

## The Children's Society response to the evaluation of the Home Office's 'Reporting Centre Pilot'

October 2013

### Introduction

1. The Children's Society is a leading national charity, driven by the belief that every child deserves a good childhood. We provide vital help to the most vulnerable children, young people and families in our society through a range of services. We work with around 48,000 children each year, supporting them and advocating on their behalf to tackle discrimination and disadvantage in their daily lives. Our services include helping young people and families find safe accommodation and access the support and services they need, to make sure children's welfare is protected. For further details, please contact Lucy Gregg at [lucy.gregg@childrenssociety.org.uk](mailto:lucy.gregg@childrenssociety.org.uk).

2. As a member of the National Asylum Stakeholder Forum, we welcome the opportunity to respond to the evaluation of the reporting centre pilots. We have also included some feedback on the mobile vans used by the Home Office, since we believe it is difficult to assess these interventions in isolation. Our response is based on our experience of working directly with 1,500 refugee and migrant children and young people across England every year through eight specialist projects as well as through other mainstream services.

### Inappropriate language and phrases

3. The Advertising Standards Agency has recently confirmed that some of the texts and statistics used in the van posters were misleading and unsubstantiated, and in breach of advertising codes<sup>1</sup>. We also believe that the references to 'illegal immigrants' in the material used by the Home Office on the vans in these pilots is misleading and inaccurate. The division of migrants into two mutually exclusive and exhaustive categories as either 'legal' or 'illegal' is not clear in practice or legal terms, nor does it conform to migrants' own experiences and conceptions of their status. This term does little to promote an understanding of why different individuals and vulnerable groups, such as children and young people, refugees, torture survivors and victims of human trafficking, might find themselves in this country without documentation or a legal status<sup>2</sup>. It is for this reason that the Associated Press removed the term 'illegal immigrant' from its style guide stating that 'illegal' can refer only to an action, not to a person<sup>3</sup>. We agree with this approach and believe that no-one is 'illegal' least of all a child.

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<sup>1</sup> ASA Adjudication on Home Office published on 9 October 2013:

[http://www.asa.org.uk/Rulings/Adjudications/2013/10/Home-Office/SHP\\_ADJ\\_237331.aspx](http://www.asa.org.uk/Rulings/Adjudications/2013/10/Home-Office/SHP_ADJ_237331.aspx)

<sup>2</sup> For example see recent letter to the editor: <http://www.theguardian.com/world/2013/aug/08/van-campaign-turning-back-clock>

<sup>3</sup> The Associated Press Stylebook and Briefing on media law, 2013. Available at: <http://www.ap.org/content/press-release/2013/ap-stylebook-marks-60th-anniversary-with-new-print-edition>

4. There were an estimated 120,000 undocumented or irregular migrant children living in the UK in 2011<sup>4</sup>. The majority of these children were born in the UK and many have grown up here. They may not know or remember their parents' country of origin, speak the language or have any family or support network in that country. For these young people 'home' is here in the UK where they have lived all or most of their lives. Some children who are undocumented in the UK may have been sent here on visas to live in private fostering arrangements, have overstayed but are unaware there is anything wrong with their status. Equally some young people we work with are abandoned in the UK by their parents at a young age or were trafficked here as children but managed to escape and have since built a life for themselves here. Their home is here and they would have nothing to 'go back' to. Furthermore, some young people have unresolved and legitimate protection claims and would be at risk of serious harm if they were to go back.

5. The language in the reporting centres, whilst less extreme, is still inappropriate and irrelevant for many of the children, young people and families who will see these posters. Many of the young people we work with are fleeing war and persecution from places like Afghanistan, Somalia and Syria. They desperately want to see their friends and family and while they may want to go home it is not safe for them to do so. Some of these children and young people will have witnessed their friends and family being killed and their homes destroyed. These posters are therefore particularly insensitive and are likely to be upsetting to those who have suffered bereavement or have lost their homes.

6. Describing the return process as 'simple' and 'as easy as 1, 2, 3' is inappropriate. There are a range of issues that make returning to a country of origin a complicated decision. Some of children and young people who do not have a regular immigration status were abandoned in this country by their carers at a young age, while others were trafficked here for exploitation and abuse and may have no lasting connections or support networks in their country of origin. Many will have escaped persecution and may fear torture on return. For example, the recent Home Affairs Select Committee report<sup>5</sup> on asylum highlighted that 27 people were recognised as refugees or given humanitarian protection in the UK in 2012 after being refused asylum in the UK previously and being forcibly returned to their country of origin. It is impossible to know how many more of those who have been forcibly removed from the UK have been harmed after being refused protection in this way. In addition, some children, young people and families will be unable to obtain documentation in order to return. For example, we work with many young people from Iran, who are refused international protection, however; they cannot get documentation to return as there is currently no embassy in the UK. This leaves them in limbo without a regular immigration status or access to services, but unable to leave the UK.

7. The Home Office has a duty to safeguard and promote the welfare of children under Section 55 of the Borders, Citizenship and Immigration Act 2009<sup>6</sup> relating to all its functions, including enforcement and returns. This includes all children even those who have no legal status in the UK. The law makes clear the Home Office's obligation for making sure that children's best interests are central to decisions made about them. Our

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<sup>4</sup> Sigona, N and Hughes, V (2012) No Way Out, No Way In: Irregular Migrant Children and families in the UK [http://www.compas.ox.ac.uk/fileadmin/files/Publications/Reports/NO\\_WAY\\_OUT\\_NO\\_WAY\\_IN\\_FINAL.pdf](http://www.compas.ox.ac.uk/fileadmin/files/Publications/Reports/NO_WAY_OUT_NO_WAY_IN_FINAL.pdf)

<sup>5</sup> Home Affairs Select Committee report on asylum – October 2013: <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/71/7102.htm>

<sup>6</sup> Every Child Matters – Change for Children: Statutory guidance to the UK Border Agency on making arrangements to safeguard and promote the welfare of children: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/legislation/bci-act1/change-for-children.pdf?view=Binary>

experience suggests many have strong human rights claims when they are able to access proper support and present their case fairly.

### **Home Office decision-making in immigration and asylum cases**

8. Voluntary return is not appropriate for everyone and failures in the asylum or immigration decision-making process cannot be overcome by offering return as an alternative.

9. Many of the individuals targeted in this material have failed to have their asylum cases effectively and fairly handled by the Home Office. Research has consistently highlighted problems with the quality of decision-making by the Home Office in asylum claims generally<sup>7</sup>, as well as in family<sup>8</sup> and children's<sup>9</sup> cases specifically. The first report of the Independent Family Returns Panel for example highlighted that of the families that the UK Border Agency (UKBA) had considered to have no right to be in the UK and should return, 41% (77 out of 186) were subsequently granted leave to remain in the UK<sup>10</sup>. It is deeply worrying that the UKBA tried to remove so many children and families who were found to have a legitimate right to be in the UK.

10. It is evident from our own work with children and families that many have real fears about returning and do not believe they have had a chance to have their case fairly considered. Often this is due to inadequate legal advice and representation early on in their case, a lack of adherence to guidance by Home Office decision-makers<sup>11</sup> as well as a 'culture of disbelief' within the Home Office<sup>12</sup>.

11. Furthermore, there are a number of countries which are internationally recognised as too unsafe to return to or where the courts have ruled that it is unsafe to return for a period of time. This is frequently not acknowledged in UK asylum policy and decision-making<sup>13</sup>. These barriers to return will therefore not be reflected in the immigration status of children and families but will prevent removal or voluntary return.

### **Instilling fear in vulnerable migrants**

12. We are increasingly coming across children and families who are destitute because of immigration restrictions on their access to vital services and the labour market as well as very low levels of support provided by the Home Office<sup>14</sup>. Our research has shown that during periods of destitution young people and families are exposed to exploitation,

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<sup>7</sup> *A Question of Credibility: Why so many initial asylum decisions are overturned on appeal in the UK* (2013) Amnesty International: [http://www.amnesty.org.uk/uploads/documents/doc\\_23149.pdf](http://www.amnesty.org.uk/uploads/documents/doc_23149.pdf)

<sup>8</sup> *Untold Stories; Families in the asylum process* (2013) UNHCR: [http://www.unhcr.org.uk/fileadmin/user\\_upload/pdf/aUNHCR\\_Report\\_Untold\\_Stories.pdf](http://www.unhcr.org.uk/fileadmin/user_upload/pdf/aUNHCR_Report_Untold_Stories.pdf)

<sup>9</sup> UNHCR (2009) *Sixth Report of the Quality Initiative Project*: [http://www.unhcr.org.uk/fileadmin/user\\_upload/pdf/6\\_QI\\_Key\\_Observations\\_Recommendations6.pdf](http://www.unhcr.org.uk/fileadmin/user_upload/pdf/6_QI_Key_Observations_Recommendations6.pdf)

<sup>10</sup> p8, Independent Family Returns Panel Annual Report, 2011/12

<sup>11</sup> *A Question of Credibility: Why so many initial asylum decisions are overturned on appeal in the UK* (2013) Amnesty International

<sup>12</sup> This was highlighted as a particular concern by the Home Affairs Select Committee in their recent report on asylum. See also: The Children's Society (2012) *Into the Unknown: Children's journeys through the asylum process* <http://www.childrenssociety.org.uk/news-views/press-release/children-seeking-safety-uk-face-damaging-culture-doubt>

<sup>13</sup> The UN Committee Against Torture recently criticised the UK for not amending its asylum policy on Sri Lanka despite the High Court ruling earlier this year suspending removals of Tamil refused asylum seekers to Sri Lanka. 5th periodic report – May 2013: <http://www2.ohchr.org/english/bodies/cat/cats50.htm> The Refugee Council (2012) *Between a Rock and a Hard Place* recently illustrated other examples of the protection gap for nationals from the Democratic Republic of Congo, Eritrea, Somalia, Sudan, and Zimbabwe who have been refused asylum but may still have a well-founded fear of return.

<sup>14</sup> Pinter, I (2012) *I don't feel human: Experiences of destitution among young migrants and refugees*, The Children's Society [http://www.childrenssociety.org.uk/sites/default/files/tcs/research\\_docs/thechildrenssociety\\_idontfeelhuman\\_final.pdf](http://www.childrenssociety.org.uk/sites/default/files/tcs/research_docs/thechildrenssociety_idontfeelhuman_final.pdf)

violence and abuse, particularly those who are homeless and on the streets. Research by Oxfam recently highlighted that hundreds of thousands of people would rather live in poverty and in constant fear of deportation – reliant on friends, transactional relationships, commercial sex work or low-paid illegal work – than return to their country of origin. This suggests a failure of a government policy which forces destitution<sup>15</sup>. Therefore we believe the language and approach used in this pilot will not achieve its aim to encourage voluntary return. Instead, it will increase fear and uncertainty among these groups, causing them to become further isolated and ostracised in their communities.

### **Nigerian trafficking victim the target of an unprovoked racial attack**

Elijah<sup>16</sup> is from Nigeria. He was trafficked into the UK for exploitation when he was 13 years old although he has since escaped from his traffickers. He spent his adolescence in the UK so he sounds and acts British but his immigration status is still unresolved and he is now over 18. Elijah is homeless and often wanders the streets of London trying to find a place to go. Earlier this month he was attacked by 4-5 white men who he had never seen before. They shouted racist abuse at him and pushed him to the ground where he was kicked a number of times. Fortunately he only sustained scrapes and bruises and felt he did not need to seek medical attention. Passers-by were too afraid to intervene. Because of his uncertain immigration status he was too afraid to report this attack to the police and he went missing for a week.

He has not applied to the National Referral Mechanism; this is the government's system for identifying victims of trafficking. This is because he does not want to be dispersed out of London, which is the main housing available to people accepted by the NRM. In London he has a support network of a few friends, The Children's Society service and another charity that's offered him a bed for the next month or two. He does not have a strong case for applying for asylum and there is no longer legal aid for applying through other immigration channels.

13. The reporting centre pilot coincided with a range of other related initiatives. The 'stop and search' activity outside London tube stations raises concern about racial profiling and arbitrary immigration control<sup>17</sup>. The @ukhomeoffice twitter feed provided a stream of blunt updates on the arrest of as yet untried 'immigration offenders' accompanied by provocative images. We were also concerned to see Home Office press releases which referred to 'would-be illegal immigrants' including Syrian, Afghan and Vietnamese nationals who may have been refugees seeking safety in Europe or potential victims of human trafficking.<sup>18</sup> We believe that these initiatives risk creating an atmosphere of hostility and fear and, run contrary to equalities legislation<sup>19</sup> aimed at fostering positive relations and tackling prejudice and discrimination.

14. Asylum seekers frequently arrive in the UK without documentation or find themselves in an irregular situation despite having a legitimate claim for asylum which they

<sup>15</sup> Crawley, H., Hemmings, J. and Price, N. (2011) 'Coping With Destitution: Survival and livelihood strategies of refused asylum seekers living in the UK': <http://policy-practice.oxfam.org.uk/publications/coping-with-destitution-survival-and-livelihood-strategies-of-refused-asylum-se-121667>

<sup>16</sup> Name changed to protect identity

<sup>17</sup> <http://www.independent.co.uk/news/uk/politics/exclusive-doreen-lawrence-pledges-to-condemn-racial-profiling-spot-checks-in-the-house-of-lords-8742754.html#1>

<sup>18</sup> Home Office news story: *Immigration Minister sees Border Force in action*, 26 July 2013, available at: <https://www.gov.uk/government/news/immigration-minister-sees-border-force-in-action>

<sup>19</sup> <http://www.theguardian.com/uk-news/2013/jul/26/go-home-ad-campaign-court-challenge>

are too afraid to bring to the attention of the authorities. Some may have suffered abuse at the hands of authorities in their country making it difficult for them to trust state authorities in the UK. Suggesting arrest and deportation as in the communication on the vans is likely to deter asylum seekers from contacting the Home Office for the purpose of making a claim for protection, and contravenes the spirit of the Refugee Convention and EU Qualification Directive 2011/95 which sets out clear procedures for the treatment of asylum applicants. Creating a general atmosphere of fear risks deterring refugees and asylum seekers from accessing vital services, including therapeutic support, because they are afraid they will be detained.

15. In 2010, the Home Office put forward plans to return unaccompanied children to Afghanistan<sup>20</sup>. This would have meant returning lone Afghan children to a very dangerous and unstable country. News of the intention of this policy spread quickly among the communities in which we work, causing great fear and anxiety among the young people we work with. Some young people went missing and broke contact with services due to a fear that they may be forced to return to a country where their lives would be in danger. However, going missing from their care placement also has serious safeguarding implications for these young people, putting them at risk of homelessness, exploitation and abuse.

#### **Young person 'appeal rights exhausted' too afraid to leave his accommodation**

Aaron<sup>21</sup> is 21 years old and from Eritrea. He has been in the UK for four years but his asylum claims have failed and he is 'appeal rights exhausted'. Aaron heard via his peers about the "random" stopping and questioning that Home Office officers were doing in various stations around London. This made him so fearful that he did not leave his accommodation for a week. It wasn't until The Children's Society explained his rights to him that he felt confident enough to leave his house.

Our practitioners are supporting Aaron to find a new solicitor as new evidence has come to light. However, since legal aid for immigration cases has been taken out of scope, this will make it even harder for Aaron to resolve his immigration status because he does not have the means to pay for legal advice and at least part of his claim (Article 8 – the right to family and private life) is out of scope for legal aid.

#### **Impact on local and national public opinion**

16. The misleading language used in the van pilot received substantial media coverage. However, this perpetuates inaccurate and uninformed views among the wider public about the realities faced by many undocumented migrants including children in the UK. Communication of this kind does little to promote a balanced and evidenced debated within the public arena. In his recent research on public opinion on immigration,<sup>22</sup> Lord Ashcroft reflected that in the immigration debate, 'opinions are a good deal more abundant than facts' and that there was a general lack of trust within what politicians say on immigration. For example participants in his research who had a firm view on, for example the idea of welfare benefits being paid to migrants, would readily admit that they did not know what they were allowed to claim, or the numbers doing so, or whether they paid more in taxes overall than they cost in benefits and public services. They would then confess that if they were told the answer they would probably not believe it. The government is unlikely to win

<sup>20</sup> UK 'may return Afghan asylum children next year' <http://www.bbc.co.uk/news/uk-15862168>

<sup>21</sup> Name changed to protect identity

<sup>22</sup> Ashcroft (2013) *Small island: Public opinion and the politics of immigration* <http://lordashcrofthpolls.com/wp-content/uploads/2013/08/LORD-ASHCROFT-Public-opinion-and-the-politics-of-immigration2.pdf>

over public opinion and resolve these complex problems by further misleading the public through its communication initiatives.

### **Supporting vulnerable children and young people**

17. The direct impact of these communication initiatives on vulnerable children and young people will be difficult to measure because the effects are likely to be hidden. Young people like Elijah and Aaron will be fearful of coming forward including to report violent crimes committed against them. Therefore, it is unlikely that official government statistics about reported crime will serve as a good indicator of the full impact of such initiatives.

18. Given that the Home Office has a duty to safeguard and promote the welfare of children, including with respect to its enforcement functions, it is necessary to ascertain the impact of this approach on children and young people. If this has not been done, we would urge the government to consider children's perspectives before any initiatives continue.

19. We are against any roll out this or other similarly devised pilots across the UK. Instead, we believe the government would have more success in achieving its objectives by enabling those with legitimate protection needs and human rights claims to regularise their immigration status and by providing support to those wishing to return home in an informed and non-threatening way. Research shows that information about voluntary return must be provided by a trusted agency<sup>23</sup>. With respect to those in the asylum system, evidence from other countries shows that it is possible to have a high level of voluntary return by informing and empowering asylum seekers. For example, 82% of all returns of asylum seekers from Sweden in 2008 were voluntary. The Centre for Social Justice in its report *Asylum Matters* highlighted that the key to the success of Sweden's integrated approach is a recognition that asylum seekers cannot be bureaucratically controlled, resulting in a flexible and compassionate system<sup>24</sup>. We also believe maintaining access to legal aid for immigration cases, improving asylum and immigration decision-making as well as ensuring suitable levels of support for refused asylum seekers would help facilitate this process.

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<sup>23</sup> Understanding Voluntary Return', Black et al, 2004;

<http://webarchive.nationalarchives.gov.uk/20110220105210/rds.homeoffice.gov.uk/rds/pdfs04/rdsolr5004.pdf>

<sup>24</sup> Centre for Social Justice (2009) *Asylum Matters - Restoring Trust in the UK Asylum System*:

<http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20Exec%20summaries/AsylumMatters.pdf>