

## **Chapter 45 – Children and families**

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## 45.1 Introduction and purpose

The content of chapter 45 is currently under review, with additional changes scheduled for this section in the near future.

All operational processes and procedures for the family returns process (FRP), for those families **with** dependent children (aged under 18) who are liable to be removed, are now located in **Chapter 45 - Section 2, The family returns process**.

This section currently provides:

- general guidance on policies relating to families and children, such as timing of visits, method of entry, personal protective equipment (PPE), provision of car seats, etc which should be considered when planning for any case with family and/or children present
- operational procedures relating to families and children outside of the FRP, that is, those **without** dependent children (aged under 18) who are liable to be removed.

Processes and procedures may vary for returning the families of foreign national offenders and families subject to third country return. In these cases, staff should refer to the relevant criminal casework, managing family returns guidance, or the third country cases guidance.

**This guidance is not to be read in isolation, but in conjunction with other chapters in the Enforcement Instructions and Guidance (EIG) and other Home Office guidance.**

## 45.2 Identifying family welfare issues and operational risks

Any contact with families or children undertaken by the Home Office throughout the life of the case, is an opportunity to obtain information regarding the family's personal circumstances and update any information

already held. Any information suggesting that an individual is vulnerable (through health, disability, a propensity to self-harm, or any other factor) should be clearly noted on the special conditions flag on CID in order that a properly informed consideration can be made on how best to plan for the return in that particular case.

If there are significant concerns about the welfare of an individual, a referral should be made to children's/social services according to local protocol. Advice can also be obtained from the office of the children's champion.

ICE teams should use risk assessments (RAs) and safe systems of working (SSoW) as supplementary tools to identify and control the risks associated with family or child related enforcement work. Individual responsibility and accountability for ensuring risks are managed effectively for all operations remains with the officer in charge (OIC) and enforcement managers. See operational risk assessment guidance , NGRA and Health and safety manual for more information.

#### **45.2.1 Safeguarding and promoting the welfare of children**

Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the Secretary of State to make arrangements for ensuring that Home Office functions are discharged having regard to the need to safeguard and promote the welfare of children in the UK. Anyone exercising Home Office functions is also required to have regard to the statutory guidance issued under section 55.

Prior to any engagement with children, the ICE team should make sure they are familiar with the children's details, and observe and record their behaviour during any contact management event. The purpose is to ensure that the family's return is achieved as humanely as possible bearing in mind the child's safety and welfare needs.

If during any enforcement visit, an officer becomes aware of any child protection issues, such as abuse or neglect, or where it is clear the children are in need of support, the case should be referred to the police and Children's Services as appropriate. The officers nominated to each child during the visit should have completed appropriate training to cover such eventualities. See Training for more information.

See chapter 26 of the Enforcement Instructions and Guidance for actions to take if a child is unexpectedly encountered during a visit and for guidance on children at risk or in need of support.

#### **45.2.2 Disabilities, medical conditions and additional needs**

Disabilities, medical conditions and additional needs may not always be obvious and families may not provide this information during the contact management process. As such it is vital to establish, before any enforcement action, whether any individual (adult or child) has disabilities or are in need of additional support.

Where disabilities are identified, it is vital to:

- Establish what the individual's needs are;
- Plan how those needs can be met during each stage of any enforcement action (e.g. by arranging transport suitable for carrying additional medical or mobility equipment).

Where a child is identified as having a disability, the case owner should liaise with the local authority to clarify the nature of the child's disability, ensuring that the child's needs, and how they should be met, are clearly understood.

### **45.2.3 Educational exams**

Where any children under the age of 18 are studying for GCSEs or A levels (or their equivalents), removal should not normally be planned to take place in the three months before they are due to sit any final exams.

If the educational course is vocational or based on modular coursework completed over a number of years, careful consideration should be given to the stage at which the child is currently studying. These courses would not normally be the sole reason for a delay in removal action. However, our duty to have regard to the need to safeguard and promote the welfare of children means that the impact of removal action upon the welfare and development of the child at their current stage of education should be weighed against the possible effects of delaying removal for an extended period during which additional ties to the UK may be formed.

See EIG Chapter 53 - Extenuating circumstances\_for more guidance.

Assistant director authority should be obtained where it is proposed to depart from this policy.

### **45.2.4 Contact management**

It is important that contact management is regularly maintained with each family. It is also important that the whole family, including children, are fully aware of their immigration status so that the family have a realistic expectation of their time in the UK.

This is in order to inform families about the asylum process, their own responsibilities, and the possible outcomes to their asylum claim, including the possibility of an enforced return should their application be refused and they choose not to leave the UK of their own volition. From as early on in the

decision making process as possible, the family should be made aware of the available assisted voluntary return programmes and the benefits they can provide.

Regular reporting events should be held throughout the decision making process in order to gather up-to-date information about the personal circumstances, health and wellbeing of each individual, with particular emphasis on identifying the welfare needs of any children. See reporting-standards of operational practice.

During reporting events, the whereabouts of any travel documentation for individuals should be established and recorded on CID and on file. If the documentation is in the individual's personal possession, they should be asked to hand it over to the Home Office

#### **45.2.5 Pregnant women**

For the purpose of enforcement action, a pregnant woman is any woman who has been medically certified as being pregnant, or who claims to be pregnant unless a medical assessment has found no evidence of pregnancy. The case owner can ask to see confirmation of the pregnancy and the medical notes from the hospital which would include the due date. If a pregnant woman claims to be having problems which would preclude her from flying, the onus is on her to produce medical evidence to support this. This would apply at any stage in the pregnancy.

A check should be made with the Home Office's ticketing agent before setting removal directions. The International Air Transport Association (IATA) guidelines allow airlines to carry pregnant women in excess of 32 weeks, but this will depend on the pregnancy e.g. whether it is a single or multiple pregnancy, and whether there are any known complications. If a pregnant

woman claims to be having problems which would preclude her from flying, the onus is on her to produce medical evidence to support this. This would apply at any stage in the pregnancy. The woman should be advised to take any records relating to her pregnancy. For further information please see the Detention Services Order on Pregnant Women in Detention.

If a pregnancy is only revealed during an arrest visit, the authority of the assistant director should be obtained if the OIC feels that the removal should go ahead. This should be noted in the written record of the visit.

#### **45.2.6 New mothers**

For enforced return purposes, it is imperative that Home Office officers safeguard and promote the health and well-being of the newborn baby and mother by giving due consideration to any possible negative impact that removal may have upon the mother and baby.

Both the mother and baby should be assessed as fit to fly by their respective obstetrician, midwife or equivalent medical professional. Difficult births and maternal or child health problems may require longer periods for recovery, or longer term treatment. Documentation for the newborn baby (i.e. both registration and travel documents) and assurance of acceptance of carriage on the flight for both the mother and baby should also be secured prior to planning any required or ensured return.

#### **45.2.7 UK born children**

The following procedures should be followed in respect of children who are encountered who:

- Have been born in the UK;
- Whose presence in the UK was not previously known to the Home Office

## **Children of persons refused leave to enter and illegal entrants**

Paragraph 10A of Schedule 2 to the Immigration Act 1971 (the 1971 Act) (inserted by section 73(1) of the Nationality, Immigration and Asylum Act 2002 (the 2002 Act)) states that where directions have been given in respect of a person under any of paragraphs 8 to 10 (i.e. persons refused leave to enter and illegal entrants), removal directions to the same effect may be given in respect of a member of that person's family. This enables us to enforce the removal of the spouse and/or dependent children aged under 18 of a person refused leave to enter or an illegal entrant.

UK-born children of individuals refused leave to enter, or who have had leave to enter or remain cancelled, should be served with form IS92 (UK). For UK-born children of illegal entrants use form IS151A and IS151A part 2. Please note however, UK-born children who are British citizens by virtue of the fact that one of their parents is British or settled here are not liable to removal and should not be served with either the IS92 (UK) or the IS151A. Such a child might still be expected to accompany their parent abroad.

## **Children whose parents are liable to administrative removal**

Section 10(1)(c) of the Immigration and Asylum Act 1999 (as amended by section 73 of the 2002 Act) allows removal directions to be served on the family members of those who have had directions served on them under the section (i.e. overstayers, those in breach of their conditions of leave, those who have had their indefinite leave revoked under section 76 of the 2002 Act and those who have obtained (or have attempted to obtain) leave to remain by deception). Section 10(4) of the 1999 Act (as amended by section 73 of the 2002 Act) states that a family member cannot be removed from the UK if more than eight weeks have passed since the family member liable for removal was returned.

UK-born children should be served with form IS151A in line with their parents, followed by form IS151A part 2. Form IS151D should be served once removal details are known. Please note however, UK-born children who are British citizens by virtue of the fact that one of their parents is British or settled here are not liable to removal and should not be served with either the IS92 (UK) or the IS151A. Such a child might still be expected to accompany their parent abroad.

### **Children of deportees**

Section 3(5) (b) of the 1971 Act allows us to deport the non-British family members of a person who is or has been ordered to be deported. Reference should be made to the relevant casework section to ascertain current procedures and forms.

UK-born children who are British citizens by virtue of the fact that one of their parents is British or settled here are not liable to removal and should not be served with either the IS92 (UK) or the IS151A. Such a child might still be expected to accompany their parent abroad however.

### **45.3 Information sharing with local child welfare agencies**

Home Office staff must make timely and appropriate referrals to agencies that provide ongoing care and support to children, and to foster and maintain effective working relationships with such partner agencies.

Responsibility for statutory children's services in Scotland, Wales and Northern Ireland rests with the devolved administrations. Referrals should be made to the relevant public authority by the Home Office when members of staff have identified children as being in need or at risk.

In Great Britain, principal responsibility for safeguarding the welfare of children rests with local government:

- England: the local authority Children's Services Departments;
- Scotland: the local authority Social Services Departments;
- Wales: the local authority Social Services Departments.

In Northern Ireland, it rests with Health and Welfare Trusts.

See the Keeping children safe guidance for instructions (in line with the requirements of the Data Protection Act 1998) on when and how to refer a child to local child welfare agencies or the police.

Further advice on requesting information from local child welfare agencies and the referral forms are available from the office of the children's champion (OCC).

All contact managers dealing with family cases should foster good working relationships with local health, education and welfare services. Home Office policy is to take account of any concerns these agencies may have about particular children and to ensure they are aware of and understand immigration legislation and rules.

It is important that welfare agencies are informed after any family has moved to open accommodation or pre-departure accommodation or is removed from the UK. This will prevent unnecessary concerns about missing children.

### **Children's services and adult social services**

Children's services and adult social services may have an in-depth knowledge of any individual in the area that has specific welfare needs. Their information is therefore crucial to any plan to return a family. It may be that an information sharing agreement has already been set up with children's services and social

services which will greatly assist in obtaining information regarding any specific family welfare concerns, and any other information which may be relevant in planning the family's return.

If an information sharing agreement has not been set up with children's services and social services, case owners should set about establishing one so that the sharing of sensitive information is appropriately handled. In any case it is more likely to be appropriate to share information where it means the children are better planned for in Home Office.

Data should only be disclosed to interested third parties in confidence and in accordance with the Data Protection Act 1998.

Directors of children's services in England and their equivalents in other parts of the UK are responsible for setting up umbrella bodies that encourage co-operation between local agencies who deal with children. Health, education and the police are required by law to attend. The Home Office is not, but may do so. In England, Wales and Northern Ireland, they are called Local Safeguarding Children Boards (LSCBs). These boards can provide opportunities to:

- Ensure immigration legislation, rules and processes are understood;
- Enable the maximum appropriate information sharing with the Home Office ;
- Resolve difficulties with particular agencies.

Home Office staff working in Scotland should be guided by the Scottish Children's Charter which sets out what children and young people need and expect to help protect them from harm.

#### **45.4 Departure**

Staff should notify anyone with an interest in the family's case about their departure. This could include children's services, any education provider, the GP, the case owner as well as any accommodation provider. Data should only be disclosed to interested third parties in confidence and in accordance with the Data Protection Act 1998, and the ECHR.

Record on CID, and on file all arrangements and any problems or barriers that arise. Evidence all decisions made, and the reasons for those decisions.

If the family raise any outstanding medical-based submissions these should be addressed. Ensure that all current and potential medical needs are being addressed.

Where any last-minute representations or other casework barriers to departure (including medical-based submissions) are raised by the family, they should be forwarded to Operational Support and Certification Unit (OSCU) for consideration. Representations will be considered in accordance with paragraph 353 of the Immigration Rules. If they are recognised as new/fresh claims, these should be considered, and a decision made whether removal directions should be cancelled.

Where the family expresses their intention to apply for judicial review, follow the guidance set out in EIG chapter 60. If the family does not have a Crown Office reference number, it should be explained to the family that one should be obtained from the Administrative Court Office otherwise removal will normally proceed as planned.

Once any further representations and judicial review applications have been resolved, removal directions can be quickly re-set.

## **45.5 Disclosure**

If a family member informally requests to see the information we hold on them (e.g. immigration factual summary), you should release as much information as possible outside of the subject access request process in line with data protection and freedom of information legislation.

As a minimum, information should not be disclosed relating to third parties who are unknown to the family member; results of PNC checks; medical information where consent was not given by all family members; or any information which may compromise effective operational planning. Families may also submit formal subject access requests under the Data Protection Act.

If a family requests to see information in the FWF or any other documentation, refer to the guidance on disclosure of information in Immigration Directorate Instructions- Chapter 24. Please note there are specific authority levels in place for disclosure of the FWF within the FRP; see EIG Chapter 45, Section 2, The FRP.

#### **45.6 Permanent separation of families with dependant children**

There will be situations where it is accepted that an individual has established family life with a child in the UK within the meaning of article 8; but it is considered proportionate and legitimate to interfere in the family life of the individual and the child by removing the individual without the child.

In this scenario, the other family members remain in the UK (regardless of immigration status), or will be returned to their country or territory of origin, or to a third country, within an unspecified timescale. These cases will not form part of the family returns process.

However, as there are children involved, the case **must** be referred to the Office of the Children's Champion (OCC) for advice on the implications for the

welfare of the children of any proposed action. It is not the role of OCC to approve the decision itself.

Prior to seeking authority to serve removal directions or to detain the parent in these cases; under S55 caseworkers must show full consideration has been given to this advice to ensure proposed separations are proportionate and legitimate.

Authority to serve removal directions or to detain the parent must be obtained from at least an assistant director and reviewed in line with the guidance set out in EIG chapters 55 and 60 of the Enforcement Instructions and Guidance.

#### **45.7 Family separations outside of the family returns process**

This section of chapter 45 relates specifically to:

- Families with no children under 18 years – family life established
- The return of an individual claiming to be in a family – no family life established Separation of EEA families
- Temporary separation of foreign national offenders (FNOs)

As these cases do not involve the return of a child under the age of 18, they fall outside of the criteria for the family returns process and advice from the independent family returns panel (IFRP) is not required.

This guidance should be read in conjunction chapters 53 (Extenuating circumstances), 55 (Detention and Temporary Release) and chapter 61 (Arrest Teams – Operational Procedures) of the Enforcement Instructions and Guidance together with criminal casework's process instructions on separating families for deportation and detention which will be relevant if dealing with cases involving foreign national offenders.

### **45.7.1 Article 8 consideration**

Article 8(1) of the ECHR provides: “Everyone has the right to respect for private and family life...”

Article 8 is a qualified right. Interference with the right to family life is permissible under Article 8(2) if it is (i) in accordance with the law; (ii) for a legitimate aim; and (iii) proportionate. When immigration powers are used to detain or remove a family, the principle underpinned by Article 8 of the Human Rights Act, is that members of the family remain together. Therefore, separating families for detention and removal purposes should be justified as being necessary and proportionate, should have regard to the need to safeguard and promote the welfare of any children concerned, and should be authorised by at least an assistant director. The authority to separate a family should be recorded on the case file and on CID case notes together with the reasons for that decision.

When considering the concept of a family unit, you must bear in mind that there are likely to be a range of possible variations on ‘family life’ which may be presented and must be considered but it is for the individual to demonstrate that there are sufficiently close family ties and dependencies to constitute ‘family life’ within the meaning of Article 8. In many cases the closeness of the family ties will be self evident, such as married parents and their children who are residing together. In other cases it will not be so easily measurable, such as a purported dependency on an extended family member, for example a cousin, however, the onus is on the individual to provide evidence or demonstrate that a ‘family life’ exists as claimed. If no such evidence is forthcoming and detention and removal is going ahead on the basis that ‘family life’ has not been established, then there is no need to seek authority for a family separation.

On 9 July 2012 the immigration rules regarding family migration and private life in the UK were changed and a new method of considering Article 8 under the rules was introduced. Immigration offenders seeking to rely on their family life or private life as the basis of their stay in the UK must make an application

under the relevant rules on the appropriate application form paying the appropriate fee. The exception to this includes where a migrant is in immigration detention and/or where removal directions have been set pending an imminent removal. More detailed advice on considering Article 8 issues in enforcement cases will be contained in chapter 53 of the EIG which is in the process of being updated. For general guidance on dealing with Article 8 issues please see: IDI Chapter 8 Appendix FM.

#### **45.7.2 Families without children under 18 years – family life established**

There will be some cases where an individual (without any children under 18) has established a family life in the UK (e.g. with their spouse/partner), but it is considered proportionate and legitimate to interfere in the family life by removing or deporting them to their country of origin.

Appropriate authority should be obtained for separations of this nature; refer to 45.7.8 Table of levels of authority to separate.

#### **45.7.3 The return of an individual claiming to be in a family – no family life established**

There will be situations where an individual claims to have established a family life in the UK within the meaning of article 8, but has failed to provide evidence or demonstrate that a family life exists.

Where a decision has been made to remove or deport an individual on the basis that no family life has been established, a family separation submission will **not** be required.

#### **45.7.4 Separation of EEA families**

Guidance on cases where the applicant is a partner/ family member of an EEA national can be found in chapters 50 EEA administrative removal and 53.4 extenuating circumstances - marriage to an EEA national in the enforcement instructions and guidance; and in chapter 2 – rights of non EEA national family members of EEA nationals and chapter 8 – enforcement action taken against EEA nationals and family members in the European casework instructions.

#### **45.7.5 Temporary separation – Detention of a family member who is a foreign national offender**

A family may be temporarily separated where a family is being returned, but one individual is a foreign national offender (FNO) and we are maintaining his or her detention (on the completion of their custodial sentence) until return of the whole family is possible. Assistant director authority should be obtained at the point when a deportation decision is made.

If a FNO is already in detention, and a family life is later established which has not been substantively considered previously, a detention review should immediately take place. The authority to maintain detention in this scenario rests with an assistant director in criminal casework. Please see chapter 55, and criminal casework - children and family cases instruction for further information.

#### **45.7.6 Levels of authority and delegated authority to separate a family outside of the family returns process**

All family separations should be authorised at a minimum of assistant director (Grade 7) level, with the exception of unplanned separations occurring at the point of arrest during which the officer in charge (OIC) is able to give authority that is endorsed at a minimum of assistant director within 12 hours (or as soon as practicable) of the arrest.

Assistant director authority (as a minimum level of authority) should make these decisions. When they are on leave or absent, they should ensure that the senior manager designated to exercise their authority on their behalf takes these decisions.

In all cases the assistant director, or delegated authority, should record their agreement to the separation and their reasons for doing so, which should be recorded on the case file and CID notes.

There may be more complex and high profile cases which necessitate referral to more senior levels, but a judgement on these should be taken locally.

#### 45.7.8 Table of levels of authority to separate

The following table explains the authority required to separate a family at different stages of the process and will require at least assistant director authority.

Scenario	Authority
<b>Planning for the arrest of a family:</b> where it is known that we will separate the family on detention	No less than <b>assistant director (G7)</b>
<b>Decision to separate at point of arrest:</b> for example where a member of the family is not at home or absconds during the operation, an individual(s) is disruptive or behaves dangerously, or there are unexpectedly large numbers of people with not enough transport to keep them in one vehicle.	<p><b>At point of arrest: Officer in charge (OIC)</b> of the operation.</p> <p><b>Retrospective authority</b> must be endorsed at no less than <b>assistant director (G7) within 12 hours of the arrest</b> (or as soon as practically possible if the arrest is made at the weekend)</p>
<b>Decision to separate (families without children under 18) in detention</b> For example; if a family member has to be admitted to hospital or if a family member becomes violent and poses a threat to the safety of other family members, to other	<p>Initial decision made by <b>contractor's staff</b>.</p> <p>Decisions to continue separation for longer than 12 hours require authority of the head of operations, returns directorate during duty hours, or the <b>duty director</b>, returns</p>

families or to staff	<p>directorate, outside office hours.</p> <p><b>In addition to the above, if a decision is made to separate family members at different centres, the case owner should be made aware.</b></p>
<b>Decision to continue separation in detention after arrest</b>	No less than <b>assistant director (G7)</b> and reviewed regularly at detention reviews.
<b>Separating a family at the removal stage</b>	No less than <b>assistant director (G7)</b>
<p><b>Continuing detention of a single person who later reveals they are part of a family</b></p> <p>Claims should be investigated immediately, and a detention review conducted within 48 hours, especially if these suggest that their Article 8 rights may be being infringed.</p> <p>If it is established that they are part of a family, give consideration to reuniting them with their family.</p>	<p>Whilst investigating claims: <b>no additional authority required</b></p> <p>Recommendations for continued detention; No less than <b>assistant director (G7)</b></p>
<p><b>Review of detention where a family separation has occurred as a consequence of action by the family or a family member, for example, someone absconding.</b></p> <p>Assistant directors (as a minimum level of authority) should satisfy themselves that the family cannot be reunited in detention and that detention remains appropriate, and should take into account the impact of detention on any children. Attempts should be made to locate missing family members to reunite the family.</p>	No less than <b>assistant director (G7)</b>

<p><b>Detention of a family member who is a foreign national offender</b></p> <p>Where one family member is a foreign national offender (FNO) and we are maintaining his or her detention (on the completion of their custodial sentence) until return of the whole family is possible</p>	<p>No less than <b>assistant director (G7)</b> at the point when a deportation decision is made</p> <p>If a FNO is <b>already</b> in detention, and a family life is later established which has not been substantively considered previously, a detention review should immediately take place by no less than <b>assistant director (G7)</b> within criminal casework.</p>
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#### **45.8 Encountering families with children outside the family returns process**

Members of families with children may be encountered as part of routine enforcement activity unrelated to the family returns process such as at home or business premises. This could be where the family's progress through the family return process has stopped due to failure to comply with a reporting requirement, or because they are no longer residing at their notified address. Contact may also be made with individuals who are known to be part of a family with children, but who have not been subject to the family returns process.

In such scenarios a known adult family member should be questioned to ascertain the whereabouts of the whole family. It will not normally be appropriate to detain known adult members of families with children, the presumption being that the family should be reunited unless there are good reasons not to. Where a family has previously been involved in the family returns process it will be for the case owner to decide how to continue the relationship with the family and take them through the family return process to conclusion.

If the family member is a child, staff should establish where the remaining family members are and if this is not possible, a referral to the police and social services should be made. Where a child is found to be alone and is not known to be part of a family, EIG Chapter 26 should be followed.

#### **45.9 Last minute claims to be part of a family with children**

There may be situations where an individual, who is not previously known to the Home Office or is not previously known to be part of a family with children is arrested or detained for immigration purposes, (including where a referral is made by the police or by a prison) and then claims to be part of a family with children for the first time. These claims must be investigated immediately.

If it is decided that no family life with a child exists, or that a family life with a child does exist but the individual should be removed/deported without their child; see family separations outside of the family returns process

If it is decided that a family life with a child has been established, and the individual should be returned with their children, the individual should be released, and if they meet criteria for entering the family return process, a family return conference should be arranged. Refer to Ch45, Section 2, The FRP.

#### **45.10 Absconding families**

If a family fails to attend a reporting event without an acceptable reason, or is no longer resident at the address they have provided; and a new address cannot be obtained, the family will be considered to have 'absconded'.

The number of events a family should miss in order to be defined as an absconder will be considered on a case by case basis.

Failure to Report is the term given when a family fails to report for 2 pre-set reporting events for which they are required to attend without an acceptable reason. This does not include events which they are invited to attend (e.g. the substantive asylum interview). It is not necessary that these events are consecutive.

If it is confirmed that a family are no longer resident at the address they have confirmed with the Home Office as their home address and/or the address designated for purposes of financial support/benefits, reasonable attempts should first be made to identify a new address. A reasonable attempt should be made to contact the family, their legal representative or any other known family representative in order to ascertain a new address. If a new address cannot be obtained, the family will be considered to be in breach of their conditions.

Once it has been confirmed that contact cannot be made with the family, the family should be recorded as an absconder. All ongoing reporting restrictions should be cancelled, including any electronic monitoring (EM) requirements.

Where a family has absconded, but is subsequently traced and located by the Home Office it is for the case owner to decide how the case should be resumed. This decision should take full account of the family's prior compliance, behaviour and reaction to discussions regarding their return. Consideration should be given to:

- whether the family will be allowed to travel to the port of departure entirely under their own steam, or
- whether we will need to assist them to departure on their notified date if the family request help with this (usually by sending round transportation to take them to the airport)

Details of any absconding by the family and any attempts to trace them should be updated on CID.

For further information on absconder action please see the absconder guidance.

## **45.11 Visits to the family's home**

Guidance on conducting enforcement visits can be found in chapter 31. Depending on the nature of the visit to the family's home, the following considerations and preparations will need to be made.

### **45.11.1 Clothing and personal protective equipment (PPE)**

PPE should be worn in line with the operational risk assessment for visits to the family's home; however, it is necessary to consider the physical appearance of officers wearing the equipment and any potential impact on children.

For visits to the family's home that are conducted purely to obtain information and not to arrest and escort the family (e.g. the family departure meeting), covert or overt body armour should be considered where they are available, as dictated by a visit-specific risk assessment. If belt kit (e.g. handcuffs and baton) are identified as a control measure through visit-specific risk assessment, non-arrest trained staff should not conduct the visit on their own. In these circumstances, consideration should be given to holding a meeting on Home Office premises. For visits where the family are being arrested and escorted to a port of departure, or to pre-departure accommodation, all officers are to wear full PPE with body armour provided for any observers. Any exceptions to standard PPE should be fully risk assessed and authorised at regional director level.

See the current Risk Assessment Guidance [for](#) more information.

#### **45.11.2 Method of entry**

Staff should have regard to the need to safeguard and promote the welfare of children before effecting forced entry on arrest and escort visits to the family's home, since this is likely to increase the distress caused to the child by the family visit. As part of operational planning staff should consider whether forced entry is actually necessary under all the circumstances.

Forced entry should only be effected by appropriately trained and accredited officers. Entry without consent, with a warrant and no force (i.e. door unlocked, keys held) can be effected by arrest trained Immigration officers, subject to health and safety and operational risk assessments. See chapter 31 for further information.

#### **45.11.3 Arrest and escort visits**

ICE team officers will need to be fully aware of the circumstances of each family when undertaking arrest or escort visits. Research will need to be done prior to planning a visit in order to ascertain what time of day everyone is normally present. Visits should not normally be conducted before 0630hrs unless a specific risk assessment indicates that an earlier visit is required. When a visit is proposed before 0630hrs or after 2100hrs, this should be included in the return plan presented to the Panel.

#### **Operational planning**

- The officer in charge (OIC) should brief the team and ensure all members are aware of the risk assessment, the information obtained through contact management, the basis for the asylum claim and any welfare

needs for each member of the family, with particular emphasis on the needs of any children.

- The OIC should brief the team and ensure all members are aware of any contingency plans that have been agreed, should the arrest and escort not go according to the agreed return plan.
- If it is an arrest team visit, open a log number / CAD reference with the local police control room.
- Ensure NOD is completed before leaving the office.
- Prior to leaving the office, ensure that you have all relevant items: warrant, paperwork, fully functional camera, quick check unit.
- All officers are to wear full PPE with stab vests provided for any observers. Any exceptions to standard PPE should be fully risk assessed and authorised at regional director level.
- After entry to the property has been effected, ensure the accommodation is swept by appropriately trained staff and is secured.
- Ascertain whether any family members have any medical conditions/special needs not previously identified on the FWF.
- If unforeseen circumstances arise on a visit, e.g. pregnancy or illness, then consideration should be given by the OIC as to whether the visit/arrest should be abandoned. Officers should consider the need to safeguard and promote the welfare of the child, in particular to the possibility that their actions could exacerbate the illness or condition and thus be contrary to the child's welfare. Authority should be sought from an AD in the first instance if it is intended to carry on with movement of the family in light of the unforeseen circumstances. A record of the decisions should be kept for audit purposes, both in a decision log and on CID, in line with Critical Incident policy.
- Explain the reason for the visit to the adult members of the family and ask them to explain to any children present, in simple terms. The children should not be used to interpret. If there is a language barrier, use the designated telephone interpreting service. It will be up to the officer dealing with each child to decide how best to communicate with the child.

- Serve any appropriate paperwork and arrest the family as a whole [including dependants] under Para.17 of Schedule 2 to the 1971 Act which will allow the family to be taken to a port of departure.. Guidance on the completion of form IS91R is available in chapter 55.6.3 of the Enforcement Instructions and Guidance.
- Explain to the family where they are being taken, how long the journey will take.
- Families should usually be allowed a minimum of 30 minutes to dress, pack documents and baggage, use bathroom facilities and feed very young children. Families should be advised of the commercial baggage allowance which is generally 20 kilos (in one suitcase) per person, but no allowance for children under the age of two. This time can be extended or curtailed subject to the dynamic risk assessment where appropriate.
- It is important to make sure that all members of a family are managed as they prepare themselves to leave the house. A female officer should be present where a female is dressing, as should a male officer where a male is dressing. The kitchen and bathroom should be cleared of any potentially dangerous items. If a person wishes to use the bathroom, a check should be made first for any items which could be used to self-harm or injure others. Any doors should not be allowed to be locked from the inside.
- Officers should be sensitive to the sensitivities/embarrassment of children whilst they are changing/using the bathroom, and should endeavour to make sure that the child does not injure themselves, or is able to attempt to injure others. It is important that the door remain unlocked but closed to in order for staff to do this but it should be as discreetly as possible.
- All medication should be logged and kept separate by the officer designated with that task. It should be sealed in such a way as to prevent access without breaking the seal and handed to the escorts.
- Every effort should be made to determine whether medication has recently been taken by any family members and whether it is required to be taken before or during the journey. Specific Instructions, e.g. to be taken with food, should be noted and appropriate arrangements made. Care should be taken to check that any necessary medication is available until the

family reach the accommodation and that sufficient medication is available for the duration of their stay and removal period.

- It is the responsibility of the OIC to update any paperwork with details of any medication, illness or special considerations. They should provide a full verbal handover together with a copy of the updated paperwork to the holding room staff or in country escorts to pass to the contract manager of the pre-departure accommodation. Handwritten additions are acceptable if the handover time to the escorts is short.
- The family should be consulted prior to leaving the address to ensure that they have packed all relevant and important personal effects and their responses should be noted.
- A full written record should be kept by one member of the team detailing the process of the operation. This should be retained securely.
- The checklist ICD. 3630 on CID under 'after entry forms' should be completed by the OIC to ensure that all appropriate actions have been undertaken and a copy kept on the file.

#### **45.11.4 Personal effects and baggage**

A minimum of 30 minutes should be allowed for a family to pack their belongings dependent on a dynamic risk assessment. This timescale can be extended where the risk is considered to be low with there being no maximum time limit, or it may be curtailed should the risk of remaining in the property be high. When deciding how much time a family needs, have regard to the need to safeguard and promote the welfare of any children involved.

Families should be encouraged to pack official Home Office documents, solicitor's details, health records, educational certificates, sufficient clothing for each member of the family whilst in open and pre-departure accommodation (according to their return plan) as well as on arrival in the country of return, baby equipment such as nappies and formula milk, and toys and books for children. Children should also be encouraged to pack contact

details for friends and a favourite toy or belonging. Families should be encouraged to pack only one bag each to meet the baggage restrictions (Home Office standard weight limit of 20kgs), as the Home Office has no responsibility for arranging or paying for excess baggage.

Officers should ensure that the property is left secure, and that families are advised of the need to make contact with someone to take responsibility for their remaining belongings. Where a family has been privately renting property, or housed within Home Office accommodation, the landlord has a legal obligation to secure and store property for a reasonable period of time. Families will have access to a telephone before departure to make arrangements for the rest of their belongings.

Families should be made aware of the baggage allowance limited by airlines and the facility for friends/family to make arrangements for their property on their behalf whilst they are in pre-departure accommodation. The Home Office has no responsibility for arranging or paying for excess baggage.

#### **45.11.5 Pets**

Where pets are found in the property, every attempt should be made to contact a member of the family, a friend or a neighbour to take care of the animals. Failing that, there are four options depending on the pet and any risk factors posed by the animals:

- Leave the animal if it is safe, has access to food and water and arrangements can be made for someone to care for it within a reasonable timescale.
- If police are present, they may be able to take a dog to kennels at a local police station where they have arrangements with local authority rescue centres. In those areas where the police no longer take responsibility for lost and found dogs, refer to the RSPCA.

- Ask the family to sign care of the animal over to the RSPCA and contact the RSPCA on 08705 555 999.
- Take the animal to a local pet rescue centre

Whichever option is chosen, the family should be provided with contact details of any individuals or organisation assuming responsibility of the animal. Within open and pre-departure accommodation the family will have access to a Welfare Officer who can assist the families in contacting people and agencies in order to make further provision for their pets should this be required.

#### **45.11.6 Child car seats**

Where the children are too young to sit in and fasten the child seat or booster themselves, the principal carer should be asked to seat and fasten the child into the car seat.

Approved child seats, booster seats and booster cushions should be used to transport children and young people safely. Car seats should be suitable for the age and weight of the child concerned and the vehicle in which they are being fitted and should confirm to European Safety Standards R44.03.

Home Office staff should ensure that children under 3 years use the child restraint appropriate for their weight. Children aged 3 or over, up to a height of 135cm or 12 years old, whichever they reach first, should use the correct child restraint.

Children aged 14 years and above will have to use seat belts or child restraint depending on their height.

Only appropriately trained persons may install child car seats. All necessary training will be provided locally, either directly by the manufacturer or cascaded down via trained colleagues.

## **Escorting children**

Whenever staff are escorting families with children, and particularly when they are acting in the place of contracted escorting staff, they should follow the published guidelines for escorts, which includes guidance on refreshment breaks.

### **45.12 Control and restraint**

All family members, including children, should be arrested as a whole unit and the arrest should be made as soon as practicable, to ensure that the family is legally in immigration custody for conveyance to the port of departure or to pre-departure accommodation. It will normally be that arrests in such circumstances will be under administrative powers contained in paragraph 17 of schedule 2 of the 1971 Act and not under criminal powers.

In all cases, if control and restraint is considered necessary on adults, it should be overseen by a supervising officer who is not personally directly involved in the application of force and he or she should record events appropriately. Any use of control and restraint should be fully justified, reasonable and proportionate, only used for the shortest possible period, be the minimum needed to affect a lawful objective when all other avenues of securing voluntary cooperation by way of verbal persuasion have been exhausted, and be de-escalated as soon as the individual begins to display compliant behaviour or the objective has been achieved, and so long as it is safe and possible to do so.

Control and restraint should only ever be used by fully trained and certified officers when an individual is non-compliant and/or violent in order to: affect their arrest safely; prevent escape; prevent an act of self-harm or suicide; move them to another place of detention; prevent harm to another individual;

prevent significant damage to property; and ensure their removal from the UK. Full guidance on what is reasonable force can be found at chapter 61.

#### **45.12.1 Use of force on children and young people**

The control and restraint of children and young people **must** be limited to circumstances where it is necessary for an officer to use physical intervention to prevent harm to the child or any individual present whilst ensuring they comply with a requirement to leave to UK.

Physical intervention must **not** be used simply to enforce the removal of children where there is no threat of violence. In the vast majority of cases there will not be a need for officers to exercise physical control or restraint of minors.

Home Office officers and authorised contractors must give consideration to the need to safeguard and promote the welfare of the child concerned, and of any potential adverse impact to their physical or emotional wellbeing. Children who have been identified as having additional vulnerability, such as learning difficulties, medical conditions, etc, may be more adversely affected by the use of force and staff give due consideration to this.

In cases where there is active physical resistance, and physical intervention is deemed absolutely necessary **to prevent harm**, Officers and authorised contractors must ensure that any action is age appropriate, limited to the minimum level of force required in that particular circumstance, justifiable and proportionate. All physical interventions should be in line with officer training and it is imperative that restraint must only be used for the shortest possible period and de-escalated at the earliest opportunity.

### **45.12.2 Use of force on pregnant women**

Force should only ever be used on a pregnant woman to prevent her from harming herself, any member of her family or any member of staff. Any force used must be appropriate, justified and proportionate. Staff must complete the use of force form detailing and justifying the reasons for using force.

### **45.12.3 Control and restraint in the presence of children**

The wellbeing of children within our care is very important; as such, the use of control and restraint on adults during an operation should not be routine, given the possible impact that this may have on any child/children present.

Where it is believed an adult is likely to be disruptive during the return, and anticipate control and restraint techniques may need to be used, operational planning should include considerations for shielding the child from witnessing any force being used. In dynamic situations where the use of control and restraint is not foreseen, officers should do everything reasonably possible to shield a child from witnessing force being used.

### **45.12.4 Control and restraint - reporting requirements**

On every occasion when control and restraint has been used, a comprehensive incident report should be completed as soon as possible after the incident took place. In the case of control and restraint involving a child, a copy of this report should be sent to the office of the children's champion. Full guidance on the reporting requirements when force is used can be found in chapter 61 but as a reminder all use of force should be reported by the officer in a detailed reporting setting out:

- Why the force was necessary

- The techniques used
- How long the incident lasted
- Who else was involved
- How the officer attempted to de-escalate
- The outcome of the use of force
- Whether any injuries were sustained
- What was done to shield the child from witnessing any force on accompanying adults and how successful that was

Use of force forms should be completed before a debrief is held with the team members on the visit. Both CID & NOD should also be fully updated with details of the incident.

#### **45.13 Written records and debriefs**

It is imperative that staff keep careful records during an incident. Records not only include written reports but also contemporaneous notes and logs, and where available hand-held video footage (where a visit has been recorded). Not only will this evidence assist with a decision whether or not an independent investigation is necessary, but more importantly as evidence itself for an investigation.

Where it is not possible to complete written reports during an incident it is important that they are written up as soon as possible afterwards whilst events are still fresh in the mind of the officer.

When more than one officer is involved in an incident, they should write up their reports independently and without conferring as the value of statements can be reduced if officers have had an opportunity to discuss what occurred before making them.

It is preferable to hold any debrief after the completion of reports. However, where it is essential to hold an immediate debrief, the OIC should be clear from the outset that officers are not to discuss the use of force incident with one another whilst reports are being made. The debrief itself should be neutral and kept to a minimum.

Any information relating to our duty to have regard to the need to safeguard and promote the welfare of children arises from out of the visit, which is separate to use of force, should be recorded on the Family Welfare Form.

Full guidance on written records and debriefs can be found in chapter 61.

#### **45.14 Staff Welfare**

Family removal work is a difficult, sensitive area of work. Officers involved, particularly in visits where there have been difficulties should be aware that there may be occasions when they need support.

Staff should use the opportunity of the debrief to explore any issues or concerns to help them work through any emotions.

Care teams are available in some locations and 24 hour Health and Welfare provision is in place. Please see Health, Safety and Wellbeing guidance for further information. In the meantime staff should not hesitate to seek support from their line manager or from colleagues.

#### **45.15 Training**

In line with the duty to have regard to the need to safeguard and promote the welfare of children, any officer involved in cases involving children should hold

enhanced CRB disclosure and undertake relevant training which is proportionate and relevant to the roles and responsibilities of each officer.

Tier 1 is a short e-learning package designed to raise awareness of child abuse and trafficking and is mandatory for all staff up to and including Grade 6.

Tier 2 is a face-to-face course on the section 55 duty, child abuse and referrals to Children's Services. The first 2 tiers are designed for all staff who may come into contact with children either in person or in writing.

Tier 3 is a one day practical course designed for those who may encounter children and young people either during family visits or unexpectedly on visits to residential or commercial premises. Staff may also encounter children and young people who have entered clandestinely or have been arrested by the police. Tier 3 is mandatory for operational staff up to HMI/SEO working within a family context, and optional for caseworkers, policy staff, intelligence staff, criminal investigators and seconded police officers.

There is also a two day course on the screening of children and young people for those who require this training.

### **FRP Specific training**

Staff conducting the Family Returns Conference and the Family Departure Meeting will receive training on how to conduct these meetings, including guidance and support for how to talk to children. Only staff who have received this specialist training will be able to conduct both the Family Return Conference and the Family Departure Meeting. Staff will also receive training on completing the Family Welfare Form, as well as referring cases to the Family Returns Panel so that they are able to effectively plan a family return with due regard to safeguarding and promoting the welfare of children.



