



Home Office

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Kate Green MP
House of Commons
London, SW1A 0AA

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Dear Kate

I am writing in response to questions you raised during last Tuesday's Immigration and Social Security Coordination (EU Withdrawal) Bill Committee debate on family removals, including any cases involving British children, and family separations. You also asked about publication of the Department for Health and Social Care's findings on its review of NHS Charging Regulations.

I am grateful for the important issues you raised in the debate on safeguarding the welfare of children. This is something I take very seriously and that is why it is important we take the time to consider these issues carefully. As I explained to the Committee, section 55 of the Borders, Citizenship and Immigration Act 2009, requires the Home Office to carry out its functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. Published guidance on removals under the Family Returns Process takes into account this safeguarding duty. This can be found at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/773852/Family-returns-process-v5.0.pdf.

The Family Returns Process was introduced in 2010 for families who have no right to reside in the UK and aims to provide a dignified return for a family to their country of origin. The process is based around greater engagement with families to encourage and support them to leave the UK voluntarily, with child welfare and safeguarding at its heart.

The Family Returns Process is divided into three stages: assisted return for the family to return voluntarily; required return, where the family will not return voluntarily but are given the option of retaining control over their departure by using self check-in removal directions; and ensured return: in the event that the earlier stages of the process have either failed or not been deemed appropriate options for a family, the family's departure from the UK will be enforced. An Independent Family Returns Panel consisting of medical and child safeguarding experts, provides independent advice to the Home Office on how best to safeguard children's welfare during a family's enforced return, and the Home Office is required to set out how it has met the duty under section 55 of the Borders and Immigration Act 2009 in a returns plan.

Most families who go through the Family Returns Process do not reach the ensured return stage. This is illustrated by the Home Office quarterly published statistics for Immigration Enforcement, which show that between 2017 and the end of September 2018, the period in which the latest statistics are available, 865 families departed voluntarily and only 17 families were subject to the ensured removal process. To be clear, these figures relate to the number of families and not the number of individuals and statisticians are currently reviewing the quality of the data. We anticipate that publication will resume for the next quarter in May. Although we don't collect statistics on British citizen children accompanying their parents, as they are not subject to immigration control, I can confirm that none of the children in the 17 ensured returns were British citizens.

Our policy is not to separate families unless it is necessary and proportionate. The Family Immigration Rules and the policy on exceptional circumstances, provide a clear basis for considering applications to remain in the UK on the basis of family life. Individuals with no leave to remain are expected to leave voluntarily, and we may enforce their removal if they do not.

Our family separation guidance for the purposes of enforcement action makes clear that staff must consider the best interests of any children, including their needs and caring arrangements, in line with our duty under section 55 of the Borders, Citizenship and Immigration Act 2009 before taking enforcement action. The guidance sets out clearly the way in which family relationships are defined and the checks and constraints within the process; decisions to separate a family will always be reviewed following any changes in circumstances.

Where a parent is liable to be removed and claims a genuine and subsisting parental relationship with a child who is British or who has been in the UK for a continuous period of seven years, the starting point in considering whether an exception to being required to leave the UK applies is that it is unreasonable for the child to leave the UK. However, there is a public interest in pursuing removal from this country where the adult parent has been convicted of serious criminal offences and has received a prison sentence of four years or more.

Family separation may be justified for safeguarding reasons or where a family member is frustrating the removal process, however unless there are safeguarding reasons to do so in the best interest of the child, we will not separate nursing mothers from the child they are nursing; and a child must not be separated from both parents or from one parent (in the case of a single-parent family) for an immigration purpose if the consequence of that decision is that the child is taken into care. Unfortunately, the Home Office is not, at present, able to extract information pertaining to family separations from the case working information database as this information is not held in a reportable field on our current system. This system is in the process of being redesigned, with the intention of creating a new case working system for the immigration operation. As part of this, my officials are looking into the options for recording family separation data.

The Home Office recognises the importance of good quality data to support its decision making, and my officials are continuing to work to improve and assure both historic and present data quality. In addition to addressing these issues through the IT systems change programme, officials are also focusing on user training and quality assurance, with the aim of improving the accuracy and completeness of records held on immigration databases.

In the meantime, we have undertaken an internal review of the handling of family separation cases, which includes a limited dip sample of such cases involving detention and removal considerations. The dip-sample was conducted by reviewing all of the family separation forms completed between 1 August 2018 and 19 September 2018 and reviewing each form to gather the information pertaining to that individual case.

The review found that the majority of the cases reviewed did not contain children under the age of 18 in the family group. For the remaining cases involving children under the age of 18, the majority of the adults that were to be separated were not considered to be in a subsisting relationship with the child and the child's other parent/guardian. In the small number of cases that did contain children, and where it was accepted that there was evidence of a genuine and subsisting relationship, there were no examples of children being separated from both parents or carers, and in no cases were children taken into care.

In none of the cases that were examined was any evidence found that the separation of a family group was initiated by a third-party agency or that a child under the age of 18 was temporarily or permanently separated from both parents or guardians. I hope this information assists.

Turning to your specific question on whether the Department for Health and Social Care (DHSC) will publish the findings of its review of NHS Charging Regulations from 2017, I can provide some information which my officials received from DHSC.

Last year, the DHSC undertook an internal review into the impact of the 2017 amendments to the National Health Service (Charges to Overseas Visitors) Regulations. A Written Ministerial Statement on 12 December 2018 set out their findings of the review which did not suggest that the 2017 Amendment Regulations themselves deter patients from treatment or that the changes have had an impact on public health. In undertaking this internal review, the DHSC called for evidence from interested stakeholders which included confidential information. The DHSC does not intend to release this information or make further publications about the review.

However, whilst it considers that the 2017 Amendment Regulations remain important and should not be modified, some case studies presented did reveal that there is more to do to ensure some groups of vulnerable overseas visitors understand their entitlements and treatment options, and that providers of NHS care consider fully when a patient can be reasonably expected to leave the UK before deciding if treatment should be safely withheld if payment is not provided. Therefore the DHSC is clear that it will take action to ensure the rules are properly understood and implemented. It has already updated national guidance to the NHS, and will work with NHS Improvement to promote awareness of the important exemption categories or safeguards that are in place for vulnerable patients to ensure that all patients receive the care they need, even where charges may apply.

Maternity services are the only services specifically categorised as immediately necessary, meaning that clinicians, administrators and patients can all be clear that in all cases maternity services must be provided without any delay due to eligibility checks or difficulty in paying the charges. The DHSC takes this safeguard towards those in need of maternity services seriously and continues to work to ensure this message is understood and women do not have maternity services withheld. The DHSC plans to create patient focused, appropriately worded, communications for vulnerable service users such as pregnant migrant women and is keen to work with expert stakeholders in doing so.

I hope this information is helpful.

I will copy this letter to members of the Bill Committee and to the Secretary of State for Health and Social Reform.

Yours ever
Caroline

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Minister of State for Immigration