

**An announced visit
to
Yarl's Wood
Immigration Removal Centre
31st October 2005**

**Professor Al Aynsley-Green
Children's Commissioner**

REPORT OF A VISIT TO YARL'S WOOD IMMIGRATION REMOVAL CENTRE

The Office of Children's Commissioner

1. The Office of Children's Commissioner was established by the Children Act 2004. The first Commissioner for children, Professor Al Aynsley Green was appointed on 1st March 2005 and took up his duties on the 1st July 2005. The general function of the Children's Commissioner is to promote awareness of the views and interests of children.¹ As part of this general function, the Commissioner may consider any matter relating to the interests of children and may publish a report on any such matter. In considering what constitutes the interests of children, the Children's Commissioner must have regard to the UN Conventions on the Rights of the Child.

Background to the visit to Yarl's Wood Immigration Removal Centre (IRC)

2. Concerns have been raised about immigration detention of children by both the UN Committee on the Rights of the Child and the European Commissioner for Human Rights,² as well as by the Inspector for Prisons, Anne Owers, in her report on Yarl's Wood³ of February 2005. Following the expression of these concerns, Professor Al Aynsley-Green, the Commissioner for Children and Professor Carolyn Hamilton, Senior Legal Adviser to the Commissioner for Children, made an announced visit to the Yarl's Wood Immigration Removal Centre on 31st October 2005.
3. The purpose of the visit by the Children's Commissioner was first, to fulfil his general function of ensuring that the views, interests and needs of children and young people are taken into account. The Commissioner is aware that children detained at Yarl's Wood are currently unable to make their views known. Second, the Commissioner wished to determine the overall well-being of children detained at Yarl's Wood and to determine the extent to which detention at Yarl's Wood complies with the UN Convention on the Rights of the Child and the UN Rules on Juveniles Deprived of their Liberty. It is not intended in this report to replicate issues addressed by the report of Her Majesty's Inspector of Prisons, Anne Owers, but rather to address

¹ S. 2(1) Children Act 2004

² See Concluding Observations of the UN Committee on the Rights of the Child 2002 and Report of the European Commissioner on Human Rights

³ Report of an announced inspection of Yarl's Wood Immigration Removal Centre, 28th February – 4th March 2005 by HM Inspector of Prisons

the specific interests and views of children, and issues relating to their welfare.⁴

Relevant legislation

4. The UK ratified the UN Convention on the Rights of the Child in 1992. At the time of ratification it entered a reservation to the Convention which states that:
The United Kingdom reserves the right to apply such legislation, in so far as it relates to the entry into, stay in and departure from the United Kingdom on those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, and to the acquisition and possession of citizenship, as it may deem necessary from time to time.
5. Yarl's Wood IDC, Crane Wing, holds families with children, who have been placed in administrative detention under the powers contained in Para 16 Schedule 2 and Para 2 Schedule 3, Immigration Act 1971. The majority of the children and families so detained are awaiting removal, while a minority are there pending examination of whether they have, or should have, leave to remain.⁵
6. Article 37 of the UN Convention on the Rights of the Child⁶ requires that deprivation of liberty shall only be used as a measure of last resort and for the shortest appropriate period of time. This provision is also to be found in the UN Rules on Juveniles Deprived of their Liberty,⁷ which are part of the UN Minimum Standards and Norms of Juvenile Justice (UN JDL), and apply to all children who are deprived of their liberty, for whatever reason. Thus it includes children who are deprived of their liberty by being placed at an Immigration Removal Centre. The UN JDL Rules provide that deprivation of liberty should only occur in exceptional cases.⁸
7. In addition, the Rules require that the length of the sanction should be determined by judicial authority, without precluding the possibility of early release, and that a State should set an age limit below which it should not be permitted to deprive a child of his or her liberty. No

⁴ Welfare is interpreted in its widest sense and includes the targets contained within Every Child Matters: staying healthy, staying safe, enjoying and achieving; making a positive contribution and economic well-being.

⁵ The legislation covering administrative detention can be found in the Immigration Act 1971, supplemented by the Operational Enforcement Manual produced by the Home Office and the Detention Centre Rules.

⁶ The UN Convention on the Rights of the Child is not part of UK law, even though the Convention was ratified in 1991 and that ratification came into force in January 1992. There is, however, an international expectation that states will implement and abide by their treaty obligations. There are those who argue that the UN Convention has now been so widely ratified that it has the status of customary law.

⁷ Adopted by the General Assembly Resolution 45/113 of 14th December 1990. The Rules set a general standard to which States should aspire, but do not have the status of a treaty.

⁸ Rule 2

minimum age has been set for detention at Yarl's Wood, and children deprived of their liberty are of all ages.

8. The process by which a child can be deprived of his or her liberty by the Immigration Service without a judicial order, and without the child being given an opportunity to challenge the decision, was criticised by Mr Gils-Robles, the Commissioner for Human Rights, in his report published in August 2005⁹. Whilst a child could technically bring judicial review proceedings to challenge his or her detention, the view of Gils-Robles was that this is an insufficient and ineffective means of challenge. The conclusion of the Gils-Robles report was that the Immigration Service should seek the authorisation of a judge, with a periodic, judicial review of the continuing justification for detention. This recommendation has not been followed or implemented by the UK government.
9. The UK reservation to the UN Convention on the Rights of the Child, which effectively allows the Government to exclude children who are subject to immigration control from its provisions, has been the subject of criticism by the UN Committee on the Rights of the Child in its response to the Government's Second report on the Implementation of the UN Convention on the Rights of the Child in the UK¹⁰. The reservation has also been criticised by the UN Committee on Human Rights as undermining the universality of the rights of children, and the overall purpose of the Convention, and by the UK Joint Committee on Human Rights in 2002.
10. The UN Committee on the Rights of the Child has also expressed its deep concern at the continuing practice of detention of children for immigration purposes. Their view, in the concluding observations to the UK's second report, was that such detention was incompatible with the Convention. This concern was echoed in the Gils-Robles report, which expressed the view that the numbers of children detained with their families suggested that insufficient attention had been paid to the examination of alternative forms of supervision. The report pointed out that there has been little research into the likelihood of families with children absconding to support the increasing resort to detention by the Immigration Service. '*Prima facie, .. families with their children attending school, are less likely to abscond than any other category*'.¹¹ As far as we are aware, this research has still not been carried out.
11. When undertaking his mission, Gils-Robles reported that there were 60 children detained in Removal Centres under Immigration Act powers on 26th June 2004, though this number had fallen to 25 by 25th December 2004. On 31st October 2005, when the Children's

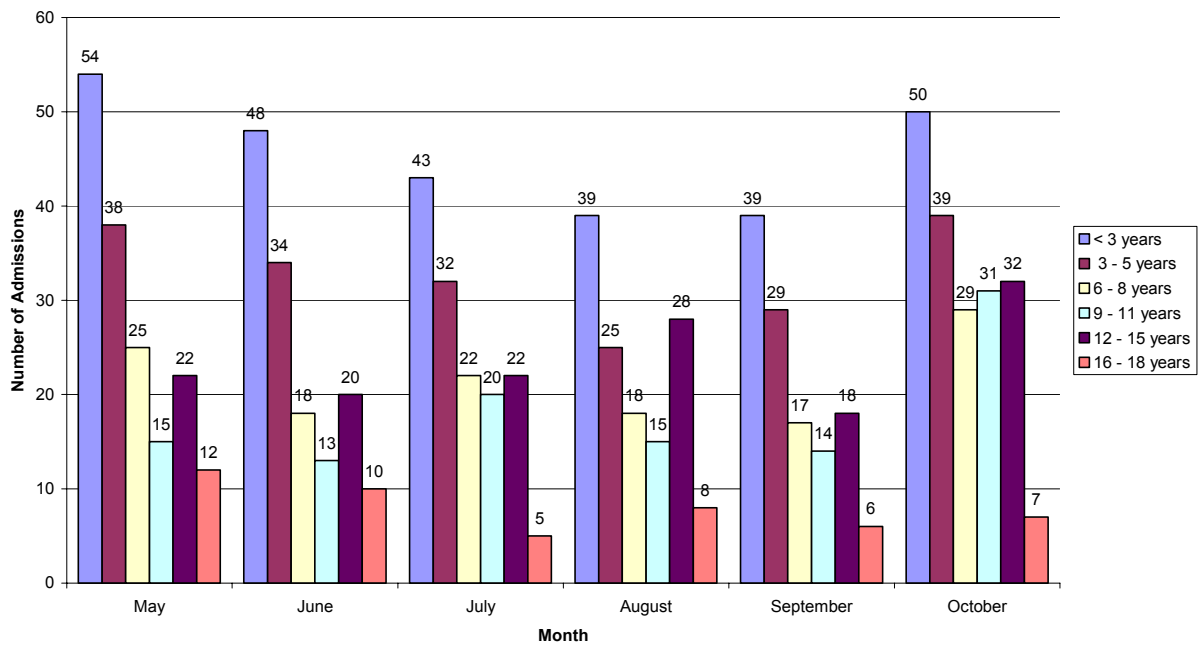
⁹ Report by Mr Gil-Robles, Commissioner for Human Rights, Council of Europe, on his visit to the United Kingdom, 4th – 12th November 2004 Comm DH(2005)6, para 60

¹⁰ See UN Committee on the Rights of the Child, UN Doc CRC/C/15/Add. 34 1995 and UN Doc CRC/C/15/Add. 188 para 49 2002.

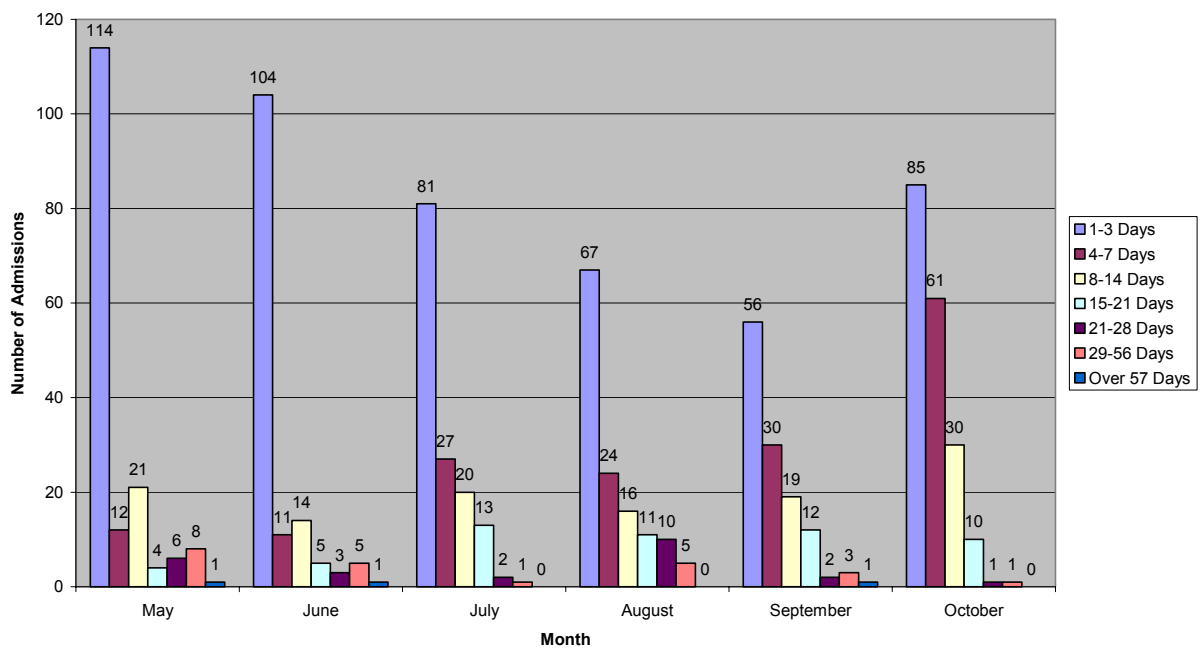
¹¹ Para 58.

Commissioner undertook an inspection at Yarl's Wood, there were 46 children. Following the visit, the Commissioner requested further statistical information. The following charts denote the numbers of children admitted to Yarl's Wood by age and length of stay for the period May to October 2005.

Yarl's Wood Immigration Removal Centre - Admissions by age



Yarl's Wood Immigration Removal Centre - Admissions by length of stay



The Visit

- During our visit to Yarl's Wood, the Children's Commissioner first met Mr Ray Reveley, the Centre Manager and Mr Matthew Brems, the Children's Services Manager. Following an initial discussion, we underwent the same 'journey' that a child would take on admission to the Yarl's Wood IDC, in order to see the Centre through the eyes of a

child. During the process of this journey, the Commissioner had the opportunity to meet and speak with a number of children, including those who had just entered Yarl's Wood IDC, those who had been detained for some days and others who were participating in communal activities. Children who were in their bedrooms were not disturbed. The Commissioner met a number of staff working at the IDC, most of whom were involved in the education of children, as well as members of the Independent Monitoring Board. We have a number of observations and recommendations as a result of our visit, which can be found at the end of this report.

The reception area

13. On admission to Yarl's Wood, a child is taken first to the reception area. Some attempt has been made to make the reception area, to which those detained are brought on arrival, child friendly. We were of the view that more could be done with this area. The children entering reception have often had a long journey, little to eat and drink and are stressed and tired by the time they enter the centre. On entering, each family is placed in a small interview room. We were informed that the admission process could take an hour or two. Apart from a constantly playing television there was nothing in the interview room with which a child could play or occupy himself. We were informed that there were toys for younger children when they arrived, but they were not visible to us.
14. There was only one child in the reception area during the inspection. This child was in school uniform, having been detained with his mother just as he was about to leave for school. He had not been given any opportunity to say goodbye to his class-mates or to the school, and it was not clear whether the school were informed that he had been detained.

The Family Unit

15. Following the reception process, the family are taken to Crane Wing. The journey from reception to Crane Wing requires a child to pass through a number of locked doors. Staff estimated that prior to reaching Crane Wing, a child would pass through 8 to 10 locked doors. On reaching Crane Wing, a child must pass through a locked door, be subjected to a search and then pass through a barred 'cell' door.

Facilities

16. Each of the bedrooms seen contained 2 single beds. Some of the bedrooms interconnected where there were more than 2 people in the family. Cots were provided. Families are expected to eat in the communal dining room. At the time of our visit, around 3.30pm, the dining room still required a considerable level of cleaning following

lunch. We were assured that this would be undertaken before the next meal. Children made a considerable number of complaints about the food provided. In particular, children expressed the view that there was too much 'junk' food and not enough fruit and vegetables or indeed, food that they were used to eating at home.

17. Yarl's Wood has two permanent teachers on its staff and has also, since July, employed a supply teacher. The teaching facilities were well-decorated and well equipped. Concerns about the facilities for older children expressed in the HMIP Report of February 2005 appeared to have been addressed and resolved. However, there were no secondary classes functioning during our visit, and only one secondary age child was available to discuss the issue of education. We did not have the opportunity to speak to the secondary school teacher. The primary age school children seen during the visit were clearly enjoying the education that they received.
18. Activity is provided for children in the gym. We were also told that children were able to play team games outside on the sports field, however we were not shown this facility. In order to reach the gym, children had to pass through the barred cell door, and then through another locked door. Any child wishing to re-enter the wing, for instance to use the toilet, had yet again to pass through the two locked doors, and pass through a security check involving a search. The children at Yarl's Wood are detained for immigration purposes and not because they are in conflict with the law. It is questionable, given this, whether the level of security needs to be so high. The UN JDL Rules require that minimum security should be used with respect to children. The need for a barred, cell door is particularly questionable.
19. The facilities for children within the wing were adequate, especially for younger children. The nursery facilities were bright and well-equipped, but there was little to occupy teenagers. This is a particular problem for teenagers who are detained for more than a few days.

Outdoor activities

20. The Crane Wing has one relatively small outdoor area, covered with tarmac, and containing some outdoor play equipment. While this is acceptable for small children, it offers very limited scope and space to older children. Although there was another outside area with grass, this is not much used and is overlooked by female residents of other wings. Children were clearly not free to enter the grassed area and the door to the area was kept locked. For children who are kept for more than a few days, the outdoor area and facility is insufficient.

The Independent Monitoring Board

21. We had the opportunity to meet a number of members of the IMB who were visiting the Centre that day. None of them had received training

on issues relating to children, nor on how to communicate with children. They informed us that it had not been part of their task to speak to children and elicit their views about conditions at Yarl's Wood, but that they would consider doing so in the future.

Children's understanding of detention

22. During our visit to Yarl's Wood, we spoke to a number of children. Not one of these children had any clear idea or, in the case of some children, any idea at all, of why they were detained at Yarl's Wood. Neither had the children any knowledge of how long they would be there and what was likely to happen to them. Many had no recollection of their country of origin, having been in the country for 5 or 6 years, and in some cases, did not know their parents' state of origin. Indeed one child, when asked where her mother came from, stated quite clearly that she came from London. Many of the children clearly saw themselves as English children.
23. Staff were asked whether they discussed the reason for placement in Yarl's Wood with the children. All of the staff asked stated that this was not an issue they discussed. In our view, the lack of information made available to children about why they are detained, and what will happen over the next few days or weeks, leaves children unprepared and is likely to increase distress when removal occurs. Children and young people are not given an opportunity to make their views and wishes about their situation known and taken into account, nor are they able to challenge any decisions taken with respect to them. In our view, the failure to inform children about the reasons for their detention and what will happen to them during and after their stay, together with the lack of a mechanism to ensure that children's views are heard, constitutes a violation of Article 12 of the UN Convention on the Rights of the Child. It also fails to treat the best interests of the child as a primary consideration.

Removal from home without notice

24. A number of children had been removed from home without notice. Indeed, the child in reception was removed just as he was about to meet class-mates to catch the bus for school. Children find it at the very least distressing, and at the worst, traumatic, to be removed from their home without notice. There is research evidence that indicates that such sudden removal can have long-term negative effects on a child's mental health.¹² It is unclear from our visit, whether the families detained at Yarl's Wood had received a 'pastoral visit' from immigration officers prior to their removal to Yarl's Wood. If not, we would wish to know why this practice is not followed.

¹² See *No Place for a Child, Children in UK Immigration Detention: Impacts, Alternatives and Safeguards*, Crawley and Lester, Save the Children 2005 at p.22 and Silove, Steel and Waters: *Polices of deterrence and the mental health of asylum seekers* Journal of the American Medical Association 284(5); 604-11 (2000)

Time spent in detention

25. As indicated by the figures, the majority of children were detained for between 1 and 3 days. However, over a period of six months, 165 children were held for between 4 and 7 days, 120 for between 8 and 14 days, 55 for between 15 and 21 days, 24 for between 22 and 28 days, 24 for between 29 and 56 days and 3 for over 57 days.¹³ It is highly regrettable that so many children experienced such considerable periods of time in detention.

The Welfare of Children

26. The staff have clearly given consideration to the needs of children following the visit of HMIP, Anne Owers. A full time social worker will be employed from January 2006, though this person will only be available during normal working hours. The social worker will be employed by Yarl's Wood management company and will not be an independent member of staff, as recommended by Ann Owers in her report, an inspection published in May 2005.
27. Yarl's Wood has a policy on safeguarding children which recognises the difficult experiences that children may have accounted prior to their arrival and 'the unusual circumstances in which they find themselves'. The policy states clearly that the welfare of the child shall be the paramount consideration at Yarl's Wood. The Yarl's Wood Children's Services Manager sits on the Bedfordshire Local Safeguarding Board, and a Yarl's Wood Child Protection Policy Group has been established. This is chaired by the Centre Manager and comprises members of the key on-site organisations responsible for the care of children and families. Key external agencies, such as social services, the police and Bedford Primary Care Trust are also represented. All staff at Yarl's Wood are subject to an enhanced police check, and all receive child protection training.
28. In addition, Yarl's Wood has a procedure for the referral of child protection concerns and a policy on welfare assessment. Where a child has been in detention for 21 days, the Children's Services Manager will decide whether an assessment shall be carried out on the family. If the family are due for removal in the next 7 days, no action will be taken. If they are likely to be present for longer (i.e. over 28 days) then a request will be made for an assessment from Bedfordshire Social Services. The policy indicates that social services are to treat the case as a Child in Need referral and will visit the family within 7 days of receiving the referral. At present the policy requires that the appointed social worker visits and conducts checks every 14 days as long as the

¹³ It is not clear whether children who are detained over a period of two calendar months appear twice in the figures. For instance, it is not clear whether the 24 children who were detained for 22-28 days, are the same children who were detained for 29-56 days. The average time spent by children in detention was not provided.

family remain in detention. This policy is to be superseded when the full time social worker is employed at Yarl's Wood as he or she will undertake the welfare assessments themselves.

29. A Ministerial Decision of 16th December 2003 requires that detention of a child beyond a 28 day period must be authorised by a Minister.¹⁴ The European Commissioner for Human Rights has pointed out in his report that this is less than satisfactory. At the time of his Report, there was no procedure for conducting a welfare assessment. This is now in place, and it is important that a welfare assessment is prepared prior to the 28th day, in order to inform the decision of the Minister as to whether detention of the child should continue. Under the present system, where a referral is not made to Bedfordshire social services until the child has been in detention at least 21 days, it is highly unlikely that an assessment report will have been completed in time to inform the ministerial decision.

Complaints

30. While adults appear to have complaints procedures available to them, the same cannot be said for children. In addition, it is difficult for children to complain if they have no knowledge as to why they are detained and what will happen over the next few days, weeks or months. On speaking to the children, some had complaints, but had not raised them with the staff. Indeed, the children were not aware that they could do so. Much of the complaint of the smaller children related specifically to the food provided to them, especially the provision of 'junk food'. There was no indication that children had been consulted by staff about the food that they would like to eat. Other children complained of bullying, particularly by other children.

Conclusions

31. Clearly, it is beyond the remit of the Yarl's Wood staff to address the fact of detention or indeed the length of detention of children, but a clear attempt has been made to address some of the concerns expressed in the report of HMIP Anne Owers. The Children's Commissioner was pleased to see that child protection policies are now in force and that a social worker has been appointed from January 2006. The accommodation provided for the provision of secondary education has also been improved.
32. Staff provide education and activities for children to keep them occupied and stimulated during their detention. These facilities are on the whole acceptable and staff clearly try to make the time spent in these activities enjoyable for the children. However, at the same time, there is little awareness of the views, understanding and interests of

¹⁴ Home Office Press Release, Stat 054/2003, 16 December 2003

the children amongst the staff, and little if any attempt to explain to children what is happening to them, or will happen to them. There is currently no attempt to prepare children either for continued detention or for removal. Children are not contributing to decisions about the regime within Yarl's Wood and yet clearly have views, especially about such matters as the mode and timing of their removal from home and the food provided.

33. It was both surprising and disappointing to discover that the Independent Monitoring Board did not speak to children or elicit their views as part of their Monitoring function.
34. It is clear that as long as the UK retains a reservation to the UN Convention on the Rights of the Child relating to immigration matters, the Convention cannot be fully implemented. By detaining children for immigration purposes, other than as a matter of last resort, and for the shortest possible time, the UK is, but for the reservation, in breach of the Convention. It is also clear that the goals of Every Child Matters, set by the Government in 2004, are not being met with regard to this group of detained children. It is not possible to ensure that children detained in Yarl's Wood stay healthy, stay safe, enjoy and achieve, make a positive contribution and achieve economic well-being.

Recommendations

35. The visit undertaken by the Children's Commissioner was intended to provide a group of children who have difficulty making their views known, with an opportunity to express those views. Following the visit, and having listened to the views of the children, the Commissioner makes a number of recommendations. In making these recommendations, he appreciates the efforts made by staff to address the issues raised by HMIP, Anne Owers, following her inspection in February 2005.
 - a) Children should be treated first as children, and their rights, needs and welfare should be safeguarded.
 - b) Children should only be detained as a measure of last resort, following an assessment of the family.
 - c) Research should be undertaken to assess the extent to which families with children at school, 'disappear' prior to removal.
 - d) The Government should consider greater use of alternatives to detention, including electronic monitoring, reporting requirements, supervised accommodation, community supervision, incentivised compliance and voluntary return.

- e) Children should not be removed from their homes early in the morning without notice and without an opportunity to say goodbye to their friends and school.
- f) Children should be informed in a manner that recognises their different ages and levels of maturity, how long they are likely to stay at Yarl's Wood, and the rules and regime that will be applied to them while they are there. A written document covering these aspects should be made available to children in a range of languages. For pre-literate children, a picture book should be produced that parents can use to explain these issues. Staff should not rely on parents to inform children or explain to them what is happening. Many of the parents are distressed by events, and some, as a coping mechanism, simply deny to themselves what is likely to happen over the next few months.
- g) Yarl's Wood should ensure that they have specially trained staff to work with children and to help them understand why they are detained and what will happen to them over the course of the next days, weeks or months.
- h) Trained staff should, as part of their role, elicit the views and feelings of the child about the events surrounding their detention, and their future and be able to answer questions raised by the child.
- i) Staff should set aside time during education periods, to enable children to express their views about their detention, the regime and what is likely to happen to them once they return to the country of origin.
- j) Regular consultations should be held with children about the conditions and regime within Yarl's Wood. Such consultations could take place through the creation of a children's forum, which should meet several times a week. This would also enable staff to gain a greater understanding of how children experience their time in detention, and to make necessary changes to the regime.
- k) Children should be provided with an easily accessible and safe complaints mechanism and complaints should be dealt with swiftly and sensitively.
- l) The reception area should be improved and more facilities for children should be added. Consideration should be given to a communal play area for children in the reception area.
- m) The barred 'cell' door at the entrance to the Unit is unnecessary and unduly 'prison like'. We were informed that between the family unit and the outside door, there were another 8 - 10 locked doors. We recommend that the door is replaced by an alternative door with a vision panel.

n) A more sophisticated security system should be installed that would reduce the need for children to be searched every time they enter the family unit. Some children are searched on multiple occasions during the day, especially if they need to use the toilet while in the sports area.

o) Children need more access to outdoor areas than they are currently being given. There is insufficient space to exercise. Consideration needs to be given to providing access to the grassed area, which would need some alteration.

p) There should be a review of the medical services available to children and in particular, the availability of psychiatric and psychological services from the Children and Adolescent Mental Health Services.

q) The Independent Monitoring Board should review their functions and mandate to ensure that it includes making themselves accessible to children and providing an opportunity to children to express their views and have those views taken into account.