

Family Returns Consultation

Helen Bamber Foundation and Asylum Aid submission

June 2026

Introduction

The Helen Bamber Foundation (HBF) is a specialist clinical and human rights charity that works with survivors of trafficking, torture and other forms of extreme human cruelty. Our multidisciplinary and clinical team provides a bespoke Model of Integrated Care for survivors which includes medico-legal documentation of physical and psychological injuries; specialist therapeutic care; a medical advisory service; a counter-trafficking programme; housing and welfare advice; legal protection advice; and community integration activities and services.

Asylum Aid, part of the Helen Bamber Foundation group, provides high quality legal representation to some of the most vulnerable people in the UK, including but not limited to children seeking asylum, survivors of trafficking, and stateless people.

Asylum Aid and HBF also endorse the response from the Refugee and Migrant Children's Consortium and we have concerns about the impact of these reforms on stateless people.¹

The consultation proposes significant reforms to asylum support; support provided by local authorities to children in families and young care-leavers; and the family returns process. It goes far beyond just 'family returns' and the reforms represent a significant encroachment on existing standards to protect the welfare of children. It suggests bringing in measures in the Immigration Act 2016 that were fiercely opposed at the time, both in the consultation that preceded and during the passage of the Bill through parliament.² Those who expressed their concerns included the Refugee and Migrant Children's Consortium, a coalition of over 100 organisations working to promote and protect the rights of young migrants, and the now-Prime Minister Keir Starmer.³

¹ See [Joint statement on the impact of proposed reforms to asylum support under the Immigration Act 2016 on stateless people in the UK | Asylum Aid](#)

² Home Office, [Reforming Support for Failed Asylum Seekers and Other Illegal Migrants - Response to Consultation](#), November 2015. See also [Immigration Act 2016 Committee stage - Parliamentary Bills - UK Parliament](#)

³ See, for example, [House of Commons Public Bill Committee : Immigration Bill, 5th November 2015](#)

The government has given no clear rationale as to why, ten years later, these changes need bringing into force, other than the vague notion, repeated in 'Restoring Order and Control', that punishing people seeking protection in the UK will act as a broader deterrent.⁴ As we explore in our consultation response, forcing children and young people into destitution does not result in increased numbers leaving the UK, nor is there any evidence to show that it impacts the numbers trying to reach the UK. The consultation document provides no data on the number of people likely to be impacted by these changes, nor has any impact assessment been shared.

The first set of proposals would commence provisions in the Immigration Act 2016 that would allow the Home Office to restrict or withdraw asylum support from refused asylum-seeking families, adult care leavers, and certain other groups where it considers there is no genuine barrier to leaving the UK. The consultation proposes replacing the current system, under which families with children can continue to receive support after their asylum claims have been refused, with a more limited framework tied to compliance with return processes. The government argues that this would encourage voluntary departures but HBF believes this will result in increased risks of destitution, homelessness, safeguarding failures, and additional pressures on local authorities and other public services.

For families whose immigration issues are not asylum-related, the consultation seeks to change the support provided to them by local authorities, who have a duty to support children in families under the Children Act 1989. It also proposes to restrict access to leaving care support for care leavers who become appeal rights exhausted or otherwise lack lawful immigration status. Continued support under the Children Act 1989 would only be available in limited immigration-related circumstances, including where a young person has outstanding further submissions, ongoing judicial review proceedings, or a pending or appealed first Article 8 application. Some care leavers who would previously have received support based on their assessed needs could instead be directed to a more limited Home Office support framework, or receive a significantly stripped down form of leaving-care support. The proposals therefore represent a shift from a needs-based approach to children and young people to one that is contingent on immigration status.

The second set of proposals concerns the enforcement of family returns and authorising the use of force against children in certain situations during removal operations.

In our view, the number of questions in this consultation and the bias inherent in their wording are a barrier to responding meaningfully. We have tried to answer the questions to the best of our ability, but want to make clear that answers should not be interpreted as support for the proposals, which we fundamentally oppose.

⁴ Home Office, [Restoring Order and Control](#), November 2025

Consultation questions

Question 1 (name of organisation): Helen Bamber Foundation

Question 2: How would you rate your understanding of the UK's immigration system?

I understand it fully

Question 3: Are you aware that families remain in the UK without any lawful immigration status?

Yes, fully aware

Question 4: Are you aware of the support offered to families without lawful status to depart voluntarily?

Yes, fully aware

Question 5: How would you rate your understanding of the current policy regarding support provided by the Home Office to failed asylum-seeker families that have children under 18 years of age?

I understand it fully

Question 6: How would you rate your understanding of the current policy regarding support provided by local authorities in England to:

- a) failed asylum-seeker families that have children under 18 years of age, and

I understand it fully

- b) adult care leavers who are failed asylum-seekers?

I understand it fully

Question 8: Have you or your organisation been involved in providing advice or support to failed asylum-seeking families or adult care leavers?

Yes

Section A: Reforms to the support provided by the Home Office under Schedule 11 to the Immigration Act 2016 (the 2016 Act)

Question 9: To help manage the transition for those currently receiving section 4 support and failed asylum-seeker families currently receiving section 95 support, how can the Home Office best communicate the changes to those affected?

- Guidance on GOV.UK
- Fact sheets and FAQs for organisations who support those affected
- Email updates to organisations who support those affected
- Other communication channels (please specify)

We object to the proposed reforms to Home Office support under Schedule 11 of the Immigration Act 2016 because they would significantly restrict access to essential support for families and individuals who are appeal rights exhausted, increasing the risk of homelessness, destitution, and harm to children and vulnerable adults. The proposals prioritise immigration enforcement over safeguarding and welfare obligations, despite clear evidence that many families face genuine legal, practical, or humanitarian barriers to leaving the UK. We are concerned that the reduction in support, shortened grace periods, and potential removal of transitional protections will shift costs and responsibilities onto already overstretched local authorities while undermining children's rights and family stability. The reforms are also likely to increase litigation and the need for crisis intervention, and damage trust between migrant communities and public services, without clear evidence that they will achieve their stated policy objectives.

As such, we believe there should be no transition to a new system.

If any changes do go ahead, we believe that the Home Office must use a range of measures to communicate the changes to those affected, including guidance, fact sheets and emails. Any materials should take language and accessibility needs into account and not only be provided in written text format. It should also be understood, and expected, that vulnerable people will likely need substantial support and time to understand these changes. It will not be sufficient for it to be explained once or a factsheet simply handed to them.

All Migrant Help and accommodation providers (including sub-contractor) staff who are client-facing must be provided with proper training in what these changes mean and how they may impact different groups so contradictory information is not provided. They must be fully involved in disseminating information and should also be provided with sufficient resources to deal with the inevitable increase in requests for assistance that any changes would create. Migrant Help should be contracted to offer in-person sessions to explain these changes to people in the system and further information sessions be given to people who have struggled to understand what is required of them. In our experience, survivors of torture and trafficking and others seeking asylum are incredibly vulnerable due to their

traumatic experiences, and need time and patience to understand what is being asked of them. In periods of heightened distress, such as when a negative decision on their asylum claim has been made, this can further impact an individual's ability to retain and action information given to them. It is important that people are given the information in trauma informed ways which includes taking time to ensure they fully understand what their options are and the consequences of decisions they may make.

Induction materials for people seeking asylum should also be changed to provide an explanation of the new system alongside an explanation of how transitional cases will be dealt with. Further, information should be made available throughout the process not just at the start or end, so people have more chance of understanding potential outcomes of decisions.

Question 10: Are there any other measures the Home Office should consider to help manage the transition for these cases?

Yes.

As stated above, we disagree with the proposed policy changes are a whole.

If introduced, the changes must not be applied retrospectively to people who are already supported. If the Home Office does make changes to the system for people already receiving support, they should fully develop and publish policies and operational plans (and engage with a wide range of stakeholders including local authorities and NGOs) ahead of the changes to ensure people understand the change. There will need to be a very long lead-in time before implementing changes, particularly if the changes are retrospective. The Home Office must ensure that Home Office contractors and local authorities are properly funded to absorb the extra work from these changes.

Section 95A Regulations

Question 11: Do you agree with the proposed length of the grace period being set at 90 days for families with children in their household?

No.

This new system deliberately aims to use the threat of destitution to make families leave the UK. There is no evidence that this approach has ever worked and it is disastrous for the welfare of children. It will increase the burden on local authorities who are already stretched. It may result in children being separated from their parents, people 'going underground' and people becoming at much greater risk of (re-)exploitation. Time and again, forced destitution has been shown to be a failed policy.

A similar approach was piloted under the previous Labour Government and was evaluated by the Home Office as ineffective in making families return. The Section 9 pilot took a cohort of 116 families who had their support withdrawn against a control group of similar cases who did not have their support cut off. It found only one case in the pilot in which a

family was successfully removed, as compared to nine successful removals in the control group. Even when voluntary returns are taken into account, the total number of returns in the control group was nearly twice as high as in the pilot. The evaluation concluded that 'there was no significant increase in the number of voluntary returns or removals of unsuccessful asylum-seeking families' and that the measure 'did not influence behaviour in favour of co-operating with removal and... should not be seen as a universal tool to encourage departure'.⁵

Furthermore, the Section 9 pilot found that the rate of absconding was 39% for those in the cohort - nearly double the amount of those in the control group (21%), who remained supported. 35 families disappeared, losing all contact with services and leaving themselves and their children acutely vulnerable. A rise in the number of families going missing would not only contradict the objective of increased returns, but also raise significant safeguarding concerns regarding the children in those families.

The government's child poverty strategy clearly sets out its commitment to ensuring that 'vulnerable migrant children receive the support that they require, regardless of their immigration status' and yet these proposals clearly undermine that commitment.⁶

The proposal that section 95a support can only be applied for within a grace period is concerning and it is unclear why the timeframe of 90 days has been picked. Aside from issues within the asylum system itself such as poor decision making leading to erroneous negative decisions, there are a number of reasons why someone might not be able to apply in time. These include barriers to accessing legal advice and support due to the dearth of legal aid providers, physical or mental ill health and the fact that many obstacles to leaving the UK may arise after the grace period. We summarised our concerns about the lack of legal aid providers in our recent evidence to the Call for Evidence on proposals for an Independent Appeals Body for asylum appeals, which can be found here:

https://www.helenbamber.org/sites/default/files/2026-06/Independent%20Appeals%20Body%20call%20for%20evidence_HBF%20response_May26%20.pdf

If going ahead, we would urge the government to take a flexible approach based on work with individuals and with no time limit for applications.

Question 12: If late applications (outside of the grace period) for section 95A support were to be considered, what circumstances should be taken into account? (Select all that apply)

- Health reasons e.g. hospitalisation or documented illness preventing an application
- Being detained by the police or other law enforcement agencies
- Evidence that the individual had not been notified about applying for section 95A support

⁵ Home Office, [Family Asylum Policy – The Section 9 Implementation Project](#), 2004

⁶ HM Government, [Our Children, Our Future: Tackling Child Poverty](#), December 2025

- Other (please specify)

There should be no time limit for making applications. 'Genuine obstacles' are not time limited.

For example, one HBF client became appeal rights exhausted (ARE) in 2022 due to a failure by his legal representatives in his case. No argument could be made on rule of law grounds and so his only option was to submit a fresh claim for asylum. Because of his high profile as a journalist who documented human rights abuses by the state, he was unable to return home. Stuck in limbo, he was without support for two years until his evidence could be submitted for his fresh claim.

Another client of HBF, who is a recognised survivor of modern slavery / human trafficking and is currently ARE, is waiting for her fresh claim to be submitted. She became ARE following the Home Office's refusal of her claim on the grounds that geography of her home country was not deemed good enough to prove she was from there. Our client is being supported, pro-bono, by an organisation which specialises in supporting destitute asylum seekers. As a vulnerable survivor of sexual exploitation, she is at increased risk of re-trafficking and is unable to leave the UK. She was exploited in multiple countries and has a number of physical and mental health concerns. Her GP in the UK also informed her that she is a victim of FGM and she is being supported to come to terms with this.

Case study

HBF's client, having claimed asylum in 2013, became appeal rights exhausted in the autumn of 2019. Domestic violence had been an ongoing issue, perpetrated by her partner (who had severe substance issues and had made threats to her life) and in view of her their two children. They were known to children's services and the children were on a child protection plan, with multidisciplinary input across the local authority and family's support network. Our client has symptoms of post-traumatic stress disorder (PTSD) and depression, and also is physically disabled with very limited mobility, following a dangerous accident in years prior.

Earlier in 2019 and after more incidents of abuse, our client decided to separate from her partner and she and their children were moved into interim accommodation by the Home Office in another part of London. This resulted in needing to be referred to different domestic violence organisations and children's services.

Around six months later and with HBF's assistance, she was able to obtain legal representation via a pro-bono advice project and submit a new claim, which was successful the following year. The multiple and complex vulnerabilities of this family, coupled with insecure and unsuitable housing and the lack of legal aid for previously cases means that they would have been unable to make the new claim any earlier than they did, even with professional support. Having become homeless and destitute at the same time, rather than

being able to at least remain on Section 95 support, would have been catastrophic and very risky for this family.

Where a 'genuine obstacle' exists, failure to provide support might constitute a breach of human rights and leave the government at risk of costly legal challenges – a waste of both tax-payers' money and lawyers' time in what is already an extremely stretched sector. It must be possible to make an application for support at any time (including outside the grace period).

Question 13: If an asylum caseworker is satisfied that there is already evidence that a family on section 95 support meets the eligibility criteria for section 95A support, do you agree that the family should be automatically transitioned to section 95A support (i.e. once the regulations come into force, the family will not need to make a new application for section 95A support themselves)?

Yes.

A further application should not be necessary for a person the Home Office has already accepted is eligible for support. Not only does requiring people to reapply for support create uncertainty and anxiety, it also creates further the risk of destitution if there are delays and/or errors in decision-making – both of which HBF sees frequently.

For example, one client of HBF had submitted a fresh claim and was eligible for section 4. He was supported to submit a support application and at the time was sofa surfing and destitute. There was a delay in processing his application and so HBF supported him to find and instruct a solicitor to challenge the delay in processing the application. It was subsequently granted. We then had to support with a further challenge due to the delay in the Home Office providing our client with subsistence and accommodation under section 4 support. Overall, there was a two-month delay in getting the support our client was entitled to. A survivor of torture with subsequent physical and mental health difficulties, this period of destitution and homelessness was exceptionally distressing and completely avoidable.

The application process is time-consuming. Applying for support requires advice and support from a stretched sector, including adding pressure on Home Office contractors. In our experience, people need advice and support to gather extensive evidence required to meet the destitution test. This is especially the case for those applying for subsistence only section 95 support, where the person accommodating them is required to submit proof of right to rent and reside in the particular property such as council tax bills, tenancy agreements and a letter outlining why they cannot provide financial support. Many people are understandably wary of giving all this information to the Home Office, especially those who have been through an immigration case themselves which can create further delays.

In addition to this, there are also delays within the system itself once the application has been submitted. One family supported by HBF to submit an application for section 95 support received a refusal as the Home Office decision maker had not applied the law

correctly. HBF appealed the refusal and the family was granted support at the start of April 2026. Their Aspen card was due to be sent by the end of April but was only received in mid-May. This family was at risk of destitution as they had no recourse to public funds. We were advised by Migrant Help that the first Aspen card can take 21 days to arrive following a grant of support. Whether or not this is within Home Office policy, for families who are destitute, this delay is much too long and can cause severe hardship.

Finally, in our experience, even when someone is receiving support, there are extensive delays when changes of circumstances are submitted. For example, when clients are offered unsuitable dispersal, we contact Migrant Help and the Home Office as a matter of urgency and often only receive responses months later, once the situation has already been resolved.

Repeat applications risk resulting in eligible families disengaging from the system because they miss important correspondence or don't understand what is required of them. Repeat applications also put additional pressure on the Home Office, taking up staff time and resources.

For these reasons, this system of automatic transfer should apply to everyone (not just families with children). Transfer decisions should also be communicated in writing.

Question 14: Do you agree that an application process for section 95A support should be implemented for all new cases not currently in receipt of asylum support?

Yes.

If people are eligible while in the proposed grace period, which we believe is far too narrow, the Home Office will need an application process to assess the person's need for support. However, the Home Office should consider a shorter process in some cases – for example, where the person came off section 95 support in the last 14 days.

Question 15: What actions do you agree that caseworkers should take to ensure children's welfare when considering discontinuation of support for failed asylum-seeker families? (Select all that apply)

- Referral to children's services
- Safeguarding assessment
- Provision of information on alternative support
- Continued provision of information on family voluntary returns and assistance available
- Other (please specify)

We firmly oppose the discontinuation of support for families and believe that this approach undermines the protection of children's rights. The forced destitution of families has already been piloted under the previous Labour Government and was evaluated by the Home Office as ineffective in making families return – see our answer to question 11.

If it is to happen, discontinuation decisions must clearly set out what steps the Home Office has taken to comply with their duty under Section 55 of the Borders, Citizenship and Immigration Act to safeguard the best interests of children. The Home Office should make a referral to the relevant local authority and proactively follow up to check whether the local authority has accepted the referral and identified housing for the family, before the Home Office discontinues support.

Question 16: Do you agree with the proposal to transition failed asylum-seeker families, who have remained on section 95 support, onto section 95A support?

No.

We object to the proposals to remove section 95 support from families and the restrictive nature of section 95A support. We strongly believe that families currently on section 95 support should remain on it – see our previous answers for more.

Question 17: In addition to the examples proposed at paragraph 20, is there anything else that could be considered a genuine obstacle that might temporarily prevent a family from leaving the UK?

Yes.

The consultation says the Home Office will have discretion to provide support in other cases where there is a 'genuine obstacle to return' but is not as broad as the current section 4 criteria 'to avoid a breach of human rights'. There are many examples of cases which might constitute another type of 'genuine obstacle' These include:

- Where an individual has an out of time asylum appeals.
- Where an individual is poised to make further submissions but can't for reasons outside their control – while the Home Office has never accepted this as a valid reason to provide section 4 support, those decisions are frequently overturned by the Tribunal.
- Where an individual has an outstanding Article 8 or other types of immigration application.
- Where an individual has an outstanding National Referral Mechanism application.
- Where an individual has started the process of judicial reviewing an asylum decision but has not yet had permission to proceed (people with permission to proceed will be supported under section 95 support).
- Where an individual has other kinds of outstanding legal matters which could include bail conditions that oblige the person to stay in the UK or mandated court appearances.

The Home Office already, in its section 4 policy, provides a non-exhaustive list of situations which may amount to a breach of human rights (including some included in the list above).⁷

⁷ Home Office, [Section 4 policy and process guidance](#)

Furthermore, the courts have stated on more than one occasion that what constitutes a breach of human rights needs to be assessed on a case by case basis.⁸ Therefore, in order for its decisions to be lawful, the Home Office needs to allow for individual assessments of people's eligibility, rather than tying itself to a rigid list of 'obstacles'.

Question 18: What evidence should be required from applicants to demonstrate a 'genuine obstacle'? (select all that apply)

Other (please specify)

In cases where there are medical barriers to return/removals, the Home Office should fund the cost of obtaining medical reports and translations, with clear, published guidance on how that funding system works. The Home Office must also recognise that some kinds of evidence (such as medical expert evidence) take time to obtain so policies should include ability to extend deadlines if the person is unable to provide evidence in the required time.

In the absence of expert reports, evidence like medical records, letters from support workers or advisers should be given proper weight.

In medical cases, the Home Office should not automatically defer to the opinion of their Medical Adviser over the view of treating clinicians. HBF has extensive experience, in contexts other than removals, of clinical evidence being dismissed in favour of a desk-based decision made by the Independent Medical Adviser.⁹

Question 19: Are there any other conditions that you think should be required for the continued provision of section 95A support?

No.

The conditions of support are already very restrictive and we often see extreme hardship caused as a result of 'breach of conditions'.

For example, one client was given an eviction notice for the following day due to the fact he had failed to travel to new accommodation twice. Had he not been an HBF client it is likely that he would have been evicted and become street homeless. Given that he is our client, we were able to contact the Home Office urgently and advocate for it to be cancelled. This was not straightforward and the accommodation provider refused to accept the letter the Home Office wrote confirming the eviction was cancelled. Our client originally refused to move on medical grounds, as the proposed dispersal accommodation would have meant

⁸ In *R (NS) v First-tier Tribunal (Asylum Support) and the SSHD* [2009] EWHC 3819, para 14, the judge found there were a "variety of factual circumstances" in which support would need to be provided. - In *R (Secretary of State for the Home Department) v First-tier Tribunal (Social Entitlement Chamber)* [2021] EWHC 1690 (Admin), para 137, the judge stated "It is not necessary, and would not be wise, to attempt to define here the precise boundaries of the category of destitute failed asylum-seekers whose ECHR rights require the provision of accommodation under reg. 3(2)(e). All that is necessary for present purposes is to say that a multifactorial assessment would be required in each individual case".

⁹ See, for example, [Ignoring medical evidence: how the Home Office's flawed assessments trap people in harmful asylum housing | Helen Bamber](#)

leaving London and his treating clinician. He had informed Migrant Help that he had become our client before the eviction letter was sent but the information had been delayed in being sent to the Home Office. Our client, who was trying his best to comply with the conditions of support but was punished due to the restrictive nature of the 'no choice' accommodation, experienced severe emotional distress at the prospect of becoming homeless and reported that his mental health would be seriously affected if he were made homeless.

We do not believe that any further conditions should be added when deciding ongoing eligibility for support. The additional condition proposed in paragraph 22 of the consultation document - that the person takes all reasonable steps to leave the UK whilst on section 95A support - is also inherently contradictory. People who are too ill to travel, for example, may well not be in a fit state to take steps to leave the UK. In other cases, asking someone to obtain travel documents might be ill-advised if they are still trying to prove their right to stay in the UK.

Section B: Reforms to the support provided by Local Authorities under Schedule 12 to the Immigration Act 2016 (the 2016 Act)

Questions for Paragraphs 23-31

Question 20: For those without immigration status, do you agree that an application for leave to remain in the UK must be on the basis of Article 8 ECHR as set out in paragraph 28?

No.

To be clear, we strongly oppose the proposed reforms to support provided by local authorities under Schedule 12 of the Immigration Act 2016, for the reasons explored below in our answer to question 21.

There is also no clear rationale in this consultation for why an application for leave to remain must be made on the basis of Article 8. This ignores the range of immigration and nationality routes through which a young person's status may ultimately be resolved, including citizenship applications and leave granted to victims of trafficking recognised as such by the National Referral Mechanism. There is no clear rationale for treating families and young people pursuing Article 8 claims differently from those seeking to regularise their status through other lawful routes.

Question 21: For those without immigration status, do you agree with the proposed factors that the local authority must and must not take into account when considering if condition E is satisfied as set out in paragraph 29?

No.

These proposals fundamentally undermine the safeguarding framework established under the Children Act 1989 by preventing local authorities from properly assessing and responding to the needs of children and families. In particular, the proposed interpretation of 'Condition E' would prohibit local authorities from considering whether a child needs medical treatment in the UK and/or would be left without essential care, support or medical treatment in the country of return, despite these being central considerations in determining whether a child is "in need". This places local authorities in direct conflict with their ethical and statutory duties under the Children Act 1989, as well as the professional standards expected of social workers by Social Work England.

Social care professionals must be able to assess children based on their welfare and safeguarding needs, not constrained by immigration enforcement objectives. Social services are not an arm of immigration enforcement, and a child's immigration status is irrelevant to their entitlement to protection from harm, neglect and destitution.

The proposals risk creating a two-tier system of child protection in which children from families with no recourse to public funds are denied the full protections intended by

primary safeguarding legislation. Preventing local authorities from responding to child “in need” concerns will not remove risk, but instead escalate it. Unmet need resulting in family’s homelessness, poverty and increased risk of potential exploitation, inevitably increases the likelihood that a child’s situation could deteriorate in such a way that child protection interventions are then required.

The specific exclusion of children receiving medical treatment is particularly alarming, as it risks forcing medically vulnerable children and their families into destitution, discouraging engagement with health and safeguarding services, and driving families underground out of fear of immigration consequences. Rather than reducing pressure on public services, these proposals are likely to compound existing capacity challenges within local authority social care teams, family courts, healthcare providers, schools and wider safeguarding partnerships, as risks re-present elsewhere without appropriate referral pathways or support mechanisms.

If the family could return to their country of origin but in practice does not and the child remains ‘in need’, the authority’s section 17 duty is still likely to be engaged. A local authority may seek to fulfil this duty to a child by separating the family and providing accommodation for the child only, threatening to take children into care rather than support the family unit as a whole. However, not only is separating a child from their parent/s where no abuse or serious harm has taken place neither in their best interests nor in accordance with their rights under Article 8 of the European Convention on Human Rights and Article 9 of the UN Convention on the Rights of the Child, the cost of taking a child into care far outweighs the cost of supporting them to remain with their family. Giving the existing pressures on the care system, it would be extremely harmful to *all* children to potentially increase the numbers going into care through a policy of forced destitution.

Local authorities must retain the discretion to provide support to families facing destitution, regardless of immigration status or willingness to leave the UK. The Home Office should not override the professional judgement of local safeguarding experts or prevent councils from meeting their statutory obligations to children.

These proposals are also incompatible with the government’s wider commitment to reducing child poverty and protecting vulnerable children. They risk treating children primarily through the lens of immigration control rather than as children first and foremost, punishing them for circumstances entirely outside their control and exposing them to significant harm, instability and exploitation.

Changes to the provision of support for adult care leavers

Questions for paragraphs 32-39

Question 22: For adult care leavers with no legal status, do you agree with the proposed factors that the local authority must and must not take into account when considering if condition D is satisfied as set out in paragraphs 29 and 33?

No.

For condition D to be satisfied the local authority must have regard to the same factors as for condition E in the context of families (see our answer above to question 21), excluding the factor relating to whether a child would be in need.

This completely disregards the obligations that local authorities have towards care leavers under the Children Act 1989. Furthermore, there is already a mechanism for local authorities to assess whether care leavers who are appeal rights exhausted are eligible for ongoing support through a human rights assessment. This should remain with the local authority, who is best placed to carry out an individualised assessment, not replaced by a generic Home Office policy.

Young migrants in care often face additional difficulties to British children: they are particularly likely to have faced trauma, they may experience language and cultural barriers and they are less likely to have any contact with biological family members. Care leavers often need their personal advisor or advocate to help identify and even instruct their immigration lawyer and the local authority to pay for their representation or evidence (including subject access requests and doctor's letters).

These proposals ignore long-established law and policy making clear that those who have been in care need additional support on turning 18 in light of their vulnerabilities. Central and local government have a unique relationship with children in care and care leavers as their 'corporate parents' and as such care leavers should receive the same level of care and support that other young people get from their parent. It is vital that migrant care leavers can access this like any other young people: they have no-one else to turn to.

It is difficult to see how these changes would help to remove young people from the country as it is likely that they would have the opposite effect, and result in more people going missing. Without a Personal Advisor or pathway planning support there would be less engagement with this vulnerable group.

In our experience of supporting young people who are care leavers who have been refused, there is a high risk of them absconding, as they are already extremely frightened of enforcement action if they continue to fear being returned to their home country. At this point in time, trusting relationships with professionals who can support them through this transition is essential to safeguard their welfare. A social worker that they know who is able

to carry about a human rights assessment is often the only thing that will safeguard them from criminal exploitation and trafficking.

Changes to the application of the Leaving Care provisions should only be informed by social care professionals and other experts in the support of children leaving care. They must never be used as a tool of harm to create an environment of hostility around vulnerable children for the purposes of immigration enforcement.

Question 23: For adult care leavers with no legal status, do you agree with the proposed proposals set out in paragraphs 32-36?

No.

These proposals would place some of the most vulnerable young people in the UK at serious risk by removing essential support from care leavers on the basis of their immigration status. Further restricting local authorities' ability to support care-experienced young people under the Children Act 1989 fundamentally undermines established child welfare protections and is inconsistent with the government's stated commitment to improving outcomes for care leavers and ensuring they are given the same opportunities and support as any other young person transitioning into adulthood. The proposals risk creating a two-tier system of leaving care support in which migrant young people are denied the protections routinely afforded to other care leavers, despite often facing significantly greater levels of vulnerability and disadvantage.

Young people leaving care are entitled to ongoing support precisely because they do not have the safety net of family support available to most other young adults. This includes accommodation, financial assistance, pathway planning, support from a personal adviser, help to access education and training, and "Staying Put" arrangements that allow young people to remain with foster carers beyond the age of 18. Under these proposals, however, former looked-after children who require leave to remain but do not hold immigration status when they turn 18, and who do not have an outstanding asylum or immigration claim, would be excluded from these protections and left with only minimal support in very limited circumstances. This would particularly affect young people who arrived in the UK as unaccompanied children but were not granted refugee status, including child victims of trafficking granted temporary leave or children whose immigration status was never resolved while they were in care.

These young people are already at heightened risk as they transition into adulthood. Many have experienced trauma, abuse, exploitation, trafficking or prolonged instability. Removing access to safe accommodation, financial support, education, trusted professionals and stable care arrangements will significantly increase the likelihood of homelessness, destitution and disengagement from services. These conditions are well recognised as key drivers of criminal, labour and sexual exploitation, including re-trafficking. Government guidance on transition planning for care leavers makes clear that the local authority "will

remain under a duty to attempt to remain in contact with a young person in the same way that a reasonable parent might try to resume contact with an estranged adult child. The best guarantee to maintain contact with care leavers who have reached legal adulthood is for their PA to have established a positive and meaningful relationship with them.”¹⁰

The proposals also risk fundamentally distorting the role of local authority leaving care teams by forcing them to operate through the lens of immigration enforcement rather than child welfare and safeguarding. This is likely to drive young people away from regulated care and support services altogether, increasing the risk that they abscond from care and become vulnerable to exploitation and serious harm. Children and young people are already targeted by perpetrators because of their age and vulnerability; layering insecure immigration status and destitution onto these existing risks will only exacerbate their exposure to abuse and exploitation. Care leaver rights are protected within primary legislation because of the recognised and ongoing responsibilities owed to young people who have been in the care of the state. Immigration control should not determine whether a care-experienced young person is entitled to support, safety and stability as they enter adulthood.

In a recent case, Asylum Aid represented at appeal stage a young person from Albania who turned 18 in December and has continued to be supported by the local authority to obtain immigration advice whilst they undertook a human rights assessment. His asylum claim was refused and the decision was not appealed as he was not able to find an immigration lawyer (and the local authority could not find one). The local authority continued to support him and Asylum Aid has now lodged an out of time appeal after taking on his case in May this year. Under these proposals he would not have had that continuing support, as he would not have met the criteria. His social worker advocated for him to continue in college so that he was able to finish his qualifications and improve his English and keep him accommodated with his foster carer until a couple of months ago, keeping him safe from the risk of absconding and exploitation. It was not his fault that he could not get representation – given the crisis in legal aid there will be many others in similar situations

Question 24: Do you agree with the proposed principles that local authorities must follow when making arrangements for adult care leavers with no legal status, as set out in paragraph 37?

No.

During the passage of the Immigration Act 2016, the now Prime Minister Keir Starmer argued:

"We are talking about children coming out of care. It has been proposed that a message needs to go out to other countries - to be picked up by and to influence those coming to

¹⁰ [The Children Act 1989 guidance and regulations](#): Volume 3: planning transition to adulthood for care leavers, para 4.39

*this country - that we treat those coming out of care unfairly. That proposition beggars belief."*¹¹

These concerns still stand. Support for care leavers should be determined by their assessed needs rather than their immigration status. Decisions about the support a young person requires should be based on an individual assessment undertaken by appropriately qualified professionals, reflecting the young person's welfare, vulnerabilities, and transition to adulthood.

As set out above, failing to provide adequate leaving care support on the basis of need is likely to increase the risk of significant harm both before and after a young person turns 18. The withdrawal or restriction of support may expose care leavers to homelessness, exploitation, destitution, deteriorating mental health, and disengagement from education or employment. In turn, this is likely to increase demand on local authority services and other statutory agencies, resulting in higher caseloads and greater public expenditure associated with crisis intervention and safeguarding responses.

The proposals also fail to account for the ongoing crisis in immigration legal aid provision and the important role that local authorities can play, through the provision of comprehensive support, in helping young people to resolve their immigration status. Many unaccompanied children reach adulthood without having had meaningful access to specialist legal advice. As a result, the proposals risk creating a significant postcode lottery. Care leavers who have been able to access competent legal representation and submit an asylum or immigration claim before turning 18 may continue to qualify for support. However, young people in similar circumstances who have been unable to obtain legal advice, whose applications have been delayed, or whose immigration status remains unresolved because of systemic barriers may lose support despite having equivalent needs and vulnerabilities.

The proposals' focus on Article 8 claims is confusing and ignores the range of immigration and nationality routes through which a young person's status may ultimately be resolved, including citizenship applications and leave granted to victims of trafficking recognised as such by the National Referral Mechanism. There is no clear rationale for treating young people pursuing Article 8 claims differently from those seeking to regularise their status through other lawful routes.

Question 25: Are there other principles that should be considered?

Yes.

11

See [House of Commons Public Bill Committee : Immigration Bill, 5th November 2015](#)

As above – we do not agree with the proposed principles set out in paragraph 36 and firmly believe that the needs of the child or young person should be the key factor for deciding support under the Children Act 1989 and the Leaving Care provisions.

It is important to note also that moving care-leavers onto Home Office support could have significant ramifications further down the line if they receive protection in future. For example, care leavers are exempt from the Universal Credit shared accommodation rate of Local Housing Allowance (LHA), meaning that they can get the one bedroom rate of LHA from Universal Credit (UC) - i.e. UC gives them more money for rent each month. This can be exceptionally important for some people as it can mean the difference between having to share a flat with multiple people or being able to live on their own. It is unclear whether there has been any consideration of further ramifications such as this.

Question 26: Do you agree with the proposals set out in paragraph 38?

No.

Home Office guidance or directions must not override or fetter local authority duties under children's legislation. Any guidance affecting care leavers should be issued by the Department for Education and must preserve local authority corporate parenting responsibilities. The Home Office should not be the sole interpreter of children's social care duties.

Question 27: Do you agree with the proposed changes to the availability of higher education tuition grants for the categories of adult care leavers set out in paragraph 39?

At a time when the government is emphasising that people seeking protection should be 'earning' their right to remain and settle in the UK through work and study,¹² it is particularly contradictory that it is considering denying care leavers grants to meet the cost of tuition fees for higher education courses. Prohibiting local authorities from providing this support is another erosion of the role of safeguarding professionals in assessing need and supporting young people to thrive. Grants for care leavers to access university and higher education recognise that care leavers do not have family support to attend university and are statistically less likely to go to university. This change would prevent some of our most vulnerable young people accessing higher education.

Research has proven that once in the UK, education is a high priority for many migrant children and young people. School, college or university provides stability and normality which can mitigate the negative effects of traumatic experiences and support them to overcome isolation and build resilience. Research has found that the continuation of education was associated with lower levels of anxiety and that meeting new friends was

¹² Home Office, [Restoring Order and Control](#), November 2025 and Home Office, [A Fairer Pathway to Settlement: statement and accompanying consultation on earned settlement](#), November 2025

protective against depressive symptoms. Also, education opens up vital opportunities for integration, as well as social and economic development in later years.¹³

Not only is this provision discriminatory but would prevent many young people from developing their skills and careers and ultimately giving back to society. Higher education must be an experience and investment open to all. The government must not discriminate against this vulnerable group by preventing young people in the UK from accessing any means they may have of supporting themselves through their studies.

Additional Questions on Impact Assessments

Question 28: Is there anything else you would like to add regarding the proposed reforms to asylum support?

The consultation goes much further than ‘family returns’. The proposals are not just about returning families – taken all together they will potentially affect everyone in the asylum system.

Yet the Home Office has not published any statistics allowing us to understand the number of people who will be affected by these changes. There are no breakdowns given of people currently on section 4 support who might qualify under the new section 95 and section 95A conditions. With regards to families with children, they have only said that “around a third of all failed asylum seekers receiving support were part of a family group”. However, without knowing the number of refused asylum seekers receiving support this fraction is almost meaningless. Without information on the estimated numbers affected it is almost impossible to assess the real impact of bringing in these provisions in the Immigration Act 2016.

In addition, there appears to have been no assessment of the cost, capacity and resource implications of these changes, including the Home Office and courts (dealing with the costs and resource of moving people onto different support, applying retrospectively, detaining and removing people) and particularly on those impacted by a potential increase in families being made destitute - local authorities, the NHS, and other support services.

The lack of a right of appeal in section 95A cases will result in people being refused support when they are entitled to it, repeat applications for support and judicial reviews, which are more costly than appeals. No reasoning / rationale for denying a right of appeals has been provided, despite the existence of appeals for refusals for other types of support and the risk of human error can play a big part in decision making and unfair refusals resulting from lack of training, lack of understanding, simply poor decision making etc.

These proposals seek to put immigration control in the hands of social care professionals, and go against both the purpose of social work as well as against social workers’ professional standards, particularly “promoting the rights, strengths and wellbeing of

¹³ For more information, see [Refugee Education UK](#)

people, families and communities”,¹⁴ creating conflict for those in the profession. Using children’s social care to drive immigration enforcement will fracture the relationship between local authorities and migrant communities, especially families with insecure immigration status, it will drive fear and put barriers to family willingness to engage with social care.

They are unworkable from a social care perspective and would be applied inconsistently due to lack of training in social care around immigration issues. It will result in some social workers thinking that all asylum-seeking children are excluded from support, which will cause increased risks for families who are not appeal rights exhausted in addition to those being targeted for exclusion. The confusion and inconsistency will impact multi-agency approaches to safeguarding children and fundamentally undermine the safety of all children with any form of migration status.

Question 29: Are there any comments you would like to add concerning the impacts on protected characteristics under the Equality Act 2010 or on children and/or vulnerable people as a result of the proposed support changes?

These proposals will have a disproportionate effect on women, children and those who are vulnerable and have health issues.

The government has not published these assessments. Any reform should be preceded by the publication of full Children’s Rights and Equality Impact Assessments, local authority cost modelling, information about the number of people that are estimated to be affected (with a clear breakdown between adults and children), and the Home Office evidence supporting the necessity of the proposed changes.

These assessments should have been published in advance of the consultation to make it meaningful.

Part 2: Changes to the Use of Force Policy

General Questions

Q1. Are you responding as an individual or on behalf of an organisation?

Organisation

Q1b. Please provide your name or the name of the organisation.

Helen Bamber Foundation

Q2. Prior to reading this consultation document, how would you rate your understanding of the Family Returns Process?

¹⁴ [Professional standards - Social Work England](#)

We understand it fully

Q3. Prior to reading this consultation document, how would you rate your understanding of the Section 55 Duty of the Borders, Citizenship and Immigration Act 2009? 33

We understand it fully

Q4. Prior to reading this consultation document, were you aware that families remain in the UK without any legal right to do so?

Yes

Q5. Prior to reading this consultation document, were you aware of the financial support offered to families without any legal right to remain to depart voluntarily?

Yes, fully aware

Q6. Prior to reading this consultation document, how would you rate your understanding of the current policy regarding physical handling of children during family returns?

We understand it fully

Q7. Have you or your organisation been involved in an enforced return of a family in any capacity where a child(ren) was non-compliant (e.g. refused to move or board transport)?

No

Q7b. If you answered 'Yes' to Q7, please describe the nature of that involvement.

n/a

Use of force - Policy Proposal Questions

Q8. Do you support or oppose the broad proposal to enable officers to physically handle a child for the purposes of lawfully removing them from the UK?

We strongly oppose.

Q8b. Please explain your answer to Q8.

HBF strongly opposes any expansion of the current use of force policy to apply to children who do not comply with a requirement to leave the UK, for the purposes of effecting their removal.

There is a substantial body of research demonstrating that the use of force against children, particularly in custodial or immigration settings, can cause significant and lasting psychological harm.¹⁵ Children subject to immigration enforcement are already likely to

¹⁵ Priestley, I., Cherian, S., Paxton, G., Steel, Z., Young, P., Gunasekera, H. and Hunt, C. (2025) 'The impact of immigration detention on children's mental health: systematic review', *The British Journal of Psychiatry*, 227(6), pp. 870–879; Sherif, B., Hocking, D.C., Asghari-Jafarabadi, M., Rees, S., Affaticati, L.M. and Sundram, S. (2026) 'Immigration detention of children: a systematic review and meta-analysis of physical and mental health

have experienced trauma, displacement, family instability, or exposure to violence. Coercive immigration practices compound these vulnerabilities and increase the risk of mental ill-health, including anxiety, depression, post-traumatic stress disorder (PTSD), and long-term emotional harm.

At present, force can be used on people in immigration detention by Detention Custody Officers in Immigration Removal Centres (IRCs) and by escort staff during removals. It can be used against pregnant women in certain circumstances.¹⁶ Force will only be lawful if it is “necessary”, “reasonable” and “proportionate to the threat being faced or the intended aim”.¹⁷ It should only be used as a last resort.¹⁸ The law allows use of force against detained people: when necessary to keep a detained person in custody; to prevent violence (either to the person themselves, or others); to prevent destruction of property; to prevent people from seeking to prevent their own removal physically; and to prevent someone interfering physically with the lawful removal of another person.¹⁹ Staff must only use authorised techniques and, where force is used, the details must be recorded and reported to the Secretary of State.

For over 15 years, it has been accepted that immigration enforcement is not a good reason to use force against children, and this has prevented harm. The government has provided no clear justification for changing its approach now. Nor has it provided any information as to the likely number of children that this change might impact each year, and the number of ‘failed’ enforced returns it would believe would justify such a shift in approach. Permitting Immigration Officers or Detainee Custody Officers to use physical force against a child in order to effect removal risks introducing additional harm at a moment that is already likely to be acutely distressing.

Research concerning the restraint of children in custodial, educational and other state-care settings indicates that children frequently experience restraint not merely as a protective or safety intervention, but as an event characterised by fear, humiliation, powerlessness and coercion. Studies examining children’s experiences of physical restraint in custody have described restraint as a form of “legitimised violence” and have questioned whether routine restraint practices may become normalised as forms of institutionalised repression. Children subjected to repeated restraint have been reported to experience psychological effects consistent with traumatisation, including persistent fear, post-traumatic stress symptoms, nightmares, hypervigilance, emotional withdrawal and enduring mistrust of

impacts’, *European Child & Adolescent Psychiatry*, 35(1), pp. 47–73; Saifelddeen, R.K., Menon, S., Glover, N. and Katona, C. (2026) ‘The impact of immigration detention on mental health: an updated systematic review’, *BMC Psychiatry*, 18, Article 382

¹⁶ See Home Office (2016) Detention Services Order 05/2016: Care and Management of Pregnant Women in Detention, para 12; and (2022) Use of force: Guidance for Immigration Enforcement Officers, Version 3, 16

¹⁷ Rule 41 of the Detention Centre Rules 2001; Home Office (2022) Use of force: Guidance for Immigration Enforcement Officers Version 3.0, 6

¹⁸ Home Office (2005) Detention Services Operating Standards Manual, p 76, para 2

¹⁹ Home Office (2005) Detention Services Operating Standards Manual, p 76, para 1

authority figures. Emerging evidence from trauma-informed practice further suggests that coercive interventions can often be substantially reduced through less restrictive and child-centred approaches. Authorising force against children for immigration control purposes carries a foreseeable risk of significant psychological harm, particularly where less coercive alternatives may be available.²⁰

The Medical Justice report *'State Sponsored Cruelty: Children in Immigration Detention'* illustrated how the use of force and coercive enforcement measures against children in immigration detention had caused significant physical and psychological harm, and that violence was not an isolated occurrence but a recurring feature of detention and removal practices.²¹ In the first inspection of the Cedars pre-departure accommodation, where families were detained for up to a week immediately before removal, in 2012 HM Chief Inspector of Prisons found that force had been used in relation to six of the 39 families held since the centre opened, with handcuffs used on adults on five occasions. Even where "minimal force" had been used on children there was a risk of escalation and subsequent injury. Furthermore, the Inspector noted that *"children had become very distressed during forced removals and it was not possible to measure the psychological impact of removal on them. This was despite their needs being anticipated and actively managed by Barnardo's staff."*²²

The proposed policy is particularly concerning because the purpose of the force would not be to prevent immediate harm to the child or others, but to fulfil an immigration objective and in doing so save money – paragraph 44 of the proposals justify the use of physical interventions as a "matter of fairness" because where returns fails "there are considerable financial costs". It also refers to the "human costs" for family members but does not state what those are, nor provides any evidence to support that assertion.

In most child welfare, healthcare, and safeguarding frameworks, force against children is only justifiable where necessary to prevent imminent harm. Using force to achieve administrative immigration outcomes risks subordinating the child's welfare to enforcement

²⁰ Nielson, S., Bray, L., Carter, B., Kiernan, J., [Physical restraint of children and adolescents in mental health inpatient services: A systematic review and narrative synthesis](#), Journal of Child Health Care Volume 25, Issue 3, September 2021, Pages 342-367; Miller, S., Redman, S. and Snarey, E. (2020) ['Behaviour management or institutionalised repression? Children's experiences of physical restraint in custody'](#), *Child and Youth Services*; Rennerskog, J. (2021) 'Rightifying coercion: [A critical perspective on the transformation of state-driven coercive care](#)', *Social & Legal Studies*, 30(5); Enell, S. and Wilińska, M. (2021) ['Negotiating, opposing, and transposing dangerousness: A relational perspective on young people's experiences of secure care'](#), *Young*, 29(1); Whittington, R. et al. (2023) ['Trauma informed interventions to reduce seclusion, restraint and restrictive practices amongst staff caring for children and adolescents with challenging behaviours: A systematic review'](#), *Child Psychiatry and Human Development*. Hodgkiss, B. and Harding, E. (2023) 'Reducing physical restraint in educational settings: A systematic literature review', *Journal of Research in Special Educational Needs*, 23(4), pp. 265–280.

²¹ Medical Justice, [State Sponsored Cruelty](#), 2010

²² HM Chief Inspector of Prisons, [Report on an announced inspection of Cedars Pre-Departure Accommodation 30 April – 25 May 2012](#)

priorities. Witnessing force used against parents or siblings may itself be traumatising, even where the child is not directly restrained.

It is important to remember that the effects of coercive immigration enforcement are not confined to the moment of intervention itself. Research examining children exposed to detention, deportation, or forced family separation identifies longer-term impacts including chronic anxiety, school disengagement, behavioural difficulties, sleep disturbance, separation anxiety, and reduced trust in public institutions into adulthood.

There is also a broader concern that introducing force into child immigration enforcement risks normalising coercive practices against a highly vulnerable group. Independent oversight bodies have repeatedly warned that restraint practices in detention environments can expand beyond genuinely exceptional circumstances and become operationally routine, especially where institutional pressures prioritise compliance and removal outcomes.

Currently, safeguards exist in detention that purport to protect adults against misuse of force. A member of the IRC's healthcare staff must attend planned use of force incidents whenever reasonably practicable, and must raise concerns about any use of force and any contraindications (i.e. clinical reasons not to use force on a particular person) both before and during use of force incidents.²³ However, there are serious concerns as to the effectiveness of the safeguards. For example, the recent Brook House Inquiry, which investigated the abuse of people detained at Brook House IRC in 2017, found that the IRC healthcare staff failed in their safeguarding role and in fact facilitated the use of force.²⁴ It identified a number of "concerning themes" in relation to the use of force, including the continued use of a highly dangerous restraint technique - handcuffing behind the back - banned due to its association with positional asphyxia.²⁵ The inquiry also found that force was used inappropriately against people who were mentally and/or physically unwell.²⁶

In 2023, inspectors warned of "disproportionate and unacceptable" use of handcuffs on detained children being escorted from Short-Term Holding Facilities to release accommodation.²⁷ In 2022, 'pain-inducing' techniques on the jaw and wrists, handcuffs and waist restraint belts were used on highly distressed individuals during the first attempted Rwanda removal flight, including on people who had recently self-harmed.²⁸

²³ Brook House Inquiry (2023) Report of the Brook House Inquiry Volume 2, 190

²⁴ Brook House Inquiry (2023) Report of the Brook House Inquiry Volume 2, 154

²⁵ Brook House Inquiry (2023) Report of the Brook House Inquiry Volume 2, 140. In 2010, a man died after being subjected to this technique during his removal flight. Karon Monaghan (2013) Report by the Assistant Deputy Coroner – Inquest into the Death of Jimmy Kelenda Mubenga.

²⁶ Brook House Inquiry (2022) Day 30 Transcript, 55

²⁷ [Report on an unannounced inspection of short-term holding facilities managed by Border Force by HM Chief Inspector of Prisons 9-20 January 2023](#)

²⁸ Aaron Walawalkar, Liberty Investigates journalist; Eleanor Rose, Liberty Investigates Editor; and Lizzie Dearden, Home Affairs Editor at the Independent (2022), '[Revealed: Horrors of self harm and desperation on failed Rwanda flight](#)'.

Q9. Do you think that the physical interventions listed in paragraphs 6 – 8 strike the right balance between ensuring the effective functioning of the immigration system and meeting the particular needs of children?

No.

Q9b. Please explain your answer to Q9., especially if you think this balance could be improved.

As explained above, we do not believe that the use of physical interventions on children can be justified solely for the purposes of facilitating removal. We would advocate that of the list of techniques listing in paragraph 6 only 'Level 0 – non-physical measures' are deployed.

Q10. Do you think that the physical interventions listed in paragraphs 6 – 8 are appropriate for responding to a situation in which non-compliance is occurring because a parent is firmly holding onto their child (under the age of 10) and refusing to move?

No

Q10b. Please explain your answer to Q10.

As explained above, we do not believe that the use of physical interventions on children can be justified solely for the purposes of facilitating removal, including where a young child is being held firmly by their parent.

Q11. Prior to enforcement action, the factors we think officers should consider when determining whether, and if so how, physical handling should be used for the purpose of removing an accompanied child are set out in paragraph 9. We welcome views on this list, including whether any additional factors should be included.

As explained above, we do not believe that the use of physical interventions on children can be justified solely for the purposes of facilitating removal.

Q12. During enforcement action, the factors we think officers should consider as part of the dynamic risk assessment prior to any physical handling for the purpose of removing an accompanied child are set out in paragraph 10. We welcome views on this list, including whether any additional factors should be included.

We strongly oppose the use of any 'dynamic risk assessment' conducted during enforcement action. In our answer to question 8 we give a number of examples of where the current framework for using force against adults has been mis-used. We do not believe force should be used against children but it certainly should not be used following an 'on-the-spot' assessment.

Q13. Do you think there is a risk of unintended consequences arising due to families being made aware that an officer may physically handle their child in order to counter non-compliance

Yes

Q13b. Please explain your answer to Q13.

Whether intended or unintended, there is a risk that if families are made aware that an officer may be using force on their child or children as part of the removals process, this could, understandably, negatively impact their constructive engagement with the Home Office. In our experience parents within the asylum system already fear the harmful side effects of their insecure immigration status on their children, and fear of the use of force may mean that they actively disengage with the Home Office and important disclosures relevant to their cases, are not made. For the avoidance of doubt, force should not be used against children in any circumstance and should not be something that families should need to be made aware of.

Q14. Are there any reporting requirements that you think should be put in place in addition to those set out in paragraph 11 which should be considered following a physical handling incident involving a child?

As explained above, we do not believe that the use of physical interventions on children can be justified solely for the purposes of facilitating removal. We do not believe that it is possible to 'weigh' the use of force to this purpose against a child's best interests, as it would not be in a child's best interests to use force against them unless doing so to prevent them from coming to harm.

Q15. Are there any safeguards in addition that you think should be put in place to those set out in paragraphs 12 – 15 if the physical handling of children by officers is permitted to overcome non-compliance?

As stated above, we strongly oppose the physical handling of children by officers in order to overcome non-compliance.

Paragraphs 12-15 mainly set out the existing policy and legislation regarding the welfare of children and the best interests of the child being a primary consideration in all decision-making, including section 55 of the Borders, Citizenship and Immigration Act 2009 and the UN Convention on the Rights of the Child (UNCRC) - these are only safeguards if they are meaningfully understood and respected, and we would argue that these proposals in and of themselves breach those obligations.

In general comment No. 24 on children's rights in the child justice system, the UN Convention on the Rights of the Child makes clear that "*Restraint or force can be used only when the child poses an imminent threat of injury to himself or herself or others, and only when all other means of control have been exhausted. Restraint should not be used to secure compliance and should never involve deliberate infliction of pain.*"²⁹

²⁹ UN Convention on the Rights of the Child, [General comment No. 24 on children's rights in the child justice system](#), 18 September 2019

Paragraph 15 refers to the possibility of additional training and body-worn cameras, but does not even go so far as committing to these being mandatory for any officers who may be using force on children.

Q16. What alternatives should be prioritised before resorting to physical handling to overcome non-compliance involving a child?

Immigration Officers and Detainee Custody Officers should only employ non-physical measures when dealing with children, including de-escalation measures, engaging with the parent/carer, and clear communication.

Q17. In light of potential cultural and language barriers, how should officers assess and interpret whether a physical intervention is causing a child considerable discomfort, and how should they respond?

It should be assumed that all physical interventions in this context, carried out by a uniformed strangers, would cause a child considerable discomfort.

Additional Questions

Q20. Are there any comments you would like to add concerning the impacts on protected characteristics under the Equality Act 2010 or on children and/or vulnerable people?

These proposals will have a disproportionate effect on children and women.

The government has not published any impact assessments, nor provided any statistics allowing us to understand the number of children and families who will be affected by these changes.

Any reform should be preceded by the publication of full Children's Rights and Equality Impact Assessment, information about the number of people that are estimated to be affected (with a clear breakdown between adults and children), and the Home Office evidence supporting the necessity of the proposed changes.

Q21. Is there anything else you would like to add regarding the proposed changes to the policy or the handling of children during an enforced family return?

We strongly urge the government to abandon these proposals and instead focus time and resources into identifying and resolving issues within the asylum system such as the poor quality of decision making, in order to ensure decisions are made correctly first time to reduce the need for forced returns. We would urge the government to improve the voluntary returns process, making sure it is trauma informed and truly voluntary.

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