

## **Review into ending the detention of children for immigration purposes**

### **A joint response from the Baptist Union of Great Britain, the Methodist Church and the United Reformed**

1. The Baptist Union of Great Britain, the Methodist Church and the United Reformed Church are grateful for this opportunity to respond to this review concerning the welfare of asylum seeking children in detention. There are some 150,000 members of Baptist churches associated with the Baptist Union of Great Britain. The Methodist Church has about 295,000 members and 800,000 people are connected with the Church. The United Reformed Church comprises about 150,000 adults and 100,000 children. The three denominations are the largest of the Free Churches in Britain and are developing increasingly close relationships both locally and nationally.
2. The three Churches are grateful that the government is committed to ending the inhuman practice of detaining children for immigration purposes. This shared concern was tangibly expressed in our “One More Card” campaign in December 2009, when the office of the then Minister for Immigration, Phil Woolas MP, was inundated with thousands of Christmas cards each requesting the ending of detention of asylum-seeking children.
3. The Churches wish to state that they support the principle of border control and acknowledge that the issues of desperate people who have exhausted all legal avenues pose a real challenge to the Government. However we believe that the detention of children for immigration is an inhumane and disproportionate response to the problem.
4. We would refer the Government to professional reports, by, among others, the Children’s Commissioner for England, the Royal College of General Practitioners, the Royal College of Paediatrics and Child Health Care, the Royal College of Psychiatrists, and the UK Faculty of

Public Health, which have unequivocally demonstrated the damage done to detained asylum seeking children. These have concluded, without exception, that children experience long-term mental and physical damage under these circumstances.

5. This unequivocal evidence is sufficient to persuade us that the detention of children should end immediately. The review is rightly looking at alternatives to detention, but we would be deeply concerned if this meant that children and families continued to be detained whilst such alternatives were researched and piloted. The detention of children should end without delay.
6. The UK Border Agency has a statutory duty to care for children of asylum-seeking families, under section 55 of the Borders, Citizenship and Immigration Act 2009. They should only ever be detained in '*extreme circumstances*'. There may be rare circumstances where it is believed that there are no alternatives to detention, for example in the final few hours before removal. The practice of detaining children for several weeks at a time before then, in many cases releasing them back into the community, can no way be seen as representing extreme circumstances nor can it be in the best interest of the child.
7. We believe that the practice of ending the detention of children should not be achieved at the cost of detaining the parents and taking the children into care, or splitting families in other ways. The UK is a signatory to the 1989 UN Convention on the Rights of the Child. Article 9 of the Convention requires that children are not separated from their parents unless doing so "*is necessary for the best interests of the child*". We believe this principle must be upheld. We note that Baroness Neville-Jones, a Home Office minister, told Parliament that the Government "...certainly aim not to separate ... children from families"<sup>1</sup> but did not give any guarantee. We believe very strongly that if the outcome of this review results in the practice of the detention of children being replaced by the separation of families for immigration purposes, it will be a resounding failure.
8. We want to emphasise, along with other charitable organisations such as *Citizens for Sanctuary*, the widely accepted fact that families with children do not typically abscond. The Home Affairs Select Committee report *The Detention of Children in the Immigration System First Report of Session 2009–10* stated that, while the risk of absconding is generally viewed

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<sup>1</sup> Hansard, House of Lords 2 June 2010, col 252

as the rationale behind detention, “there is no evidence that families with children systematically disappear”. Thus we recommend that the UKBA’s criteria for assessing the risk of absconding be revised following careful consultation, and be subject to independent oversight.

9. We would therefore urge the Government to provide community-based monitoring for the majority of families. The International Detention Coalition has analysed the use of the “case management model”, used in different ways in Sweden, Australia and Belgium<sup>2</sup>. This case management model uses social work principles to: engage with the family and their individual needs; enable early intervention (i.e. not just when their asylum claim is concluded) to help families to prepare for all possible outcomes; assist with practical needs such as the provision of translated information on all aspects of their case; and build the trust of the family in the system. We believe that such community-based alternatives would help to answer some of UKBA’s concerns regarding engaging families with the asylum process and helping them to consider the options they face (including voluntary return). However we would emphasise that intensive case management must mirror social work principles and begin at the start of the process or it is likely to fail.
10. Measures with penal elements, such as tagging the parents in community, should be reserved for the very few problematic instances. We believe that in general they are disproportionate, damaging to a child’s well-being, and foster distrust of the UKBA. When tagging is used, we propose that it be on the basis of carefully agreed guidelines for a time-defined period, and that there be a recognised process by which parents can request changes in the contact requirements placed upon them. Deportation, with family possessions, should involve only overnight accommodation in a family room or unit.
11. We are aware that many families appear to be detained during legal appeals. Whilst the processes may be in need of greater speed, it is also apparent that availability of legal advice and representation must be properly resourced. New funding systems which mean that organisations such as Refugee and Migrant Justice may be forced to close are to be deplored. In addition the quality of initial decision-making must be improved - it is estimated that as many as a quarter of initial decisions are over-turned on appeal.<sup>3</sup>

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<sup>2</sup> International Detention Coalition, *Case Management as an alternative to immigration detention: the Australian Experience*, June 2010

<sup>3</sup> “Borders, Citizenship and Immigration Bill”, Fifth Report of Session 2008–09, HC 425, Oral Evidence, Q2.

12. A strong recommendation would be that families have access to good-quality publicly funding legal representation throughout the claim procedures. It is vital that they can have confidence in the system, that the full facts are able to be aired before decisions are made, and that expectations and options regarding the outcome can be properly managed and explored.
13. We are deeply opposed to any change that reduced the current minimum period of 72 hours notice required before the UKBA forcibly plans the removal of families. As already indicated, the decision-making processes for those seeking asylum are less than robust, and decisions to forcibly remove families have been successfully appealed. Any reduction in the timescale would prevent families seeking legal advice, and increase the risk of returning families who have well-founded fears of persecution.
14. The three Churches trust that the Government will bring this matter to a swift conclusion. Compared with the overall immigration statistics, the numbers of these families is very small.
15. The detention of children for immigration purposes is no longer a hidden administrative tool of convenience. It is regarded by our three Churches as an outrageous curtailment of the rights of innocent children under article 37 of the UN Convention on the Rights of the Child. We consider that, for the sake of children who are innocent of any crime, the country can afford to take the risk of more humane strategies for managing families seeking sanctuary.

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