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Detention of Children 2

18th June 2010

On 12 May 2010, the Government published its initial coalition agreement. Eight days later, it published the full agreement. Both documents contain the same commitment:

> "*We will end the detention of children for immigration purposes.*"

On 25 May 2010, in his second speech to the new Parliament, the Prime Minister confirmed the Government's commitment. He said:

> "*…after the Labour Government failed to act for so many years, we will end the incarceration of children for immigration purposes once and for all.*" (*Hansard*, HC 25 May 2010)

This information sheet provides information about the detention of children, and in particular about the Government's commitment to end it. Further information is available from the 3 August 2009 information sheet on "Detention of Children".

What is happening now?

It is important to note that the detention of children has not, as yet, ended.

Instead the Government has initiated a review into the ending of detention. The review is being conducted by the UK Border Agency. The review is led by David Wood. He is the UK Border Agency Strategic Director for Criminality and Detention. The review began on 1 June 2010. It is to last six weeks. The terms and reference for the review are available at: http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/26-end-child-detention/

Views and information may be submitted to the review by email to: ChildDetentionReview@homeoffice.gsi.gov.uk

Principles agreed by the Refugee Children's Consortium

The Refugee Children's Consortium (RCC) is a group of refugee and children's charities and non-Government organisations (NGOs). The RCC has agreed five principles in relation to the review. The five principles are set out below. Some brief information is provided in relation to each principle. They may be of interest to anyone who is considering making a response to review.

- **Detention of children must end now, as it is clear that detention harms children; children and their families should be released immediately**

In December 2009, the Royal Colleges of General Practitioners, Paediatrics and Child Health and Psychiatrists and the UK Faculty of Public Health published a joint statement and recommendations relating to the detention of children. The Royal Colleges are the professional bodies for doctors specialising in these three areas of medical practice in the UK. They made clear that the detention of children caused significant physical and mental harm to children. They recommended that the detention of children should end without delay. It is important to note that the detention of children by the UK Border Agency is not restricted to the detention of children in families. Unaccompanied children are also sometimes detained by the UK Border Agency. This can happen if the UK Border Agency disputes a child's age, or if the UK Border Agency has failed to give a child a proper opportunity to state his or her age before detaining the child.

- **Children and their families should never be separated for immigration purposes**

On 2 June 2010, Baroness Neville-Jones, Home Office Minister, told Parliament that the Government "*…certainly aim not to separate families from children or children from families*". However, she did not provide any guarantee to avoid separation. The UK is a signatory to the 1989 UN Convention on the Rights of the Child. Article 9 of that Convention requires that children are not separated from their parents unless doing so "*is necessary for the best interests of the child*". It is difficult to imagine how separating a child and his or her family for immigration purposes could be necessary for the child's best interests.

- **Ending the detention of children is not dependent on establishing 'alternatives to detention' projects or new processes for families**

Over the last couple of years, the UK Border Agency has run pilot projects. It has referred to some of these as 'Alternatives to Detention'. These have involved trying to persuade families to agree to return to their home countries voluntarily. The UK Border Agency continues to run one of these pilots in Scotland. The UK Border Agency may decide it wants to run other pilots. However, there is no good reason why this should delay the end of detention of children.

- **Discussion on policies and practice on returns are not needed to end the detention of children**

The UK Border Agency has indicated that it wants to discuss its policies and practices on returns with some other organisations. Returns include voluntary and forced returns. Again, there is no good reason why this should delay the end of detention of children.

- **Discussions that focus on finding solutions to the problems at the end of the process need to consider a family's entire experience of the asylum and immigration processes. The provision of good quality legal advice throughout these processes is crucial**

Some children and families now find themselves subject to removal procedures in circumstances where they should not be facing removal. This can happen because their cases are not properly dealt with. This may be because they have not had access to good quality legal advice when they needed this. It is crucial that cases are properly and fully considered, including where circumstances have changed or there is new evidence. Good quality legal advice and access to the courts is necessary to ensure this. Without this, children and families may continue to face removal in circumstances where proper consideration would show they are entitled to remain in the UK.