Can you imagine what they would be in [their country of origin]?' Having to cope with a different country, different language, different food, you know, a different way of thinking.'

David⁴⁴, aged 10, wrote this letter to an immigration judge explaining that he came to the UK when he was 11 months old:

My name is [REDACTED]

I don't know what my mum has done but I hear my non was talking about it I am ten years old, I came in the country when I was 11 months old If I leave my life won't be the same, And I am asking please help my mum to come out. I miss her so much so please.

David, 10 years old

Difficulties with subsisting and accessing education in country of origin

In a number of cases, parents reported that they were concerned that they would not be able to subsist on return to their country of origin, and that their children's educational needs would not be met.

Sonia, who cared for her sister's four children during their parents' detention, said that the family would have become homeless if they were deported:

'They would literally have been destitute and homeless, for the simple reason that their mother never had a home there anyway. I mean my sister came in here when she was very young. Our father had died, and my mother lived in this country.'

Christine's son Daniel has severe disabilities which are described on page 34. Christine explained that she was concerned that he would experience discrimination in her country of origin:

'All the time he is here [at] the disabled school. I go to [my country of origin] and then maybe, I don't know. Discrimination.'

As is set out on page 105, Daniel's grandfather also expressed concerns that the family would be homeless on return, and Daniel would not be able to access the medical care and support which he needs.

⁴⁴ David's family was not in the qualitative sample of 12 families but in the larger quantitative sample of 111 families.

4.2 Cases where parents were removed or deported without their children

15 of the 111 parents in the large quantitative sample were removed or deported from the UK without their children at the end of their detention.⁴⁵

The following sections provide information about these cases. The cases of two single fathers who were deported without their children are outlined on pages 90 and 91. Where parents had committed criminal offences, these are detailed on pages 92 and 93. Only two of the 15 parents who were removed from the UK had committed violent offences, and in 10 cases parents were sentenced to less than two years in prison. The consideration which was given to child welfare in the Monthly Progress Reports and bail summaries which were in the parents' BID files is outlined on pages 93 and 94.

It is beyond the scope of this research to systematically examine the Border Agency's decisions to deport or remove parents, and in many cases key documents relating to deportation decisions were not contained in parents' BID files. However, it is troubling to note that in a considerable number of cases, Monthly Progress Reports and bail summaries did not include any consideration of child welfare. In five out of eight cases where bail summaries were available there was no evidence that the Border Agency had contacted Children's Services. Where child welfare was mentioned, the information gathered and the consideration given to it was often wholly inadequate. For example, in one case a bail summary stated that a mother's two sons were 'content to remain in the UK under their father and stepfather's care' without providing any information to support this assertion, and despite considerable evidence of their extreme distress at their separation from their mother.

In one of the 15 cases where parents were removed without their children, the parent was not given any notice of his removal and therefore did not have the opportunity to take emergency legal action to prevent it. Chapter 60.2.1 of the UK Border Agency's Enforcement Instructions and Guidance explains that individuals must be given a minimum of 72 hours' notice of their removal, so that they have the opportunity to access the courts:

*'When you give notice of removal to an individual subject to administrative removal or deportation, you must ensure that they have had adequate opportunity to access the courts. Unless an exception applies ... a minimum of 72 hours must be allowed between giving notice of removal and the removal itself.'*⁴⁶

A Monthly Progress Report in the file of the parent who was removed without notice suggests that the Border Agency planned to deport his wife and children with him, stating that:

'It is considered expedient to issue notices of liability of deportation to your wife and children.'

However, the month after this report was written this parent was taken from his detention centre and put on a flight to his country of origin. He and his partner were only informed that this would happen on the day of his deportation. One month after this parent's deportation, the Border Agency wrote to BID confirming that he was not given notice of his removal as a result of 'administrative errors.'

⁴⁵ In one case, a mother was released on bail at the end of her detention, but was subsequently re-detained and re-contacted BID before being deported without her children.

⁴⁶ UK Border Agency 2013 *Enforcement Instructions and Guidance* Chapter 60 <http://bit.ly/Y9hF8c> (accessed 13/3/13)

Profile of families where parents were removed without children

13 of the 15 cases where parents were removed from the UK without their children involved fathers and two concerned mothers. One of the mothers was three months pregnant with her third child when she was deported without her husband and two children aged 10 and 18.

Four of these 15 parents were Nigerian, three were Jamaican, two were Chinese and two were Vietnamese. The remaining parents were from the Democratic Republic of Congo, Angola, Pakistan and Sri Lanka.

Between them, these 15 parents had 22 children aged under 18 who were living in the UK.⁴⁷ In 13 out of 15 cases, the children in these families remained in the UK in the care of their other parent. In two cases, the deported parents were single fathers and their children were left in foster care.

As can be seen from Table 16, 10 of these 22 children were British citizens or European Economic Area Nationals. In seven cases, children did not have any form of leave to remain in the UK, despite in a number of cases having been born in the UK or having lived here for most of their lives.

Table 16: Immigration status of children whose parents were removed or deported

Immigration Status	Number of children
British	9
European Economic Area National	1
No leave to enter or leave to remain in the UK	7
Unknown	5
Total	22

Deportation of single parents without their children

The cases of Paul and Jacob, single fathers who were deported from the UK without their children, are summarised below. Paul's children were left with his ex-girlfriend when he was deported by the UK Border Agency, and Jacob's child was left in local authority care.

Paul

Paul was deported from the UK without his two sons, aged 12 and nine, who were left in the care of his ex-girlfriend. The UK Border Agency did not investigate the children's care arrangement before deporting their father.

Paul arrived in the UK nine years before his deportation and claimed asylum. His children remained in his country of origin with their mother, who subsequently abandoned them. Paul arranged for his children to travel to the UK with a people smuggler to join him. After living in the UK for seven years without having the right to work legally, or becoming fluent in English, Paul was convicted of an offence related to cannabis production. The judge described Paul as being part of a criminal organisation where 'the people who make most of the profit use people like you to do the work and take the punishment when caught.'

⁴⁷ Two of these 15 parents also had one child each who was aged over 18.

After completing his criminal sentence, Paul was held in immigration detention for over a year before being deported. During his detention, his two sons wrote letters in support of an application for him to be released on bail. Dominic, aged 12, said:

Dear Sir/Madam,

It has been 2 years since my Dad was away. We really miss him. On Fatherday, we made cards but he wasn't there to see. Mom said Dad is going come back soon and we keep waiting every day.

Dominic, 12 years old

The Border Agency was aware of Paul's children, who were living with his then girlfriend. The agency did not consider the children's welfare in Paul's 'Notice of Decision to make a Deportation Order', or any of the Monthly Progress Reports or bail summaries on his BID file, beyond noting that Paul had provided limited information about them. The agency never made any inquiries to the children's carer about them, and deported Paul without taking any effective steps to investigate the children's care arrangement or the impact which his deportation would have on their welfare.

Jacob

Over three years after he entered the UK, Jacob was convicted of cultivating cannabis. At this stage, his daughter Emily was just two months old.

During Jacob's time in prison, Emily's mother abandoned her and she entered local authority care. Information provided by International Social Services indicates that Emily's mother may have been trafficked into forced prostitution.

After completing his prison sentence, Jacob was immediately detained under Immigration Act powers. He spoke very limited English and instructed a legal representative who, it later became clear, had carried out minimal work on his immigration case. However, he also pursued a family court case from detention to gain custody of his daughter so they could return to his country of origin together if he was deported. He was very worried that Emily would be given up for adoption in the UK. A 'Final Care Plan' produced by the local authority after Jacob had been detained for 20 months stated that 'the overall aim of the local authority is to reunite Emily with her father'

During Jacob's detention, the Family Court ordered that arrangements should be made for Jacob to see his daughter once a month. The local authority's Final Care Plan noted that:

'It is imperative for Emily to form a meaningful relationship with her father prior to any reunification in [his country of origin].'

A number of visits were arranged, but for a period of four months the Border Agency failed to organise transport and Jacob was unable to see his child. Emily's foster carer wrote to Jacob regularly, and after one visit she said that:

'Emily received the photos of her visit with daddy and we have put them into an album so that she can take them out with her and they will not get spoilt, she enjoys looking at them and showing them to her friends.'

In a witness statement, Jacob described the first time he saw Emily during his detention:

'I was very happy and emotional when I saw Emily. She was happy too. She enjoys our visits and calls me "papa."

In order to decide whether Emily should leave the UK with her father, the local authority needed to carry out a parenting capacity assessment of him. However, this could not take place because the Border Agency refused to release Jacob from detention. The Family Court ordered that checks should be carried out on Jacob's extended family in his country of origin to ascertain what Emily's situation would be if she were deported with her father. A great deal of money was spent by the local authority pursuing these checks, but they were never concluded as there was a breakdown in communication between the agency carrying out the checks and the government of Jacob's country of origin.

18 months into Jacob's detention, the Border Agency made a decision that the family could be separated and Jacob deported without his daughter. It is entirely unclear how the agency came to this conclusion, given that Jacob's family court proceedings were ongoing and two months later the local authority produced a care plan which stated that their aim was to reunite Emily with her father, pending further investigations. A note on Jacob's file 27 months into his detention stated that a judgment was awaited on his family court case, but the judge had indicated that he recognised Jacob as Emily's primary carer, but wanted Jacob to return to his country of origin to be settled before his daughter was sent. After being detained for over 28 months Jacob was deported without his daughter, who was by this time three years old. She remains in the UK.

Criminal Offences

In 14 cases, parents were deported or removed following convictions for criminal offences, and in one case a parent was removed after overstaying his visa. Table 17 sets out parents' criminal offences.

Table 17: Criminal offences of parents deported or removed without their children

Type of criminal offence	Number of cases
No criminal conviction	1
False documents	3
Other immigration offence	1
Fraud	1
Robbery	1
Producing/cultivating Class C drug	3
Possession of Class C drug with intent to supply	1
Violent offence	2
Other ⁴⁸	2
Total	15

⁴⁸ In one of these cases, the parent was convicted of assisting unlawful immigration; in the other, the parent was convicted of a series of numerous petty crimes including driving offences and possession of a class C drug, culminating in a six month sentence for a driving offence.

As can be seen from Table 18, in 10 of the 15 cases where parents were removed or deported without their children, parents were sentenced to less than two years in prison. In two cases, parents were removed after being given sentences of seven and eight months for immigration offences.

Table 18: Length of criminal sentences of parents deported or removed without their children

Length of criminal sentence	Number of cases
No criminal conviction	1
Less than 1 year	2
1 -2 years	7
2 – 3 years	3
3 – 4 years	1
Over 4 years	1
Total	15

Consideration of child welfare in Monthly Progress Reports

There were Monthly Progress Reports in parents' BID files in 12 of the 15 cases where parents were removed or deported without their children.⁴⁹ As can be seen from Table 19, in 11 out of 12 cases, Monthly Progress Reports failed to mention significant information about child welfare which was included in the parent's BID file.

Table 19: Consideration of child welfare in Monthly Progress Reports of parents deported or removed without their children

Question	Yes	No
Is there any consideration of child welfare in the Monthly Progress Reports? ⁵⁰	7	5
Is there evidence in the reports that the Border Agency considered information about how the parent's deportation or removal would affect their children?	6	6
Do the reports fail to mention significant information about child welfare which was included in the parent's BID file?	11	1

⁴⁹ In some of these cases, parents were removed or deported before BID had the opportunity to undertake detailed work on their cases, and only limited information is available in their BID files.

⁵⁰ In one of the five cases where there was no evidence of consideration of child welfare, parts of the Monthly Progress Report were missing from the copy of the document in the client's BID file.

In a number of cases, although no mention was made of child welfare in the parent’s Monthly Progress Reports, there was information in the parent’s BID file to suggest that their child will have been very seriously affected by their removal.

For example, in one case, a witness statement from a parent’s partner sets out the distress his two children were experiencing during his detention:

‘Since [date of father’s detention], a day has not passed without speaking to him on the phone and my children never stop asking him when next he will be coming around. [My daughter] often wakes up in the middle of the night crying and asking after her father.’

In those cases where child welfare was mentioned in Monthly Progress Reports, the information gathered and the consideration given to it was often wholly inadequate. Significant matters, such as children having severe special needs, were not acknowledged. In one case, a mother outside detention had serious health problems which meant she had difficulties standing and walking but this was not mentioned in her partner’s Monthly Progress Report. In another case, a father’s Monthly Progress Report stated that:

‘We have received confirmation that [your ex-partner] states that you do not support her or the children and do not live with her or the children.’

However, this client’s ex-partner reported to BID that although the couple had separated they were on good terms and she wanted him to continue to be involved in their children’s lives. In addition, she described the difficulties she was experiencing with childcare and money as a result of her ex-partner’s detention, and stated that:

‘[Our] six-year old daughter is always asking when [her father] will be back and [she] misses him a lot.’

Consideration of child welfare in bail summaries

There were bail summaries in the BID files of eight of the 15 parents who were removed or deported without their children. As Table 20 shows, in six out of eight cases, the summaries failed to mention significant information about child welfare which was included in the parent’s BID file. It is particularly concerning to see that in five cases there was no evidence that the Border Agency had contacted Children’s Services.

Table 20: Consideration of child welfare in bail summaries of parents deported or removed without their children

Question	Yes	No
Do the bail summaries fail to mention significant information about child welfare which was included in the parent’s BID file?	6	2
Any evidence that the Border Agency contacted Children’s Services?	3	5
Any evidence that Children’s Services assessed the effect that the parent’s deportation or removal would have on the child?	1	7

In a number of cases where bail summaries consider the impact of parents’ deportation on the children, problematic reasoning is used. For example, Kayla’s bail summaries state that her children are ‘content to remain in the UK under their father and stepfather’s care.’ The Border Agency does not offer any evidence to support this assertion, and indeed it is contradicted by reports from Children’s Services and Targeted Mental Health Services who were supporting Kayla’s younger child as a result of his extreme distress at being separated from his mother, as is detailed in section 2.

There is evidence that the Border Agency contacted Children's Services in three of the eight cases in Table 20. However, in two of these cases the bail summaries do not suggest that Children's Services made any assessment of how their parent's deportation would affect the children. In one of these cases, the bail summary states that the Border Agency contacted Children's Services but does not mention any reply being received.

4.3 Reuniting families at the airport

As is explained above, only 15 out of 111 parents in the larger quantitative sample were removed from the UK without their children at the end of their detention and no parents were removed with their children.

It was not possible to obtain data on how many of these 111 parents the Border Agency intended to remove with their children. However, in one of the 12 cases in the qualitative sample where family members were interviewed, that of Faith, the Border Agency attempted to deport a parent with her partner and children.

The bail summaries in Faith's BID file record that, three months into her detention, the UK Border Agency wrote to Faith, her partner who was detained with her and her sister informing them that they intended to remove the parents and children on a flight a week later. The agency requested that Faith's sister 'supply' the children to a UK Border Agency reporting centre on the day of the flight. Two days before the flight, a number of unsuccessful attempts were made by the caseowner to contact the parents and aunt to confirm the Border Agency's plans. A bail summary states that the UK Border Agency made a decision to cancel the removal as:

'there was not sufficient confidence that the children would be taken to [the reporting centre] on time or at all, or that if there was a problem there were sufficient safeguards to ensure that they were safely returned to the care of their aunt.'

This summary states that a further removal attempt, over a month later, was cancelled due to 'uncertainty regarding the arrangements for the aunt to present the children to the UK Border Agency'. However, it appears from Faith's BID file that this removal was actually cancelled as the result of a judicial review application by Faith and her partner.

The summary also considers the question of how the children would be affected by being reunited with their parents during a removal attempt, and states that:

'Advice has been sought from the Office of the Children's Champion on this issue, and they have recommended that the family should be temporarily reunited shortly before removal, in order that the children can re-establish their relationship with their parents before removal. To this end, it has been suggested that we move the entire family to Yarl's Wood IRC at for a minimal time only, perhaps on the scheduled date of removal... it was intended that the four children would be reunited with their parents [at a reporting centre], or at Heathrow Airport, before the family boarded the aircraft.'

One of the children in this family was one year old when his mother went to prison, and had been separated from her for two years and five months. The eldest child is a British citizen. It is extremely concerning to see that the Border Agency thought it would be appropriate to reunite these children with their parents for a few hours to 're-establish their relationship' during the course of their deportation.

4.4 Inquiries made by the Border Agency to safeguard children

'They said [the UK Border Agency] Children's Champion gave them permission to separate me from my kids, which Children's Champion has never come and visit my home. They've never contacted my partner. They've never contacted the school. They've never contacted me about separating me from the kids. My lawyer, nobody knows about it yet still they give them permission without knowing what's going on.'

(Richard)

For the small quantitative sample of 27 families, data were gathered on whether the Border Agency contacted children, parents or Children's Services to ascertain where children's best interests lay before making a decision to detain a parent for removal with or without their children. As is set out below, in the overwhelming majority of cases the Border Agency did not contact children or parents to ascertain their views about the parent's removal. There were also serious delays in the agency contacting Children's Services.

For 12 of these 27 families, who were in the qualitative research sample, data were also gathered on referrals to the Office of the Children's Champion. The Office of the Children's Champion is a department in the UK Border Agency which has responsibility for promoting the duty to safeguard and promote the welfare of children within the agency.⁵¹ Chapter 45.9 of the agency's Enforcement Instructions and Guidance states that before separating a family by removing a parent without a child, caseowners must seek advice from the Office of the Children's Champion.⁵² However, as is set out in section 3.2, in four of the 12 cases in the qualitative sample, there was no evidence in the parent's BID file that their Border Agency caseowner had contacted the Children's Champion when making a decision to remove or deport the parent. In three of these four cases, the agency planned to remove the parent without their children. In addition, in a further case, the caseowner sought advice from the Children's Champion *after* serving a parent with a deportation decision.

Inquiries to parents

Table 21 presents data from the small quantitative sample of 27 cases. It shows that parents were only asked for their views about what should happen to their children if they were deported or removed in two out of 25 cases where these data were obtained.

Table 21: Inquiries from the UK Border Agency to parents before and during their detention

Has the UK Border Agency asked the parent in detention for their views on what should happen to their children if they are removed from the UK?	Number of cases
Yes	2
No	23
Unknown	2
Total	27

⁵¹ For further information about the Office of the Children's Champion see: <http://www.ukba.homeoffice.gov.uk/aboutus/organisation/childrens-champion/>

⁵² UK Border Agency 2013 *Enforcement Instructions and Guidance* Chapter 45 <http://bit.ly/YnePvo> (accessed 13/3/13)

The Border Agency sought the views of parents in detention in two cases. In the first of these, they did so by writing a very brief letter to the parent after she had been in detention for over five months, which stated:

'As you are aware both yourself and your son are subject to deportation action. It is proposed that your son will be removed with you. I write to enquire if you are content for the UK Border Agency to continue to make arrangements to facilitate your joint removal from the United Kingdom. You should advise the UK Border Agency, in writing that you are content for these arrangements to be made.'

This letter does not request any information about the child's situation, wishes or feelings. Factors which would be relevant to a best interests assessment, and which the UK Border Agency could have usefully requested information about in this letter, include: the current care arrangements for the child; his ties to his carers and other friends and family members in the UK; his education and health situation; whether he has any knowledge of or contacts in the parent's country of origin; and what arrangements would be in place for the child's care in the parent's country of origin.

In the second case where the UK Border Agency made enquires to a parent, her full UK Border Agency file was obtained via Subject Access Request. A detention review which took place 11 months after the parent, Natalie, was detained noted that:

'As I mentioned above I wrote to Natalie Jennings regarding her intentions concerning her children but to date I have not received the courtesy of a reply.'

The file did not contain a copy of the letter which was sent to this parent. However, in a research interview, Natalie said that during her detention the UK Border Agency had made inquiries to her about the whereabouts of her children in order to detain them:

'They call me and said can I tell them the whereabouts of my children. And I said "why?" And they said because they want to put them in detention with me.'

A review of a draft deportation order for Natalie, which took place over a month after she was detained, suggested that the main purpose of the agency's inquiries was to enable deportation decisions to be served on the children:

'Further enquiries need to be made regarding [the children's nationality] and their addresses so that papers can be served.'

Shortly after the 11 month detention review which mentioned the Border Agency's inquiries to Natalie, Natalie's legal representatives sent the agency the grounds for her deportation appeal, which explained her children's situation.

Children's wishes and feelings

The UK Border Agency's statutory guidance on safeguarding and promoting the welfare of children states at paragraph 2.7:

*'Children should be consulted and the wishes and feelings of children taken into account wherever practicable when decisions affecting them are made, even though it will not always be possible to reach decisions with which the child will agree.'*⁵³

However, the Border Agency did not obtain information from children about their wishes and feelings in any of the 26 cases where these data were obtained, despite having detained their parent for the purpose of removal.

⁵³ UK Border Agency & Department for Children, Schools and Families 2009 *Every Child Matters; Change for Children: Statutory guidance to the UK Border Agency on making arrangements to safeguard and promote the welfare of children*

Table 22: Inquiries from the UK Border Agency to children before or during parent’s detention

Did the UK Border Agency ask children for their views on what should happen to them if their parent was removed from the UK?	Number of cases
Yes	0
No	26
Unknown	1
Total	27

One of the children who participated in this research, James, was 17 when his mother was detained. In a research interview, when asked whether he thought the UK Border Agency took him into account when making decision to detain and deport his mother, he responded:

‘Took into account me? No, not at all. I still didn’t get a chance to voice how I feel and everything... I felt kind of powerless. I didn’t have input on what was happening, to help or to kinda have an impact in what was going on. During the [bail hearing] trial I was given the chance to speak and that made me feel good.’

Information gathering from Children’s Services

Table 23 shows that in seven of the 10 cases where these data are available, it took the UK Border Agency more than a year to contact Children’s Services to make inquiries about the children following the parent’s conviction.⁵⁴

Table 23: Length of time between parent’s conviction and date UK Border Agency contacted Children’s Services

Length of time between parent’s conviction and date UK Border Agency contacted Children’s Services	Number of cases
29 days - 3 months	1
3-6 months	1
6-12 months	1
1-2 years	6
4-5 years	1
Unknown	17
Total	27

⁵⁴ It is normal UK Border Agency practice not to begin work on a case until 18 months before a foreign national prisoner’s early release date. See for example UK Border Agency 2013 *Enforcement Instructions and Guidance* Chapter 11.3.1 <http://bit.ly/PrOflid> (accessed 14/03/13). However, this can in no way explain the extent of the delays shown in Table 23. In five of the seven cases where the Border Agency delayed contacting Children’s Services for over a year, the parents served less than 18 months in prison. In a further case, the parent served over 21 months in prison after her conviction, and yet the UK Border Agency did not contact Children’s Services until she had served 14 months of this sentence. Another parent served two years in prison and the Border Agency contacted Children’s Services 19 months into her sentence.

It is very troubling to see that in many of the cases where it was possible to obtain these data, there were long delays between a parent’s conviction and the UK Border Agency taking steps to contact Children’s Services to gather information about children’s situation.

4.5 Border Agency decision-making on deporting parents

It was possible to obtain full UK Border Agency files by Subject Access Request for five of the parents in the qualitative sample of 12 families. Border Agency ‘Notices of Decision to make a Deportation Order’ were present in three of these files. These notices were examined to ascertain how child welfare was considered by the agency. Table 24 shows that there was no evidence in these documents that the Border Agency considered children’s wishes and feelings when making a decision to deport their parents with or without them. Two of these parents, Natalie and Christine, have successfully appeal the Border Agency’s decision to deport them, and Nina’s immigration case was ongoing at the close of the data collection period.

Table 24: Consideration of child welfare in ‘Notices of Decision to make a Deportation Order’

Question	Yes	No
Any information about children’s wishes or feelings regarding the deportation decision?	0	3
Inaccurate information about child welfare?	1	2
Does the Border Agency fail to mention significant information about child welfare which was included in the parent’s BID file?	3	0
Evidence that the Border Agency considered how parent’s detention was affecting their children when making a deportation decision?	0	3

Natalie

10 months after she entered immigration detention, the UK Border Agency made a decision to deport Natalie without her children. The agency issued Natalie with a ‘Notice of Decision’ informing her of this. This notice explained that the decision was based on Children’s Services’ advice that the foster carer for Natalie’s older child had a residence order for her, and that Natalie had previously neglected her younger child, Oliver. The notice stated that:

‘It is the opinion of Social Services that they would be concerned for Oliver to be placed back with his birth mother as there is evidence to confirm that he experienced neglect issues and poor parenting when he lived with you.’

There is no information about the children’s wishes or feelings or the effect which Natalie’s detention was having on them in this notice. The profound distress and, in the case of the older child, abuse, which the children were experiencing during Natalie’s detention is described in section 2 (at pages 35 and 49). The problems with the advice provided by Children’s Services in this case are outlined in sections 3.4 and 3.6. A few weeks after this notice was issued, evidence was provided to the Border Agency that Children’s Services did not in fact object to Natalie resuming the care of her younger child, and setting out the impact which Natalie’s detention was having on him. However, the Border Agency did not review their decision to deport Natalie without her child.

The Border Agency's reviews of Natalie's detention suggest that, despite the extremely problematic care arrangements which the children were in, the UK Border Agency planned to go ahead with deporting Natalie from the UK once any legal barriers to this were overcome. For example, a review which took place 19 months into Natalie's detention states:

'Authority to split the family has been obtained so the only barrier to removal is her outstanding application for permission to appeal which should be decided shortly.'

Furthermore, despite the stated plan to split the family, the reviews also make it clear that the Border Agency were prepared to remove Natalie with her younger child despite not having any clear information about the impact this would have on his welfare, and whether he would be safeguarded. A review which took place 18 months into Natalie's detention states:

'The case owner will now liaise closely with Social Services to establish the intentions for Natalie Jennings' child who is currently being cared for by a family member. Social Services will either need to establish a more formal care arrangement and seek a care order, or we will need to look at removing the child alongside his mother.'

A review which took place 20 months into Natalie's detention notes that Children's Services were yet to reach a decision about what should happen to Oliver if Natalie was deported, and yet states that the Border Agency intended to continue with deportation if Natalie's appeal was unsuccessful:

'Social Services were to interview Natalie Jennings at Yarl's Wood to ascertain her views about her youngest child but although I have spoken to them no decision has yet been reached, concerning the child's future should Natalie Jennings be deported... Pending the outcome of the appeal removal remains a realistic prospect as an [emergency travel document] has been agreed.'

Shortly after this review, Natalie was released on bail by the Tribunal, despite the Border Agency's opposition to this. She appealed the Border Agency's decision to deport her and was granted leave to remain in the UK with her children.

Nina

In Nina's case, the 'Notice of Decision' she received regarding her deportation explained that the Border Agency intended to deport her with her two children. It noted the evidence she had given of the reasons she feared for her own and her children's safety on return to her country of origin. In the notice, the Border Agency questioned Nina's credibility and argued that her concerns could be addressed by seeking police protection or relocating to another part of her country of origin on her return.

The 'Notice of Decision' also noted the concerns she had raised about her children's ties to the UK, the impact deportation would have on their education and the family's ability to subsist. It notes Nina's extended family ties in her country of origin and states that:

'Your sons are considered young enough to adapt to life abroad with your support and that of your family. Your sons would also be able to adapt to the education system in [your country of origin] with the help of their previous teachers and other school children with whom they have previously gone to school with since it has not been very long since they left [their country of origin].'

At the point when this 'Notice of Decision' was issued, the children had been living in the UK for five years and six months. The notice ignores the fact that Nina's youngest son arrived in the UK when he was four and did not attend school in his country of origin. He therefore did not have previous schoolteachers or classmates to assist him with adapting to the education system.

As is outlined on page 79, an assessment by Children's Services during Nina's prison sentence noted the older child's wish to return to his mother's care. However, this is not mentioned in this 'Notice of Decision.' As is described in sections 2.1 and 2.4, Nina's sons Liam and Sam were very distressed by their lengthy separation from their mother and were not happy in their foster arrangement. Liam described how his 10 year old brother 'used to be really upset all of the time' during Nina's detention and cried in his sleep.

Christine

In Christine's case, no mention whatsoever is made of her children in the 'Notice of Decision' to deport her that was served on her by the UK Border Agency. Bail summaries which were produced three, four and five months into her detention all stated that:

'The appellant can be removed with her remaining children back to [her country of origin] so there will be no interference to family life.'

As is outlined on page 34, Christine's younger child, Daniel, who was seven when his mother was detained, has very severe special needs. Daniel had become increasingly physically violent and distressed during the course of his mother's detention, and the Local Safeguarding Children's Board concluded that he was at risk of emotional and physical harm.

A report produced by an independent social worker shortly after Christine's release outlined some of the difficulties Daniel would have faced if he had been deported:

'Daniel will have little memory of being anywhere except the United Kingdom and his communication difficulties will make it extremely difficult for him to appreciate the circumstances that might lead to a major change in his life.'

This report also noted that investigations into the cause of Daniel's disabilities were ongoing:

'This is a critical time in the assessment of Daniel with his mother now home it is important that she is involved in the discussion of his difficulties, as only she can explain his history to the doctors and to Child and Adult Mental Health Services.'

This independent social worker also noted that, in the event that the family were deported, it would be very important for Daniel to be reunited with his mother for a period before this:

'Daniel would need to have his mother with him for as much time as possible before the actual removal so that the trauma he would suffer would be minimised as much as possible. It would also be in his best interests for his carer to have time to collate all the possible medical, social work and educational materials...'

Christine's BID file also contained a witness statement from her older daughter, Beth, which outlined the difficulties which would be faced by Beth if she was deported:

'I didn't even know it was possible for something like this to happen to me. I know that because my mum had committed a crime the immigration authorities want to send her back to [our country of origin]. But they haven't asked me or my brother what we think about that. I haven't been to [my country of origin] since I was three years old. My friends, my school and my life is here in the UK. If the immigration authorities send her back I will be in an impossible position. I couldn't afford to go to school and I would be scared to live on my own [in the UK], but my life will be destroyed if I have to go to [my country of origin], my chance at completing my education will be over.'

It appears from Christine's 'Notice of Decision' that the Border Agency did not take account of the children's wishes and feelings, or the impact which deportation would have on them, when deciding to deport them. Nor does any consideration appear to have been given to how the children would be affected by being reunited with their mother during their deportation after having been separated for 20 months, or how Daniel's removal would be managed given his severe disabilities and behavioural problems.

After her release from detention, Christine successfully appealed the Border Agency's decision to deport her.

4.6 Advice from Children's Services on deportation or removal

BID files for the qualitative sample of 12 families were analysed to ascertain what advice was given to the Border Agency by Children's Services departments regarding the deportation or removal of parents. In five of these 12 cases it was possible to obtain parent's full UK Border Agency files by Subject Access Request, and these were also analysed.

Subject Access Requests were not made for full copies of children's local authority files, and there may well have been relevant information on these files which has not been accessed in this research. However, in the cases where full UK Border Agency files were obtained, the Border Agency ought to have disclosed all letters and assessments provided by Children's Services which would have been available to the agency when they made decisions to remove or deport parents.

In eight out of 12 cases, there was no evidence in parents' BID or UK Border Agency files that Children's Services provided the Border Agency with advice about the parent's deportation or the impact this would have on children. In three of these cases there was no evidence that Children's Services had any contact with the families during the parent's detention. In a further five cases, Children's Services did have contact with families but there was no evidence that they assessed the effect that the parent's deportation or removal would have.

In four cases, Children's Services departments provided advice to the Border Agency regarding a parent's deportation. However, there was no evidence in parents' files that Children's Services raised any concerns about the impact which this would have on the children, despite the extreme distress which some of the children in these families experienced during their parent's detention.

Cases where Children's Services did not provide advice

As is explained above, in five cases where Children's Services had involvement with families, there was no evidence in parents' files that Children's Services provided advice to the Border Agency on the parent's deportation.

In Kayla's case, Children's Services carried out an initial assessment of her 10 year old child Max, and concluded that 'the current situation where [Kayla] is not living in the family home has resulted in [Max] feeling unsafe.'

From the information available in Kayla's file, it appears that Children's Services did not explicitly comment on the impact which Kayla's deportation would have on Max or the fact that he did not have any immigration status despite having been born and grown up in the UK. Kayla was later deported without her husband and children. Her husband explained that Children's Services did not take any action in this case other than acknowledging Max's distress:

'I went to the doctors and explained to him about Max's behaviour. That's when the social worker get in. She came round and she have a chat with Max and left. She said "he's ok and it's understandable that he's behaving this way because his mum is away". But she didn't get back, you know.'

Faith's BID file indicates that Children's Services did not comment on the effect which deportation would have on her four children despite visiting the children and having repeated contact with the Border Agency during her detention. Faith's youngest child was one year old when she went to prison, and had been separated from Faith for two years and five months when the Border Agency planned to reunite the family at the airport for removal. Faith described her frustration about Children's Service's inaction:

'[Children's Services] don't do anything, because I remember, I called as much as possible. I want to know what legal rights my children have. They might not have had a British passport yet, but as a child born and raised in this country, what rights do they have? They couldn't answer that. They are afraid to produce anything that would make you be in stronger position against Home Office.'

Cases where Children's Services did provide advice

In four cases, those of Michael, Natalie, Nina and Christine, Children's Services provided advice to the Border Agency regarding the parent's deportation. In two cases, parents' UK Border Agency files indicate that Children's Services informed the agency that they had no concerns about situations in which children would be separated from their parents by deportation on the basis of wholly inadequate information. In one case, the evidence on the file indicates that Children's Services approved the deportation of children without assessing how this would affect them.

In all four cases, there was no evidence in parents' UK Border Agency files that Children's Services undertook any detailed assessment of the children's best interests in relation to their parent's deportation. Furthermore, there was no evidence that Children's Services investigated children's wishes and feelings about their parent's deportation, or properly assessed how this would affect the children. Children's Services were not pro-active in approaching the Border Agency about the deportation of parents, even where they had considerable involvement with a family. Indeed, in two cases, statements in parents' files indicated that Children's Services viewed their deportation as a fait accompli, and therefore did not consider advising the Border Agency about whether this action was in the children's best interests. Where Children's Services did provide advice, it was largely limited to considering whether children should leave the UK with their parents or not. It is worth noting that all 12 parents in the qualitative sample were eventually released on bail by the Tribunal, and in four cases parents had been granted leave to remain in the UK at the time of writing.

Nina

Nina's UK Border Agency file shows that the agency faxed Children's Services asking them:

'Do you think that these children should remain with their aunt and uncle, or return to [their country of origin] with their parents, should their parents be deported?'

Children's Services responded stating that:

'Social Services have no other concerns regarding this family, as it was felt that [the children's] aunt and uncle were viable carers.'

It is entirely unclear how Children's Services assessed these children's best interests and concluded that they should have no concerns about a situation where their parents were deported without them. As is outlined on page 79, an assessment by Children's Services over 20 months earlier during Nina's prison sentence outlined the older child's wish to return to his mother's care.

Six weeks before advising the Border Agency that the children's aunt and uncle were 'viable carers', Children's Services informed the agency that the children's cases had been closed 20 months earlier as the children had gone to live with their aunt and uncle. There is no evidence on the file that Children's Services had any contact with the children after this point.

As is described in sections 2.1 and 2.4, Nina's sons Liam and Sam were very distressed by their lengthy separation from their mother and were not happy in their foster arrangement. The older child described how his 10 year old brother 'used to be really upset all of the time' during Nina's detention and cried in his sleep.

Natalie

In Natalie's case, as is described in section 3.4, Children's Services produced an assessment seven months into her detention which made unevidenced claims that she had neglected her son Oliver, and said that they would be concerned for Oliver to be placed in Natalie's care. This assessment was contradicted by several subsequent statements which said that Children's Services were willing for Oliver to return to his mother's care. The assessment carried out seven months into Natalie's detention also stated that:

'Oliver has no knowledge of [his mother's country of origin] and would be disadvantaged should he be forced to go to [this country] with his mother. [His foster carer] has a strong and genuine attachment to Oliver and would be more than happy to maintain full care of Oliver.'

As is set out on page 81, Oliver's foster carer was in fact very concerned about the effect which his separation from his mother was having on him. It subsequently became very difficult for her to assist Natalie by caring for Oliver when her relationship with her partner broke down.

In a subsequent letter produced at the request of the Border Agency, Children's Services stated that:

'Children's Services would not recommend the deportation of Oliver to [his mother's country of origin] with his mother as he has never visited [this country]. This authority is unable to assess or comment on the quality of care which would be available to Oliver should he go to live there as no information about his mother's circumstances in [her country of origin] are known... To the best of this authority's knowledge there is no reason why Natalie Jennings could not resume the care of Oliver if she is not deported to [her country of origin].'

There is no evidence in Natalie's UK Border Agency file that Children's Services raised any concerns with the Border Agency about their plan to deport Natalie without Oliver, despite stating that they were not aware of any reason why Natalie should not be caring for her son.

As is outlined on page 80, during Natalie's detention, Children's Services suggested that there was a need for her parenting capacity to be assessed. However, there is no evidence in Natalie's UK Border Agency file that Children's Services recommended Natalie be released so this could take place, or suggested that the required assessment was a barrier to Natalie's deportation. Furthermore, there is no evidence in the file that Children's Services took any proactive steps to clarify whether or not Natalie had neglected her child. The file indicates that Children's Services only provided further information at the Border Agency's request. After Natalie's release, Children's Services said that no assessment of her parenting capacity was needed.

If an assessment of Natalie's parenting capacity was indeed needed, Children's Services ought to have made it clear to the Border Agency that this should have been carried out at an early stage so that Oliver's best interests could be properly considered before a decision was made about Natalie's deportation. If no assessment was needed, Children's Services ought to have made this clear at an early stage, and properly advised the Border Agency about how Oliver's best interests would be affected by Natalie's detention and deportation with or without him.

Additionally, there is no evidence in Natalie's UK Border Agency file that Children's Services raised any concerns about the Border Agency's plans to deport Natalie without her older child Gemma. As is outlined on page 49, Gemma was abused by her foster carer during her mother's detention.

Children's Services do not appear to have taken any steps to resolve Gemma or Oliver's immigration statuses or ascertain how they would be affected if they were deported with their mother. Natalie was later granted leave to remain in the UK with her children by the courts.

Christine

In Christine's case, Children's Services initially raised concerns about the impact which deportation would have on her children, but subsequently said that they had no objections to the children being deported with her.

A note in her UK Border Agency file from her Border Agency caseowner shows that, during Christine's prison sentence, her social worker expressed concerns about the children being deported:

'I have spoken with the caseworker at Social Services, she is concerned about the children going back to [their country of origin] as she stated that they now have nothing to return to.'

However, on the same day, the Border Agency wrote to Christine informing her of their decision to detain her under Immigration Act powers and stating:

'It has been agreed by Social Services that your children can return to [your country of origin] with you, pending the outcome of any appeals that are lodged.'

A Core Assessment Record produced by Children's Services two months into Christine's detention shows that their expectation was that Christine would be deported:

'Daniel's mother is currently being held in a detention centre and is expecting to be deported.'

In a research interview, Christine expressed her frustration that her social worker repeatedly told her father that Christine would be deported:

'Most of the time she made my father worry. My social worker give more pressure for my father because they tell "Christine 99% get deported. 100%. I can't help you no more."

Children's Services wrote to BID four months into Christine's detention confirming that they had no objection to the deportation of Christine and her children:

'[We] do not have any objection to Christine Peter's proposed deportation and feel that if this does happen that Daniel should return to his mother's care. Daniel has already experienced a significant separation from his mother which he is finding difficult to manage and him remaining in the United Kingdom if his mother is in [their country of origin] would be causing an unnecessary separation that would further impact on Daniel's emotional well-being.'

There are numerous records of assessments of Daniel by Children's Services in Christine's BID file.

However, there is no evidence that Children's Services made any attempt to ascertain Daniel's wishes and feelings regarding the Border Agency's plan to deport him with his mother before providing the agency with advice. A Core Assessment Record notes Daniel's grandfather's concerns, but there is no evidence that these were taken into account by Children's Services:

'[Daniel's grandfather] worries that if they have to return to [their country of origin] they will have nowhere to live and that Daniel will not get the same level of medical intervention and support and this will have a negative impact on Daniel.'

It appears that Daniel's best interests were only considered by Children's Services insofar as they acknowledged the profound distress which his mother's detention was causing him, and the likelihood that this would be worsened if his mother was deported without him. Beyond a sentence noting the grandfather's concerns, Children's Services do not appear to have considered how the family would subsist or the education and health services which would be

available to Daniel in his country of origin, whether his complex special needs would be met, and whether he would be able to adapt to a new linguistic environment. Nor is there any consideration of Daniel's ties to the UK, given that he has lived here since the age of two and was eight when this letter was written. There is also no evidence that Children's Services considered how deportation would affect Daniel's older sister, who had already had to drop out of school and missed her GCSE exams to care for her brother and ailing grandfather. Finally, Children's Services do not appear to have given any thought to how the children would be affected by suddenly being reunited with their mother at the airport for deportation, having been separated from her for a lengthy period. Nor does any thought appear to have been given to how Daniel would be affected by the experience of forced deportation given his severe disabilities including difficulties walking and possible autism.

After her release on bail, Christine successfully appealed the Border Agency's decision to deport her.

Michael

In Michael's case, Children's Services advised the Border Agency that they had concerns about Michael's parenting as a result of previous domestic violence against his partner. Over a month into Michael's detention, his Border Agency caseowner recorded that Children's Services advised him:

'There is no current involvement [with the family]. It was believed that Michael would...be deported at the end of his sentence. They had no welfare concerns regarding the children.'

In a subsequent letter, Children's Services advised the Border Agency that if Michael was released and resumed his relationship with his partner, they would have to carry out an assessment of the family's situation. There is no evidence in Michael's UK Border Agency file that Children's Services had any contact with the family during Michael's detention.

It appears that Children's Services advised the Border Agency that they had no welfare concerns for the children in the light of Michael's deportation without taking any steps to ascertain the children's wishes and feelings. Michael's partner Angela described the distress which the children experienced during his detention and separation from them, and this is set out in sections 2.1, 2.5 and 3.3.

As is noted on page 82, after Michael's release from detention, he stayed with his partner and children for the weekend several times and visited for an extended period over Christmas. However, Children's Services did not carry out any assessment of him or his children. It is not clear whether Children's Services were informed that Michael had been released by the Border Agency or Michael's probation officer. Over three months after his release, his probation officer provided BID with a letter in which she stated that she would 'fully support' Michael moving back in with his partner and children.

5

Barriers to removal during parents' detention

'They need to look at their facts before they just rip people away from their family and their kids. Especially, you're in detention, and you haven't served a deportation order. Why are you in there? Like, they don't care.'

(Simone)

'You shouldn't be in there a long period if they're going to release you eventually and they haven't got grounds to hold you there. Because that really makes life hard for the kids and whatnot.'

(Matthew, 17 years old)

Parents in this study were detained for long periods for the purpose of being deported or forcibly removed from the UK. However, data from the small quantitative sample of 27 parents shows that, in most cases, these parents were detained despite barriers to their removal from the UK which meant that it was not possible, lawful or in their children's best interests for them to be removed or deported. As Table 25 shows, in the majority of cases directions were never set for the removal of these parents during their detention. Table 26 shows that in 12 cases, parents could not be removed for periods during their detention as the UK Border Agency lacked the travel documentation which would be required to effect their removal. Tables 28 to 30 show that parents were often detained while lengthy processes relating to their deportation took place. Where it was possible to obtain full data about parents' legal situation, it was found that they had pending immigration or asylum applications for the overwhelming majority of their time in detention. Post-detention data were obtained in 15 cases; in 11 of these cases, parents' immigration or asylum cases were ongoing six months after their release, and in the remaining four cases, parents had been granted leave to remain in the UK by this point.

Table 25: Removal directions

Were removal directions ever set during the parent's detention?	Number of cases
Yes	7
No	18
Unknown	2
Total	27

In one of the seven cases detailed in Table 25 where removal directions were set by the UK Border Agency, these directions were set in error, as the UK Border Agency didn't realise that this parent had a pending appeal at this time which meant that it would have been unlawful to remove him from the UK.

In six of the seven cases where removal directions were set, the UK Border Agency planned to remove parents from the UK without their children. In five of these cases the children were in the care of another parent; in the sixth case, one child was with another parent and another child was in foster care. None of the seven sets of removal directions detailed in Table 25 led to a parent being deported or forcibly removed from the UK.

Travel documentation

It is not normal practice to forcibly remove someone from the UK without some form of travel documentation which will facilitate entry into the country they are being removed to. In some cases, organising travel documentation can be a lengthy process, as a number of embassies have long waiting times to produce this documentation, and may require evidence of nationality which is difficult to obtain.⁵⁵ Table 26 shows that in 12 of the 25 cases where these data were available, it was not possible to remove parents for periods during their immigration detention because they did not have valid travel or identity documents.

Table 26: Travel documentation

Was lack of travel documentation a barrier to removal during the parent's detention?	Number of cases
Yes	12
No	13
Unknown	2
Total	27

Deportation proceedings

The UK Border Agency was seeking to deport 26 of the 27 parents in this sample.⁵⁶ Tables 28 to 30 show that, often, deportation proceedings involved very lengthy processes, and in a number of cases parents were held in immigration detention while these procedures took place.⁵⁷ For example, Table 30 shows that in 9 of the 14 cases where it was possible to obtain these data, parents were served with deportation orders during their immigration detention, or after being released from detention on bail.

Such findings are of serious concern, as they show that in some cases parents were held in detention and separated from their children for considerable periods, despite there being no realistic prospect of deporting them from the UK imminently, as they had not yet been served with a deportation decision.

⁵⁵ Independent Chief Inspector of the UK Border Agency 2010 *Asylum: Getting the Balance Right? A thematic inspection: July-November 2009*

⁵⁶ One parent was detained for the purpose of removal from the UK rather than deportation.

⁵⁷ The Immigration Act 1971 and the UK Borders Act 2007 set out the basis on which the Home Secretary can order that someone be deported, on the grounds that their continued presence in the UK is not in the public interest. Under the Immigration Act 1971, the UK Border Agency is first required to give notice of the intention to make a deportation order. A person who receives a 'notice of intention to make a deportation order' can appeal this decision. If their appeal is unsuccessful or they do not appeal, a deportation order may be made. After a deportation order is made, the person can apply for the revocation of a deportation order, and appeal a refusal of such a request. However such an appeal may not be held in-country where, for example, the case is certified as clearly unfounded. In addition, the UK Borders Act 2007 provides that where a person is sentenced to a term of imprisonment of 12 months or more, or where they have accumulated sentences totalling 12 months over a period of 5 years, the Home Secretary is required to make a deportation order against them, unless certain exceptions apply in their particular case. Before serving them with a deportation order the UK Border Agency sends the person a written notice that they are liable to automatic deportation, and invites them to put forward any grounds for remaining in the UK before making a decision as to whether or not the exceptions to issuing a deportation order apply. If an automatic deportation order is made, this can be appealed.

Barriers to removal during parents' detention

Table 27: Length of time between parent's conviction and date UK Border Agency informed them they were liable to automatic deportation or served them with notice of their intention to make a deportation order

Length of time between parent's conviction and date UK Border Agency informed them they were liable to automatic deportation or served notice of their intention to make a deportation order	Number of cases
0-28 days	5
29 days - 3 months	6
3-6 months	2
6-9 months	3
9-12 months	1
1 year-18 months	3
Not applicable ⁵⁸	3
Unknown	4
Total	27

As can be seen from Table 27, in 13 of the 22 cases where it was possible to obtain these data, parents were informed that they were liable to deportation or served with notice of the UK Border Agency's intention to make a deportation order within six months of their conviction. In seven cases, there were sizeable delays between conviction and the UK Border Agency informing parents that they were liable to be deported or serving them with notice of their intention to make a deportation order.⁵⁹

Table 28 shows that parents were not served with deportation orders within six months of their conviction in any of the 12 cases where it was possible to obtain these data. It took between six months and five years for the UK Border Agency to serve these parents with deportation orders following their convictions. Five of the 12 parents for whom data were obtained were not served with deportation orders for over 18 months after their conviction.⁶⁰

⁵⁸ Three out of the 27 cases in this study have not been included in any of the tabulated data on deportation proceedings in this section. One of these parents did not fit the criteria for automatic deportation set out in the UK Borders Act 2007, but was detained under Immigration Act 2007 powers for the purpose of removal rather than deportation. In two further cases, parents committed criminal offences and were served with deportation orders, left the UK, and then re-entered the country in contravention of their deportation orders (which remain in force unless and until revoked by the Secretary of State). These two parents were then re-detained pending removal. They were, therefore, not served with new deportation orders during their most recent periods in detention during which data were gathered for this study.

⁵⁹ In one of these seven cases, this delay is explained by the fact that the parent was serving a long sentence, as it is normal UK Border Agency practice to not begin work on a case until 18 months before a foreign national prisoner's early release date - see for example UK Border Agency 2013 *Enforcement Instructions and Guidance* Chapter 11.3.1 <http://bit.ly/PrQfld> (accessed 13/03/13). However, in four of these seven cases the parents served less than 18 months in prison following their convictions, and so action could have been taken on their cases shortly after their convictions. In two further cases, the parents could have been informed that they were liable to be deported six months or less into their sentence. Instead, they were not informed of this for over 10 months and over 13 months following their convictions.

⁶⁰ In eight of these 12 cases, the parents served less than 18 months in prison, so the length of time which it took for these parents to be served with deportation orders cannot be explained by the UK Border Agency's practice of not beginning work on a case until 18 months before a foreign national prisoner's early release date. In four cases, parents served over 18 months in prison. In one of these cases the parent served 19 months in prison, and in the other three cases the parents served two years. These parents were not served with deportation orders for over 16, 18 and, in two cases, 30 months following their convictions.

Table 28: Length of time between parent's conviction and date of deportation order

Length of time between parent's conviction and date of deportation order	Number of cases
0-6 months	0
6-9 months	4
9-12 months	2
1 year - 18 months	1
18 months-2 years	3
2-3 years	1
3-4 years	0
4-5 years	1
Not applicable	4
Unknown	11
Total	27

Table 29 shows that in nine of the 14 cases where these data were obtained, parents were served with deportation orders during their time in immigration detention, or after being released from detention on bail.

Table 29: Stage at which parent was served with a deportation order

At what stage did the UK Border Agency serve the parent with a deportation order?	Number of cases
During prison sentence	5
During immigration detention ⁶¹	6
After release from immigration detention on bail	3
Not applicable	4
Unknown	9
Total	27

⁶¹ This includes one case in which the parent received a community order rather than a prison sentence.

Immigration and asylum claims

In 15 out of 27 cases, data were obtained on the number of days for which parents were held in immigration detention while they had immigration or asylum applications pending. At the close of the data collection period, these 15 parents had been detained for an average of 270 days, and had pending immigration or asylum applications for an average of 220 days of their time in detention.⁶² The parent in this sample who was detained for the longest period, 576 days, had outstanding immigration matters for 533 of her days in detention, which were still ongoing when she was released on bail; she was subsequently granted leave to remain in the UK. The parent in this sample who was detained for the shortest period, 84 days, had an ongoing immigration claim for 77 days of his detention which was ongoing when he was released on bail; he still had a pending immigration claim six months after his release from detention.

In a number of cases, parents were awaiting the outcome of a single asylum or immigration claim for the majority of their time in detention. For example, in one case a parent claimed asylum while she was in prison, two months before she entered immigration detention. After she had been detained for over seven months the UK Border Agency refused her asylum claim; she appealed this decision in the First-Tier Tribunal, and this appeal was ongoing when she was released on bail after 273 days in detention. She had an ongoing immigration matter six months after her release from detention. In another case, a parent appealed an immigration decision made by the UK Border Agency two days after being detained, and this appeal was ongoing 158 days later when she was released from immigration detention on bail; she was subsequently granted leave to remain in the UK.

It is common practice for the UK Border Agency to appeal decisions by the First-Tier Tribunal in deportation cases, which find in favour of the claimant. In one case, after a parent had been in immigration detention for over seven months, his appeal to the First-Tier Tribunal was successful – the court overturned the Border Agency's decision to deport him. However, the UK Border Agency decided to appeal this decision in the Upper Tribunal, and the parent was held in detention for a further five months. The UK Border Agency's appeal was refused and the parent was eventually released from detention and granted leave to remain in the UK.

As part of this study, post-detention data were gathered from the 15 parents who had been released from immigration detention for over six months before the close of the data collection period. In four of these 15 cases, parents were granted leave to remain in the UK during the data collection period, and in 11 cases parents' immigration or asylum cases were ongoing six months after their release. In three of these 11 cases, ad hoc contact with parents or legal representatives after the close of the data collection period revealed that parents had been granted leave to remain in the UK. In one of these cases, the parent successfully appealed her deportation after being released on bail, but the Border Agency chose to appeal this decision in the Upper Tribunal. This parent subsequently contacted us to inform us that she had eventually been granted leave to remain in the UK, nearly two years after she entered immigration detention.

Parents who participated in this research said that considerable distress had been caused to their families by the Border Agency serving parents and children with deportation decisions which were subsequently overturned. For example, Nina explained that:

'The first [deportation] order which they gave to my son was unlawful, which was decided by the judge, so if they can please- before giving these orders- it really mentally affects parents and children, it's really so stressful for them.'

⁶² In two of these 15 cases, the parent was still detained at the close of the data collection period. In these cases, the length of detention and outstanding immigration or asylum matters were calculated from the date of detention to the close of the data collection period.

Family Court proceedings

In two out of 27 cases in the research sample, parents had ongoing family court proceedings during their detention. In a further case, a parent was pursuing family court proceedings before his conviction but these were stayed during his prison sentence and immigration detention as he was not able to pursue them properly until he was released on bail.

In the two cases where family court proceedings were ongoing during the parents' detention, directions for the parent's removal were never set while they were detained, but it is not clear whether the family proceedings were viewed as a barrier to removal by the UK Border Agency. In one of these cases, the parent had a Family Court hearing in the month after she was released from detention on bail, and the court ordered that she should have joint custody of her children with her ex-partner. In the second case, family court proceedings were ongoing for six months of the parent's detention. After being released from detention, she was reunited with her daughter. During her detention, Children's Services said that they would need to assess her parenting capacity. However, after her release Children's Services decided that her daughter was old enough to make her own decision about whether to live with her mother and never carried out an assessment.

As is noted above, a third parent's family court proceedings were stayed during his 310 days in immigration detention. The Border Agency did not view his nine year old daughter's situation as a barrier to removal and planned to remove the parent by himself. Over a year after this parent was released on bail, his family court proceedings were ongoing. The Court of Appeal allowed an appeal on his immigration claim, and noted that:

'The Upper Tribunal accepted that he is a caring and loving father... it also accepted that [his child's mother] is an irresponsible and selfish mother who puts her own interests and enjoyment above the needs and welfare of [their child].'

It is very concerning to see that the Border Agency planned to deport this parent without his child before the Family Court had the opportunity to evaluate the child's best interests.

6

Assessments of risk

The data in this section reveal very serious problems with the methods used by the Border Agency to assess the risk of absconding and reoffending posed by parents in the cases surveyed.

The Border Agency repeatedly argued that it was likely that parents in this research would abscond if they were released from detention. Post-detention research with 15 parents showed that all these parents subsequently complied with the terms of their release and maintained contact with the Border Agency. Parents explained that it would be extremely difficult for them to abscond because of their need to access support, healthcare and schooling for their children. Examination of the files of the 12 parents in the qualitative sample showed that, in these cases, the Border Agency routinely failed to take into account factors which indicated that parents posed a low risk of absconding, such as long histories of reporting regularly or complying with criminal bail conditions.

In 14 out of 27 cases in the small quantitative sample, information was obtained about how the National Offender Management Service had assessed parents' risk of reoffending or risk of harm to the public on release. In 10 cases, parents were assessed by the National Offender Management Service as posing a low risk of reoffending or harm on release. However, the Border Agency repeatedly argued that these parents needed to be detained as they posed a 'significant' and 'unacceptable' risk.

6.1 Absconding risk

'They detain people for some long period of time and come up with their own justification of it, like saying you're going to abscond. I've been signing on at the Home Office from 2001 and they still said in 2011 that I was going to abscond. And I've never absconded, I've got no intention of absconding.'

(Richard)

As part of this study, data were gathered on the reporting record of the 15 parents in the small quantitative sample of 27 families who had been released from detention for six months or more at the close of the data collection period.

Asylum seekers and migrants are routinely required by the UK Border Agency to report on a regular basis either to a police station or a designated immigration reporting centre. All 15 parents informed researchers that they reported regularly to the agency for the entire research period. This was confirmed by their legal representatives in the 14 cases where parents were represented.

Table 30: Parents' reporting record after release from detention

Did the parent maintain contact with the UK Border Agency after release?	Number of cases
Yes	15
No	0
Total	15

As part of this research, BID's legal files for a qualitative sample of 12 families were analysed. Examination of bail summaries and Monthly Progress Reports showed that in a number of cases, the Border Agency failed to recognise factors which reduced the likelihood of absconding, such as family ties and previous records of compliance.

For example, in one case, a parent had reported regularly to the Border Agency for seven years while she awaited the outcome of her Human Rights claim. In two cases, parents had been allowed to leave their prisons regularly during their criminal sentences to visit their children and volunteer for local charities. They repeatedly returned to prison unescorted and on time, complying with the conditions of their temporary release. In two further cases, parents were allocated to open prisons for periods towards the end of their sentences; one of these parents commented 'if I had wanted to run away I could have left at any time.' In a number of cases, parents complied with the conditions of criminal bail for long periods while awaiting trial. However, in all of these instances, the Border Agency held these parents in detention until they were released on bail.

In some cases, the Border Agency argued that parents were at risk of absconding because of concerns about the accommodation which they were being released to, despite the fact that the Border Agency was itself providing this accommodation. For example, in Lorraine's case, the Border Agency stated in a bail summary:

'The residence of the client is unclear, because the Section 4 accommodation would expire 4 days after her release, and she would not stay with her surety, therefore there is a high risk of absconding.'

In this case, Lorraine would have been released to temporary accommodation, and the Border Agency would have had responsibility for arranging a permanent address for her after a few days. The agency regularly arranges permanent addresses for large numbers of detainees who are released on bail in this way. It is therefore inexplicable that the Border Agency was opposing Lorraine's release on the basis that her accommodation was temporary.

Parents' reasons for maintaining contact with the UK Border Agency

'Run away and leave your kids, where gonna run to? No please.'

(Lorraine)

The parents who participated in this research explained that they would not consider absconding because of concern for their children's welfare, their desire to regularise their status in the UK, and their need to access support, healthcare and education for their children.

For example, Clare said that it would be entirely impractical for her to abscond with her children, and her priority was to be with them after being separated for such a long time:

'Where can you go leave your children, where can you go with your children, where can you hide with your children? What mother would want to do that? No, your children are

priority in life, so why would I want to abscond from my children, no. I was devastated being away from them so long, let alone not to be with them.'

Similarly, after her release on bail, Kayla said:

'And now they gave me a chance and said to sign on, and I'm not going to jeopardise that chance, I want to be with my kids. I don't see what can stop me from complying. If they told me to go on the bloody roof to be with my kids, I would go, just to be with them. To stand up there for days and nights, just to be with them, I would. You understand?'

A number of parents commented that their priority was to obtain leave to remain in the UK legally so that they could support their family. For example, Richard said that:

'I do not want to break the law no more. I do not want to anything wrong. I just want to get permission from Home Office to be able to work and support my family.'

Faith explained that if she absconded with her children she would not be able to subsist, or send her children to school or the doctors:

'Look, somebody that has two children, have to care for that two children. You can't care for those two children on the street. The children need to be in school, they need to be bathed, fed, in the one place, they need to be checked up by GP if they are sick. If you absconded that means your children will never go to school, if they're sick you can't go to hospital, you'd be hiding for the rest of your life, which you can't keep on with.'

Simone explained that in addition to her children's needs, she had health problems which meant she would not abscond:

'I have a hole in my heart and have to attend regular hospital appointments. This is another reason that it would be very difficult to abscond.'

6.2 Criminal risk

In a number of cases, parents' BID files record that parents committed offences as means of surviving in a context where they did not have the right to work in the UK. In research interviews, parents repeatedly said that they would not reoffend because they could see how much their family had suffered as a result of their offence.

For example, Richard explained that he committed a drug-related offence to pay for his daughter's funeral:

'My daughter died and I borrowed money from somebody to do with the funeral. I wasn't allowed to work, and they keep putting pressures on me to go and collect something and bring to them. On my way to collect it and bring it back to them, I got arrested and I pleaded guilty to it. I've got no intention of committing more offences. Because I see how hard it is to get out and to be back with my family, and I do not want to put them through that again.'

Similarly, Clare explained how much she regretted having committed an offence:

'I'm not happy for what happened. I'm very sorry and I'm very ashamed of the situation. People do make mistakes. And what my family went through, what my granddad went through and all of that, how could I ever go back down that road ever again? I could never think about anything stupid like that ever again.'

UK Border Agency assessments of criminal risk

In 14 out of 27 cases in the small quantitative sample, we were able to obtain information about how the National Offender Management Service and the Border Agency assessed parents' risk of reoffending or harm to the public. These data were obtained from parents' full Ministry of Justice and UK Border Agency files obtained by Subject Access Request and their BID case files.

It is very troubling to see that in nearly every case where we have these data, the Border Agency's assessment of risk is at odds with the National Offender Management Service's assessment. The Border Agency repeatedly argued that parents who had been assessed by the National Offender Management Service as posing a low risk of reoffending and harm to the public posed a 'significant' and 'unacceptable' risk. In 10 cases, parents were assessed by the National Offender Management Service (NOMS) as a low risk of reoffending or harm to the public, and in four cases as medium risk. It is particularly concerning to see that these parents were held in immigration detention for such long periods.

Table 31: Assessments of criminal risk

Parent No.	NOMS assessment of risk of reoffending	UK Border Agency assessment of risk of reoffending	NOMS assessment of risk of harm to the public	UK Border Agency assessment of risk of harm to the public
1	Low	'Significant risk' of reoffending	Low	Unknown
2	Medium	Unknown	Unknown	Unknown
3	Low	'Significant risk' of reoffending	Low	'Unacceptable risk to the public'
4	Low	'Significant risk' of reoffending	Low	'Serious risk of harm to the public'; 'Unacceptable risk to the public'
5	Medium	Unknown	Medium	'Unacceptable risk to the public'
6	Low	'Significant risk' of reoffending	Low	Unknown
7	Low	'Significant risk' of reoffending	Low	'High risk of public harm'
8	Low	Unknown	Low	'Serious risk of harm to the public'
9	Unknown	Unknown	Low	'Unacceptable risk to the public'
10	Medium	'High risk of reoffending'	Medium	'High risk of harm'
11	Low	Unknown	Low	'Unacceptable risk to the public'
12	Medium	'High likelihood of reoffending'	Medium	'Unacceptable risk of harm'
13	Low	'She will pose a likely risk of reoffending'	Low	'A risk of harm to the public should she reoffend'
14	Low	'Potential risk of re-offending'	Low	Unknown

These data suggest that in the majority of these cases risk assessment procedures were not properly followed by UK Border Agency case owners. Chapter 55.3.2.6 of the Border Agency's Enforcement Instructions and Guidance states that:

*'Risk of harm to the public will be assessed by NOMS [the National Offender Management Service] unless there is no Offender Assessment System (OASYS) or pre-sentence report available.'*⁶³

However, the data presented above shows that in the majority of cases, Border Agency caseowners came to conclusions about risk levels that were different to those reached by National Offender Management Service staff trained in structured risk assessment processes. In some instances, information in parents' case files suggests that the Border Agency never obtained risk assessment information about parents from the National Offender Management Service.

For example, Richard was assessed by the Border Agency as posing a 'significant risk' of reoffending and a 'high risk of public harm', despite having been assessed by the National Offender Management Service as posing a low risk of reoffending and harm to the public. Richard was released on bail after being detained for 310 days. The day after his bail hearing, his probation officer, who he had just met with, wrote the following in an email to BID:

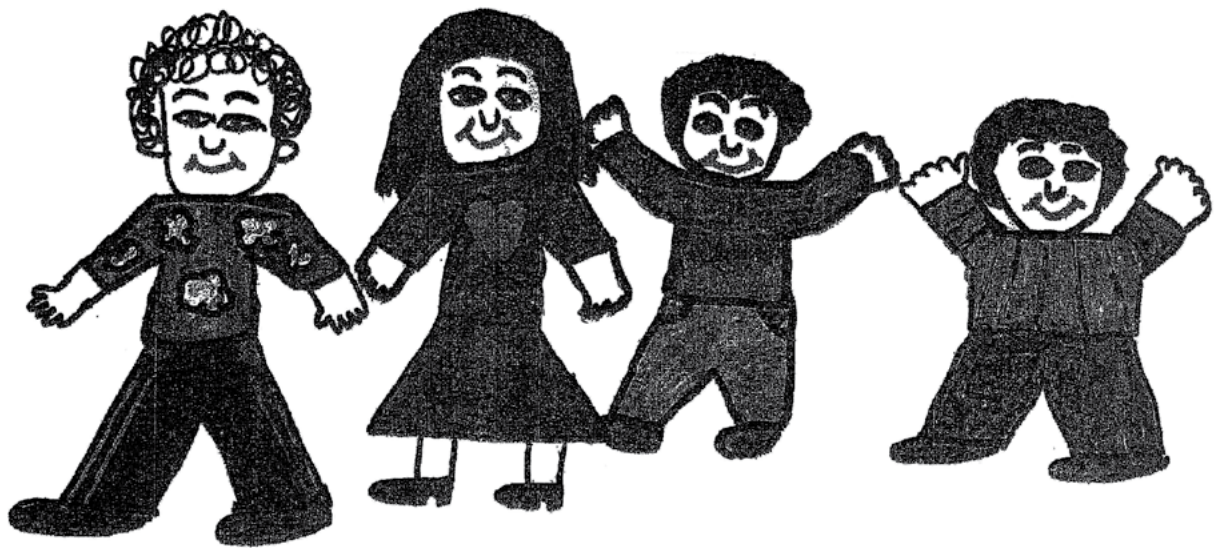
'I am a bit gobsmacked that he's telling me that at court he's been told he's high risk? Also he told me that he's been told he has no evidence that he's low risk as there is no OASys, he had a start custody OASys which scores him as low and I am doing a start licence today which shows him as low risk. I am not clear why anyone is saying he's high risk.'

This suggests that the Border Agency may not have obtained information about the assessments which had been made by the National Offender Management Service, and there is no evidence in the documents in Richard's BID file that they did so.

In Stewart's case, we do not have information about what the National Offender Management Service assessed his risk of reoffending or harm to be. However, BID spoke to Stewart's probation officer who informed us that she was keen to provide the Border Agency with risk assessment information. Stewart's Border Agency caseowner had repeatedly failed to provide the probation officer with the appropriate 'NOMS 1' risk assessment proforma so she could supply this data. BID spoke to the Border Agency caseowner who said that she had 'never heard' of this form. The Border Agency assessed Stewart as posing a 'high risk to the public' on release.

Examination of parent's case files also revealed serious problems with the National Offender Management Service's practice in this area. For example, in one case, a parent's full Ministry of Justice file was obtained via Subject Access Request, but it did not contain any information about what level of risk the client posed. BID spoke to numerous probation officers who were not able to provide us with any risk assessment documents for this parent. It appears that either the National Offender Management Service never risk assessed this client, or any documents relating to this risk assessment were lost.

⁶³ UK Border Agency 2013 *Enforcement Instructions and Guidance* Chapter 55 <http://bit.ly/10MIO00> (accessed 14/03/13)



I Love You
DAD

Joe, 10 years old

Appendix 1



**Office of the Children's
Champion**

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17 January 2013

Dear Sarah

I am writing to follow up your correspondence, and the subsequent discussion with CCD and other colleagues, about the role of the Office of the Children's Champion (OCC) in offering advice. I am sorry that you haven't had this formal response before now.

Process for contacting OCC

The OCC offers advice to caseowners on the implications for the welfare of children of decisions which caseowners may be considering in a particular case. As you know, the OCC does not itself make those decisions, nor does it approve them. That is because the final decision in a particular case will be informed by a range of factors, of which the welfare of the children is clearly a primary consideration but not the only one.

The advice of the OCC should therefore be sought before a decision is made to separate a family other than on a temporary basis; the relevant guidance is in chapter 45.9 of the Enforcement Instructions and Guidance. The OCC operates a dedicated inbox for this purpose. The OCC has drawn up a checklist to guide caseowners on the kind of information which should be included in a request for advice and this is attached to this letter. This is not exhaustive nor will all these headings be relevant in every case. If the OCC feels that insufficient information has been provided, they will ask for further enquiries to be made, although sometimes the information which we would ideally like to see is not available for a range of reasons. The advice is usually provided by our senior social workers. Essentially they look at the facts of the case and use their professional knowledge of child development, child welfare and child safeguarding to offer advice on aspects of the case where there is a clear implication for the child's welfare. In many cases there are not clear implications for child welfare.

As to timescales, OCC aims to turn round requests from caseowners within 5 working days but it can sometimes take longer, for example if the correct information is not provided at the outset, if the case is particularly complex or if the professional advisers are under other pressures from elsewhere (they do have other responsibilities which take up the majority of their time).

Temporary family separations as part of the family returns process are not referred to the OCC. The authority for a return plan to include a family separation is provided at Assistant Director level and the plan is then referred to the Independent Family Returns Panel for advice.

Guidance documents

You asked about the guidance regarding the separation of families on the OCC's internal webpage. This is the checklist which is referred to above and attached to this letter.

Detention decisions

You asked whether caseowners are required to seek OCC advice before detaining a parent. As discussed when we met, there is no guidance currently which requires OCC to be consulted prior to the detention of a parent but we are reviewing this.

Immigration status

You also asked about the advice which OCC offers to caseowners in situations where children's immigration status is unclear. As indicated above, it is the role of OCC to advise on the welfare implications of proposed decisions rather than the decision itself. OCC would not, therefore, offer a view on issues relating to status per se as this is not our area of expertise. OCC would normally expect to be informed of the child's status as part of the information referred to above. If there is doubt as to the child's status, OCC would normally look to caseowners to seek to clarify this if possible.

Finally, you asked for clarification of the situations in which the family welfare form should be filled in. The guidance on the family welfare form is in chapter 45.1 and states that the form should be included on each family case file from the start of each family claim, and updated as necessary.

Best wishes



OCC CHECKLIST

In addition to the guidance issued by individual sections the OCC offers the following brief guidance on their internal website:

The OCC need key details of the family life of the deportee and their family members. Sending a request for advice without such details will cause needless delay in the progression of the case. You must therefore structure your email using the standard layout as set out below:

1. Full names, dates of birth, nationalities and immigration status of all involved, i.e. fathers, mothers and all children;
2. A description of what contact the parents have with the children (how often /for how long do they see them - prison visiting records can help in FNP cases) and whether there are any family members with illnesses, disabilities or other needs.
3. You need to have contacted the families' Local Authority Social Services Department (there may be more than one to contact when children reside in different areas) and get a response from them as to whether they have had or still have, any contact with any members of the family and if so, why.
4. Where we have asked for more information, please add this to your submission & send us the updated version. This will maintain effective records (yours and ours) and make for easier reading.

Much of the impact of a proposed deportation on a child will depend on the circumstances in which the child is living. Include any information you have about these circumstances in your referral to the OCC to help make sure the advice given is timely and based on the best information available.



**STRATEGIC LEGAL FUND
FOR VULNERABLE YOUNG MIGRANTS**