

No Place for a Child

Children in UK immigration detention:
Impacts, alternatives and safeguards

Heaven Crawley and Trine Lester



Save the Children

Executive summary

“I spent eight months and 24 days [in detention] . . . it was the hardest time of my life. It’s hell. Prison is better than detention . . . In prison, you have rights, not veiled rights. In detention, you have no rights . . .”

(Jacques, aged 17)

About this study

This report examines the experience of children who are detained for the purpose of immigration control. It explores the impacts of detention on children, the alternatives to detention and the safeguards that are necessary to prevent detention becoming prolonged and to ensure that children’s rights are upheld and that they are treated lawfully.

This report is based on:

- 32 case studies of children who have been detained in the UK either with their parents or as separated children whose age is disputed
- observational visits to two detention centres
- interviews with more than 40 government officials, policy makers, practitioners and stakeholders
- an extensive literature review.

The policy context

The detention of children for the purpose of immigration control runs contrary to a range of international standards relating to the treatment of children and prisoners set by the UN Convention on the Rights of the Child (UNCRC) and the United Nations High Commissioner for Refugees (UNHCR). In recognition of the particular vulnerabilities of children, international law and policy places the needs of children above the requirements of immigration control. The UK Government, however, entered a Reservation to the UNCRC, which effectively allows

children who are subject to immigration control to be excluded from its provision. Save the Children Alliance and UNHCR believe that children should never be detained for immigration reasons alone.

There is a growing use of detention centres to meet the objectives of UK asylum and immigration policy, including fast track processing of asylum applications and an increased emphasis on removals. These recent policy changes and failures in practice relating to age-disputed asylum-seekers mean that both children in families and those who have become separated from their parents or other carers are increasingly liable to be detained. This is in spite of the fact that Her Majesty’s Chief Inspector of Prisons has recommended that the detention of children should be an exceptional measure and for very short periods – no more than a matter of days.

The findings

1. Numbers and length of time in detention

The report estimates that around 2,000 children are detained with their families every year for the purpose of immigration control. There is no government data on the number of cases in which the age of an asylum applicant is disputed and detained.¹ Current UK policy and practice means that children can and do remain in detention for lengthy periods. In the cases that were studied, the length of detention varied considerably from 7 days to 268 days. Half (16) of all cases looked at were detained for more than 28 days.

2. Separated children and disputes over age

There is evidence that the number of age-disputed asylum-seekers has increased and that a significant proportion of those who are detained are found to be children who are separated from their parents/carers. The report raises significant concerns about the detention of these children, including mental health

problems, lack of access to education, and child protection concerns. The research found that social service age assessments are not routinely undertaken and even when they are the Home Office does not always take them into account, contrary to stated policy.

3. The impacts of detention

Children in immigration detention are triply at risk as children, detainees and asylum-seekers.

- **Mental health** The greatest negative impacts are on mental health. Children can suffer from a deterioration in mental health, including depression, changes in behaviour and confusion. Mental health problems in detention can have long-term consequences.
- **Physical health** Parents were particularly concerned about their children's refusal to eat and eating an unbalanced diet. Not being able to sleep and persistent coughs (most evident in those in detention for over 100 days) were also common problems. Detainees also lacked confidence in the medical staff.
- **Education** The disruption to mainstream schooling during and after detention and the learning environment in detention has a damaging impact on children's education. The research also found that the general and sometimes overwhelming impacts of detention on mental health undermined the ability and willingness of many children to learn.

4. The decision to detain

Children are currently detained in the UK as part of fast track procedures for asylum determination. Processes for ensuring that there are no obstacles to removal and that the welfare of children is taken into account in the decision to detain are not always effective. This increases the risk that children will be detained unnecessarily or without any imminent prospect for their removal. There is rarely any evidence to suggest that they would not comply with the conditions of Temporary Admission if they were not detained.

5. Detention review procedures

The report raises significant concerns about the effectiveness of existing review procedures for ensuring

that the detention of children is not prolonged. There is evidence that the review process is dominated by immigration-related issues and that the welfare of children is not a key consideration in the continuing decision to detain.

6. Lack of legal advice

There is a lack of access to quality legal advice and representation in detention which undermines the effectiveness of bail as a mechanism for safeguarding children who are detained. Lack of good legal advice for age-disputed children means that they are often unable to access formal age assessment procedures.

7. Transfers between detention centres

Unexpected, unexplained and sometimes frequent transfers between detention centres are common. Transfers exacerbated the negative impacts of detention on children causing distress, disorientation and loss of contact between detainees and their families, friends and legal representatives.

8. Child protection concerns

Current safeguards are inadequate for ensuring that children are not subject to abuse while in detention or removed from the UK with their abuser. The risks to age-disputed children who are detained with adults in communal sleeping facilities are not recognised.

Conclusions and recommendations

The evidence in this report suggests the need for an entirely different approach towards children who are subject to immigration control, one that places their needs and interests as children at the centre of decision-making. To deliver this approach the report explores a range of alternatives to detention in line with international standards and guidelines which state that asylum-seeking children should not be detained. The report recommends that the UK Government should review its practice and in particular:

1. **Treat asylum-seeking children as children first and foremost.** If the Government is serious about protecting and safeguarding the interests of children in

the UK, then asylum-seeking and other migrant children must be treated as children first and foremost. The reservation to the UNCRC should be withdrawn and their interests and needs represented by the Commissioners for Children and Young People in England, Wales, Scotland and Northern Ireland.

2. Do not detain children for the purpose of immigration control because of the negative physical, mental and educational consequences of detention. This includes the use of detention for children as part of fast track or accelerated procedures for asylum determination. Alternatives should be developed for ensuring compliance where this is considered necessary.

3. Improve age assessment procedures. Formal age assessments should be undertaken by social services or an independent age assessment panel *prior* to a decision to detain. No individual whose age is disputed should be detained unless and until such an assessment is undertaken.

4. Reporting. Existing reporting mechanisms should be made more user-friendly and should be flexible to the needs of families with children. The Home Office should cover the cost of all reporting requirements. Where reporting arrangements break down, efforts should be made to re-establish contact before any decisions are made to detain.

5. Develop alternatives to detention. The Home Office should pilot a system of incentivised compliance. This system should be based on the Appearance Assistance Program (AAP) in the United States and a similar system in Sweden. These approaches provide a combination of freedom from detention, a graduated scale of supervision, individualised needs and risk assessment and support, primarily through provision of information and legal advice and representation from the beginning of the asylum determination process.

6. Improve voluntary returns. Information about the opportunities for returning voluntarily to the country of origin needs to be made more widely available. Return under these circumstances must be truly voluntary in order for it to be effective and durable.

Recommendations to help children in detention now

- A statutory **time limit** of a maximum of seven days should be placed on the detention of children.
- Further action should be taken to monitor and significantly **reduce the transfer of children** between detention facilities.
- **Legal advice** and representation should be available to all detainees. Access to bail should be actively facilitated and properly funded.
- **Detailed statistics** on the immigration detention of children and age-disputed cases should be published on a regular basis.
- All staff working in removal centres should undergo enhanced Criminal Records Bureau checks, and families with children about whom there are **child protection concerns** should not be removed from the UK unless and until these issues are resolved.
- **Assessments and review processes** need to improve, including:
 - Case-by-case assessments should be carried out to establish whether it would be better for a child to be detained with his or her family, or separated, and parents and their children should be part of this decision-making process.
 - No families with children should be detained without a full review of their case by an enforcement officer. A pastoral visit by the Home Office should always be undertaken prior to a decision to detain.
 - In the absence of a statutory time limit to detention, there should be an independent process for reviewing all cases where children are detained.
 - Welfare assessments panels at seven and 21 days should be introduced for all children in detention.

Note

1 Assessing the exact numbers of children detained in the UK and the length of time for which they are detained is impossible because of significant gaps in the evidence base.