**UNICEF UK’s submission on ending immigration detention of children and seeking adequate reception and care for them**

UNICEF UK is an integral part of the United Nations Children’s Fund (UNICEF).

UNICEF UK presents its compliments to the UN Special Rapporteur on the human rights of migrants and has the pleasure to submit its input to his next thematic report on ending immigration detention of children and seeking adequate reception and care for them.

This submission covers the United Kingdom of Great Britain and Northern Ireland. Immigration matters are reserved and under the jurisdiction of the UK Government in London.

** Legislation or policies that prohibit or restrict the use of immigration detention of children and their families;**

In 2010 the UK Government made a commitment to end immigration detention of children. This has been achieved for unaccompanied asylum seeking children (some age-disputed young people are held in detention and subsequently released when found to be children).

In 2011 a new family returns process was rolled out nationally, as a key component of the Government’s aim of ending the detention of children for immigration purposes. The secure pre-departure accommodation at Cedars, to be used where families did not cooperate with removal directions, opened in September 2011.Cedars has now been closed. Aims of the process are to:

• increase family take up of voluntary return and Assisted Voluntary Return (AVR);

• ensure that any enforcement action takes into account the welfare interests of children and the wider family;

• better prepare families for return and give them the opportunity to take responsibility for their return;

• give families the opportunity to make further representations and seek judicial reviews before enforcement action commences.

Numbers of child detainees have reduced significantly, from over 1,000 per year pre-2010 to 67 in 2017 and 63 in 2018.

Two thirds of the children detained were asylum detainees. 43 of them were under the age of 11. 60 of the children detained were held at Gatwick Pre-departure Accommodation or Tinsley House (Family Unit) Immigration Reception Centre. Both of these facilities have accommodation designed for families. There were 3 held at other IRC’s.

No unaccompanied asylum seeking child (UASC) is detained. They are considered as ‘in need’ and are covered by the general duty on local authorities to safeguard and promote the welfare of children within their area. UASC have the same status and entitlements as UK children with no responsible adult to care for them. The Local Authority provides for and ensures their accommodation, education, health, etc.

 **Existing non-custodial alternatives to immigration detention of children (e.g. community-based reception solutions) and their effect on the protection of the rights of migrant children and their families**

There are various types of Alternatives to Detention (ATDs) in the UK:

Deposit of documentation

Reporting conditions

Directed residence

Residence at open/semi-open reception centres

Release on bail/bond

Provision of surety

Community supervision arrangements

However, the sole operational government ATD in the UK at present is “bail”.

The Home Office has a dedicated Voluntary Returns Service. Those opting for Assisted Voluntary Return (AVR) can receive assistance with the practicalities associated with returns, such as obtaining travel documents and other necessary documents, transport to airports, and contacts with relevant agencies in countries of return. The Home Office AVR Scheme has different levels of support depending on status and vulnerability. The financial assistance – up to £2000 and extra support – is available to under-18s who are travelling alone, or family groups travelling

together which includes someone under 18.84 In those countries where the UK has a service provider contracted, e.g. Caritas, they will pass on the funds to the individual/family. In those countries where there is no service-provider it is uploaded onto a cash-card.

 **Good practices or measures taken to protect the human rights of migrant children and their families while their migration status is being resolved;**

* The Borders, Citizenship and Immigration Act 2009 places a statutory duty upon the Secretary of State to ensure that immigration, asylum and nationality functions “are discharged having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom”.

This duty has incorporated Article 3 of the Convention on the Rights of the Child into the UK immigration and asylum law.

* The Home Office’s guidance for caseworkers and Immigration Compliance and Enforcement officers on family separations is founded upon this statutory duty and clearly states that the best interests of any child must be the “primary consideration” for officials in each case***.*** Consequently,The Home Office’s policy guidance on family separations states that a child must not be separated from both adults for immigration purposes if the child is taken into care as a result.
* The Independent Family Returns Panel provides independent advice to the Home Office on how best to safeguard children’s welfare during a family’s enforced return. The Independent Family Returns Panel (IFRP) was established in 2011 to provide advice on the safeguarding and welfare plans for the removal of families with children who have no legal right to remain in the UK, and have failed to depart voluntarily.

The approach was established as a way of avoiding the detention of families with children who are subject to an enforced return.

* The introduction by law of automatic judicial oversight after four months in detention and the Adults at Risk policy developments alongside the introduction of the detention gatekeeper and case progression panels indicate some progress. The recent Home Office shift in focus to strengthen ATDs and the reduction in reliance on the detention estate are also signs of gradual progress being made.

 **Challenges and/or obstacles in the development and/or implementation of non-custodial alternatives to immigration detention of children and their families**;

* The Voluntary Returns Service and assisted Voluntary Return Service (AVR) are services offered by the Home Office to people with no legal right to be in the UK and who wish to return to their country of origin. It is meant to be the main instrument and programme to reduce the scale of immigration detention.

Nevertheless, voluntary returns have falling from 2016 onwards (like enforced returns). Voluntary returns fell by 6,784 or 46% between 2015 and 2018, the year in which they were highest in the five-year period from 2014–2018.

Including dependants, in 2019, 3,137 asylum seekers were removed or departed voluntarily, a 23% decrease from 2018 (4,049).

The total number of removals and voluntary departures went down in each year from 2009. 1,631 asylum seekers left under Voluntary Return schemes in 2019.

* Cuts in legal aid and further restrictions on judicial reviews have made it more difficult to bring cases challenging detention before the courts. This has resulted in persons remaining within the immigration detention estate without easy access to legal representatives.
* While ATDs are used relatively widely in the UK, they do not currently follow a community-based engagement-focused approach.

 **Other relevant information.**

There is a strong parliamentary cross-party support for detention reform and alternatives. The government has acknowledged the need to reduce the scale and periods of detention. Still, the progress in developing Alternatives to Detention and increasing the take-up of Assisted Voluntary Returns has been slow.

In the 2000s, the Home Office conducted two alternatives to detention pilots for families in the asylum system at Millbank and Glasgow. Neither produced positive outcomes in terms of the individual’s welfare, voluntary return rates and/or the engagement of families themselves

One indication of the willingness of the UK Government to achieve progress is that it is one of the 12 countries taking part in UNHCR’s Global Strategy - Beyond Detention 2014-2019 (‘Global Strategy’). Given the rate of detention and limited availability of community engagement focused ATD, promoting the latter has been a priority objective for UNHCR’s work in the UK

The UK Government has now undertaken a new wave of reforms across the detention system in response to an independent review into the welfare of vulnerable people in detention, published in 2018.

The key aspects of reforms include promoting and encouraging voluntary return and introducing a pilot to support vulnerable women outside detention while their cases are resolved