



END CHILD DETENTION NOW

A citizens' campaign to end the scandal of child detention by the UK immigration authorities

OurKingdom: Dossier III

MIND THE GAP! Coalition **claims and realities for** **child detention in the UK**

By **Clare Sambrook**, coordinator,
End Child Detention Now *
Friday 31 December 2010

A response to the Government's 'new approach for working with families'

as expressed in:

◆ [Deputy Prime Minister Nick Clegg's upbeat speech](#)
UK Citizens Rally, 16 December 2010,
'setting out how we are ending the detention of children for immigration purposes'

and three (less effusive) Government utterances that same day:

◆ [The Home Office UK Border Agency](#)
[REVIEW INTO ENDING THE DETENTION OF CHILDREN FOR IMMIGRATION PURPOSES](#)

◆ [Immigration minister Damian Green's statement](#)

◆ [UKBA director of criminality & detention Dave Wood's letter to NGOs](#)
[not available online]

New compassionate approach to family returns:

'Children will no longer be detained in Yarl's Wood immigration removal centre, the government announced today. The UK Border Agency will instead follow a new four stage process for returning home families who have no legal right to stay in the UK.'

**Home Office media
centre:
16 December 2010**

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End Child Detention Now's response to the Government's 'new approach for working with families'

By Clare Sambrook, coordinator of End Child Detention Now *
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When Nick Clegg announced two weeks ago, 'Today marks a big culture shift within our immigration system,' I was struck by a vivid image of horses struggling to push carts.

A big culture shift is exactly what is needed at the Home Office, but there is no sign of its happening any time soon.

The Deputy Prime Minister was speaking to a Citizens UK rally in London on December 16th. He claimed, 'We are setting out, for the first time, how we are ending the detention of children for immigration purposes . . . That practice, the practice we inherited, ends here.'

But it didn't end there. The Government's December commitments do not end child detention; they repackage it. No longer will children be locked up at Yarl's Wood. They'll be locked up instead at Tinsley House, until May 2011. Thereafter they'll be locked up in . . . wait for it: 'family friendly secure pre-departure accommodation'.

As if the horse / cart conundrum were symptomatic of a deeper neurological problem within Government, a Home Office press release billed the plans as a 'new compassionate approach to family returns'.

It's true that the returns process lacks compassion. The bigger problem is the automatic disbelief that too often greets asylum seekers from their first moment of arrival. That is compounded by the shrinking availability of legal advice that might protect them (and the system) from sloppy decision-making. Compassion might be a stretch for some at the UK Border Agency. A proper respect for evidence would be a start.

Clegg's rhetoric of compassion gave the Liberal Democrats a much needed 'win' in a pre-Christmas period rocked by student protest and

accusations of betrayal. Perhaps fortuitously, the immediate closure of the Yarl's Wood family unit rescued immigration minister Damian Green from the embarrassing repercussions of his promise to dress up as Santa if children were still locked up there at Christmas. (The embarrassment would have been real and public; campaign groups had Santa stunts afoot).

Liberal Democrats have indeed, as Nick Clegg, said, 'fought long and hard' to end child detention. That they need to keep on fighting, proceed with caution, and mind the gap between rhetoric and experience is clear from the Government's less effusive utterances on 16th December, scrutinised here. They include Damian Green's official [statement](#), the Home Office's 21 page [Review Into Ending the Detention of Children for Immigration Purposes](#), and an unpublished letter to NGOs from Dave Wood, the Border Agency's director of criminality and detention.

1) **Why the gap between actions and words?**

In Opposition, Liberal Democrat leader Nick Clegg called child detention 'state sponsored cruelty'. The Liberal Democrats made ending it a Manifesto promise that survived into the [Coalition Agreement](#) pledge: 'We will end the detention of children for immigration purposes.'

This would be accomplished within weeks of July 2010, immigration minister [Damian Green said](#) at a UK Citizens rally in June, adding that if children were still in Yarl's Wood at Christmas he would personally visit the Bedfordshire detention centre dressed as Santa Claus.

The detentions continued, albeit at a reduced rate: According to Damian Green's December 16th statement: 'Since the beginning of June, fewer than 50 families have been held in immigration detention — compared to over 300 over the same period last year — and the average stay in detention has been reduced from 15 days to 4 days.'

But Damian Green said that detention would end altogether within weeks of July 2010. Why the gap between action and words?

2) **Another prison: Tinsley House**

Far from ending detention, the Government proposes its continuation at Tinsley House until at least May 2011, and thereafter in new 'family friendly' facilities.

Tinsley House is the removal centre (near Gatwick, run by private

contractors G4S) where, in October 2009, a 10 year old asylum-seeker who had been forcibly arrested and locked up, let go, arrested and locked up again, got predictably distressed and tried to strangle herself.

Tinsley House's multiple deficiencies are enumerated in a December 2009 HM Inspector for Prisons report that reveals much about UKBA standards and culture:

'Reception remained a poor quality facility and too little use was made of translation services here and on induction,' wrote HMIP Anne Owers.

'There had been some improvement in suicide prevention work, although documentation remained variable.

'There was little evidence of bullying or use of drugs, but the small number of single women felt intimidated and rarely left their rooms.

'While little use was made of separation and use of force, we were disturbed to find an incident where apparently unnecessary force had been used on children when removing a family.

'Children continued to be detained for more than 72 hours. There had been no progress in developing appropriate child protection arrangements, and parents reported being worried about their children's safety in a largely adult male environment.

'Childcare and education arrangements had deteriorated with the loss of trained and dedicated staff. Accommodation remained clean, but stuffy and poorly ventilated . . . Staff talked openly about an increased prison culture encroaching on Tinsley House's previously relaxed atmosphere . . .

'Healthcare remained reasonable, but was still housed in poor facilities.

'Although some more paid work was now available, we disagreed with UKBA's insistence on linking access to it to compliance with immigration. This potentially compromised legitimate appeals against removal and bred discontent.

'The range of activities and education had shrunk. Education provision for children was now inadequate, and they had limited access to the fresh air. The library provision had also deteriorated.'

As if it needed saying, Owers added: 'Overall, this is a deeply depressing report.'

3) 'independent' Family Returns Panel (Actions and words: *Mind the Gap!*)

On December 16th Nick Clegg announced the creation of a 'wholly new, independent, Family Returns Panel' that would recommend 'the best course of action to get the family to return home' in those cases where a family 'absolutely refuses to leave'. And 'we expect the number to be low', he said.

The Panel will 'consider the best way of ensuring a safe and humane departure in an individual case, taking into account the need to safeguard and promote the welfare of the child.'

It will make a 'return plan' using any existing mechanism or policy, 'with the exception of detention in an immigration removal centre.' [Review, p17]. Instead, families will be detained in secure 'pre-departure accommodation'. [See below: (4)]

Clegg claimed that the independent Panel would be: 'Not run by me; or the Home Secretary; or UKBA; but by people who understand the needs of families, and whose job it is to protect the welfare of the children involved.'

But, according to the Government's Review document [p16], the Panel, although 'independently chaired', will include 'representatives of the UK Border Agency' as well as representatives of the Department for Education and 'independent experts'.

How will the Panel's 'independence' be assured when UKBA representatives are on the Panel?

The Border Agency has a worrying record of corroding the independence of people who work alongside it.

A recent Bedfordshire Local Safeguarding Children Board report on a case of sexual activity between two children at Yarl's Wood found serious failings by Home Office and 'independent' parties alike, including: Bedford Borough Council and Central Bedfordshire Council, SERCO and SERCO Healthcare, Bedfordshire police, the UK Border Agency, the Office of its 'independent' Children's Champion, UKBA's Family Detention Unit, UKBA's 'independent' social workers and UKBA's contract management team.

4) **Pre-departure accommodation**

Nick Clegg said on 16th December: ‘As an absolutely last resort, involving what we predict will be a tiny number of cases, they could be moved to new, family-friendly accommodation, immediately prior to leaving the country.

‘But make no mistake: this is a world away from the old immigration detention centres. These units won’t be prisons. They’re not big institutions. They’ll be small and personal, for a few families, used only in extreme situations. And we are actively looking at bringing in the third sector to help run them.

‘They’ll be somewhere the family can stay together. Somewhere they will have everything they need. Somewhere their privacy will be respected.

‘And, crucially, somewhere the family, and especially the children, will have the opportunity to come and go where that is appropriate’.

According to the Government’s Review document [p5], the duration of detention — or ‘stays’ as they call it — may ‘in exceptional circumstances’ last a week.

Whatever the Government calls them, however pretty the wallpaper, these ‘pre-departure’ facilities are still envisaged as places of detention.

This is, we believe, the first time that charities will be involved in running detention facilities, raising questions about, among other things, ‘independence’ and the proper role of charitable organisations. Who will hold them to account?

5) **Would you hand your child over to a Border Agency minder?**

‘We will allow children to have the opportunity to leave the premises subject to a clear and transparent risk and safeguarding assessment and suitable supervision arrangements,’ says the Government [Review, p5]. ‘We will also ensure that there are suitable adults on site in Tinsley House from January to allow children to have the opportunity to leave the centre following a risk and safeguarding assessment by UK Border Agency.’ [Review, p20].

Given the well-documented risks to children entailed in separation from their parents at times of stress, this seems a bizarre proposal.

Will children, already in the process of removal, feel able to trust these

strangers? Will children *want* to be separated from their parents? If they don't agree to be chaperoned by strangers, are they to be prohibited from going outside?

Will parents feel comfortable letting their children go with these strangers? Amid such asymmetrical relations of power (a chaperone provided by the authority that is trying to remove your family into a place of danger), will parents feel able to withhold consent?

A mountain of medical evidence and End Child Detention Now's experience among families tells us that children are extremely afraid (with good reason) of the UKBA officers sent to raid their homes and take them into detention. Rough handling, aggression and plain rudeness are routine.

How different are the minders going to be?

How big an improvement is family detention 'with an entirely different look and feel' where the children are allowed out only under guard?

6) A name-check for the UNHCR (Actions and words: *Mind the Gap!*)
The Government states [Review, p4]: 'Working in partnership with the Office of the United Nations High Commissioner for Refugees, we will continue to test and improve our decisions and create a specialist group of family case workers.'

Sadly, the Home Office record on engaging with international human rights organisations makes us rather suspicious of this claim.

The Home Office pursued aggressive policies in profound disregard and contradiction of Council of Europe human rights commissioner Thomas Hammarberg's warnings and exhortations. [See below: (8)]

A major EU report in 2010 — Becoming vulnerable in detention: Civil Society Report on the Detention of Vulnerable Asylum Seekers and Irregular Migrants in the European Union (The DEVAS Project) — acknowledges cooperation from detention centre staff in other countries under review, but:

'Regrettably, the United Kingdom refused JRS UK personnel permission to interview detainees and staff.'

JRS 'wrote several letters to prominent and influential people in the hope that the Home Office decision could be overturned. Dame Anne Owers (HM Inspector of Prisons) approached the Home Office on our

behalf arguing that a comparative study may be of value. However, all efforts to overturn the decision were unsuccessful.’ [p414]

Vocabulary aside, nothing in the Government’s December revelations suggests a shift towards openness, transparency and respect for human rights.

Is the ill-defined ‘partnership’ with UNHCR just another brush of veneer?

7) Early access to legal advice (Actions and words: *Mind the Gap!*)
Nick Clegg’s speech promised a ‘totally new process for families in the immigration system’ with ‘early access to legal advice’.

Home Secretary Theresa May, in the Review document’s foreword, writes: ‘Previous governments, through the UK Border Agency and its predecessor bodies, have sought alternatives to detention before but these have neglected to recognise that a fresh approach is needed that looks at the whole end-to-end process of working with families. We will not repeat that mistake.’ Pilots are underway.

The provision of early access to legal advice would mark a startling and most welcome departure from current practice which frequently leaves asylum seekers, including survivors of rape and torture, people in profound anxiety and extreme distress, to represent themselves in court against experienced Home Office presenting officers. Hardly the ‘equality of arms’ enshrined in European law.

In a stunning indictment of UK asylum policy in 2008, Council of Europe human rights commissioner Thomas Hammarberg severely criticised the ‘serious reduction of legal aid provided to asylum seekers’ and called upon the Government to adopt urgent measures ‘for providing better information and more expert legal advice to these persons’.

‘Celerity and quality of decision-making in the complex field of refugee law and protection are rarely a matching pair,’ said Hammarberg, urging the then Labour Government to consider the risks to the quality of asylum decision-making before speeding up the process any further.

The Labour Government further accelerated both the asylum process and the withdrawal of legal aid.

The Coalition Government has wholeheartedly continued the attack on legal aid.

Within weeks of promising to end child detention, resisting entreaties from human rights organisations, the legal profession, numerous eminent peers and the Archbishop of Canterbury, the new Government allowed the leading provider of legal services to asylum-seekers — Refugee & Migrant Justice — to collapse, for want of timely payment from . . . the Government.

We urge scrutiny of the Government's journey towards providing early access to legal advice.

8) A culture shift? Or a culture trapped by double-think?

On 16 December, Nick Clegg said: 'Today marks an big culture shift within our immigration system.'

There is no mention of a culture shift in Damian Green's statement or in the letter sent to NGOs from Dave Wood, the UKBA's director of criminality and detention who ran the Government's review process and whose defense of the detention policy has been most fervent.

In truth, the new system is characterised by *continuity* of culture. The Home Office continues to portray families scheduled for removal as people who 'failed to cooperate', who have reached the end of the legal process, who 'refuse to return home'.

Leaving aside the fact that many of these children were born here; Britain *is* their home. . .

The Coalition Government persists — against all the evidence, just like the Labour Government — in the assumption that the asylum-seeking families it seeks to remove are 'failed' asylum-seekers who have reached the end of the legal process.

How could that be true when so many of them have — from the very start — been denied access to competent legal services?

Such UKBA double-think — along with the 'culture of disbelief' that UKBA case workers routinely demonstrate towards asylum-seekers

— lies at the heart of our immigration system's culture.

Indeed Home Office double-think may be the main obstacle to the Government's achieving its own stated objective: the removal of 'failed asylum-seekers'.

The Home Office's former head of asylum and immigration research, Professor Heaven Crawley, in new research, Ending the detention of children: Developing an alternative approach to family returns, [p10] says:

'A lack of access to high quality legal representation combined with legislative changes designed to speed up asylum decisions have resulted in some families becoming 'failed asylum seekers' even where significant protection concerns are outstanding.

'Families who are considered 'appeal exhausted' may never in fact have had their cases fully and properly considered because of a lack of access to good quality legal advice and representation, including at the appeal stage.'

Crawley surveys policy in other countries where asylum-seekers *do* have access to legal services and encounter a higher quality of decision-making, and concludes [p13]: 'There is a growing body of evidence that more families return to their country of origin of their own accord when they can trust that the system protects those who need protection and where more support and information is available to families planning return.'

9) **The new rhetoric: Sounds familiar?**

Nick Clegg's talk of 'tiny numbers of families' who 'as an absolutely last resort' could be moved to 'new, family friendly accommodation', may sound reassuring.

As reassuring as this, perhaps, from Prime Minister Gordon Brown writing in January 2010: 'The UK Border Agency always seeks alternatives to detaining families with children . . . detention of children is kept to the minimum period necessary . . . The majority of families with children spend just a few days in detention . . . The UK Border Agency takes the welfare of all detainees, particularly children, very seriously.'

None of this was true.

That between 1000 and 2000 children were detained every year belies

the assertion that UKBA was 'always' seeking alternatives. (If they were 'always' seeking, they weren't very good at it.)

As for detaining families for the 'minimum period necessary' and 'just a few days', recent (unpublished) research by Bail for Immigration Detainees into the cases of 83 of the families and 143 of the children who were detained in 2009 found that one third were detained for more than a month even though no removal directions were in place. [cited in Crawley, p3].

In January 2009, responding to a Parliamentary question, the Government acknowledged that in each of the years 2004 to 2007, children had been detained in excess of 100 days. One child had been detained for 190 days.

Brown's January 2010 letter also said Yarl's Wood was the only detention centre 'where families remain for longer than 72 hours.' That's not true either. There's Tinsley House. [See above: (2)]

And Brown claimed: Yarl's Wood 'has a comprehensive welfare framework in place'. Wrong again. The Bedfordshire Local Safeguarding Children Board report suggests the 'comprehensive welfare framework' at Yarl's Wood is a comprehensive mess. [See above: (3)]

It remains to be proven whether Nick Clegg's rhetoric of compassion has any more integrity than Gordon Brown's weasel words.

10) **[Less brutal] ≠ [compassionate]**

When detention was first introduced for the purposes of immigration control in the UK, the expressed intention was for it to be used sparingly and as a last resort.

That the Government's proposed changes can be presented as 'a big culture shift' serves to remind us how skewed policy has become, with children and their families locked up, sometimes for months on end, despite five years of mounting evidence that detention causes severe and lasting mental and physical harm.

We should not accept the Government's framing of its plans as 'compassionate' just because they may be less brutal than before. Until the 1990s the detention of families was unthinkable in this country.

The Government has yet to prove that any future replacement system will be better at:

ensuring that families alleged to be ‘at end of process’ have been represented by a competent lawyer, have been able to justly use (or indeed exhaust) their appeal rights;

competently addressing medical needs;

reducing very substantially the psychological harms which are an inevitable consequence of locking up children and/or their parents.

End Child Detention Now fully supports the Children’s Legal Centre in its call for the Government to allow truly independent evaluation of the processes — currently being piloted — for returning families, and urges all campaign groups to carry on working to end child detention.

Finally, we simply note that the Government’s new compassionate approach, expressed so warmly by Nick Clegg in his speech, translates in UKBA-speak to this single commitment (which appears twice — on pages 6 and 14) in the Review document:

‘We will seek to ensure that we are aware of all relevant compassionate factors as early as possible in the family returns process.’

*Note on the author:

Clare Sambrook is a novelist, journalist and one of six friends who coordinate the unfunded citizens’ campaign End Child Detention Now.

Clare won both the 2010 Paul Foot Award and the Bevins Prize for stories exposing government misrepresentations about the child detention policy, and the cosy links between government, civil servants and the security companies who run the detention centres for profit.

**The End Child Detention Now press campaign is [here](#).
The End Child Detention Now campaign site is [here](#).**