

## Interim finding 1. The Commissioners expressed concern at failures in the system for dealing with those who are refused sanctuary

- Finding 1.1** – That the current returns system is ineffective and needs to be improved to enhance the credibility of the whole asylum system
- Finding 1.2** – That the policy of making refused asylum seekers destitute is punishing refused asylum seekers, some of whom would be entitled to sanctuary but who received poor asylum decisions
- Finding 1.3** – That the ill health of people undergoing enforced return is frequently not taken into consideration
- Finding 1.4** – That the pastoral visits prior to so-called ‘dawn raids’ are not effective in addressing pastoral concerns
- Finding 1.5** – That escorts for those being returned are not selected, trained or paid to safeguard the returnee; they are unaccountable and accusations of assault are not appropriately addressed
- Finding 1.6** – That those who choose voluntary return are not always fully aware of the current situation in the country to which they return

### UKBA general response:

*The UK has always provided a haven to those who need it and will continue to do so. However, there will always be those, who do not need such protection but who seek to come and live in the UK illegally, whether for economic or other reasons. We provide an asylum system which delivers fair and objective decisions quickly, and an appeals system which is independent and which ensures these decisions are of the highest quality. This ensures that those who need sanctuary are treated differently from those who are here illegally.*

*Where it has been decided, including through the independent appeals process where applicable, that a person does not have legitimate grounds for sanctuary in the UK, the Government expects them to leave the country voluntarily. To this end we will, working with the International Organisation for Migration, provide advice and financial support to enable return and reintegration into the person’s home country. While engaging with this process, a failed asylum seeker is supported and has access to emergency medical care.*

*Outside of this process, when an asylum seeker has been found not to need protection it is our policy to discontinue providing support. We do not consider that it is right to ask the UK taxpayer to continue to fund those who choose to remain here when they have no grounds to stay and it is open to them to return to a home country that has been found safe for them to*

*live in. A change to this policy would create a disincentive to departure for unsuccessful asylum seekers and a “pull” factor for those who want to come to the UK for economic reasons, compromising the integrity of our asylum system and slowing down the asylum application process for others.*

### Commissioners’ Assessment:

Voluntary return is always to be preferred over forced return. Voluntary return deserves maximum encouragement by every positive means. In many cases it is difficult to achieve, and can only come about through careful preparation. We have a number of key recommendations which are intended to increase the take up of voluntary return. Nevertheless, the consequences of delay at the end of the asylum process are too grave to justify postponement in the hope that a reluctant returnee will have a change of mind and agree to voluntary return.

The Commissioners recognise that forced return must be one of the most difficult of all tasks confronting the UKBA. They acknowledge the attraction to administrators of return at short notice as a means of reducing the risk of absconding and of avoiding organised protest by neighbours or sympathisers. Nevertheless, they see ‘dawn raids’ and detention without notice as a strategy of last resort to be avoided wherever possible. Where refused asylum seekers, especially children, who must eventually face return, are left to establish bonds in schools and communities the breaking of those bonds becomes ever more traumatic with the passage of time. When the point has been reached (a highly distressing one for most asylum seekers) where, after having been through a fair and comprehensive asylum determination procedure, a claim has been refused, there can be no advantage to either side – the UKBA or the applicants – in allowing years of delay before return, though there must be a space seriously to work towards a negotiated return that will not in itself be traumatic for an individual or a family.

We address questions of detention elsewhere. In this report our focus is on what happens when we refuse people sanctuary. Her Majesty’s Chief Inspector of Prisons has reported on a number of short-term immigration holding facilities. We note with concern the first monitoring report of the Independent Monitoring Board on the short-term immigration holding facilities at Heathrow Airport, which raises serious concerns about the treatment of returnees and physical conditions.<sup>1</sup> It is clearly a matter of urgency that these be improved and scrutinized regularly. We welcome the inspection of short-term holding facilities by Independent Monitoring Boards and look to UKBA, as the purchaser of these services, for a mechanism of swift and appropriate response to such reports.

<sup>1</sup> [http://www.imb.gov.uk/annual-reports/o8-annual-reports/Heathrow\\_2007-2008.pdf](http://www.imb.gov.uk/annual-reports/o8-annual-reports/Heathrow_2007-2008.pdf)

## Recommendations 1.7: The Commissioners therefore recommend:

### Significantly increase the rate of voluntary return for New Asylum Model cases

- 1.7.1 – That voluntary return should be the standard procedure of return for refused asylum seekers, and that enforced return should be a certainty for those who do not comply, but also a last resort.
- 1.7.2 – That robust independent research should be undertaken into the reasons why different categories of refused asylum seekers do not return home voluntarily, and that the results should inform a pilot project to increase take-up of voluntary return.
- 1.7.3 – That serious consideration should be given to the greater involvement of voluntary sector organisations in preparing refused asylum seekers for voluntary return where return is a viable option.
- 1.7.4 – That refused asylum seekers should be provided with reintegration advice and support prior to leaving the UK.

### Remove barriers to return and improve transparency in forced returns

- 1.7.4 – That the UKBA should not attempt to remove a refused asylum seeker until all barriers to return, such as lack of documentation or instability in the country of origin, have been removed.
- 1.7.5 – That publicly funded legal advice should be available after refusal of an asylum seeker's claim.
- 1.7.6 – That refused asylum cases should be subject to quality assurance.
- 1.7.7 – That all possible steps should be taken to ensure that 'dawn raids' are avoided by preventative measures.
- 1.7.8 – That alongside the inspection work done by Her Majesty's Inspectorate of Prisons all short-term holding facilities should be open to Independent Monitoring Boards; and that UKBA should respond to both HMIP and IMB reports with action plans for improvements.
- 1.7.9 – That each case owner under the New Asylum Model should undertake a periodic review to investigate 'limbo' situations, where asylum applicants have had their case refused yet have not left the UK.