

Operation 'Clannebor'

Families whose asylum claims have been refused

December 2007

About this briefing

This briefing sets out information about the Border and Immigration Agency (BIA) Clannebor pilot in Leeds, which intends to work with families so that they depart from the UK. It also summarises the Refugee Council's serious concerns about the way that families are affected by the pilot, based on our contact with families in Leeds.

1. What is Clannebor?

Clannebor is a pilot project run by the BIA in the Yorkshire and Humberside region. It is being run by the Enforcement Directorate and began on 22 June 2007. As far as we are aware, the BIA did not publish a written outline of the purpose or conduct of the pilot. Some information has been presented to parliament in response to questions (see the end of this briefing). The information in this briefing has been gleaned from meetings and email queries from Refugee Council and others to BIA. BIA's intention (stated in meetings) is to test out approaches to making families whose asylum claim has been refused, depart from the UK without the use of detention and enforced removal.

The pilot operates by asking selected families to attend a series of meetings with BIA officials at which BIA will update the information they have about the family, confirm with the parent(s) and their children that they understand that they have reached the end of the process and that they face removal. BIA then intends that families will see the value of signing up for a voluntary return package rather than continuing to remain in the UK until they are forcibly removed.

2. Implementation of Clannebor to date

This pilot was announced in May 2007 and began in June. The Refugee Council understands that around 60 families have been sent questionnaires and asked to attend meetings with BIA in Leeds. The questionnaire is similar to the one in general use by the BIA Case Resolution Directorate that is being sent to all people whose asylum claims were made before April 2007 and do not have an outcome on their case (see below).

The experience of Refugee Council staff is that some of the families were known to have fresh representations that could be considered as fresh asylum claims and other families were included in both the Case Resolution and the Clannebor exercise.

The interview is described by BIA as a case conference and BIA have stated that any other concerned professional can attend such as social workers or representatives (in practice this has not always been permitted – see below). The families are then told to report on a weekly basis and asked each

time if they have made up their mind about signing for voluntary return. There is then a further case conference after 30 days (and possibly a third 30 days after that although there seems to be some confusion about this; the Refugee Council were told that the third interview was to be cancelled, in reality this does not seem to be happening.)

If at the end of this process, families have not signed up for voluntary return they face the threat of removal directions being set. It is our understanding that families have been told they will not be detained.

At the time of writing, families are being asked to attend the third meeting. The letter asking them to attend tells families that they will be liable to prosecution if they fail to attend the appointment. Prosecution is threatened under Section 35 of the Asylum and Immigration (Treatment of Claimants) Act 2004 which created a criminal offence for those who fail without reasonable excuse to comply with steps which may be required to obtain a travel document.

Refugee Council is aware that cases are now approaching their second or third interview.

The pilot is due to report to Chris Hudson, BIA's Regional Director, in December 2007. The Refugee Council has sought further details about the process for this evaluation and has written to the BIA to register our opposition to the way the pilot has been conducted.

3. Case Resolution and Clannebor

The commencement of Clannebor caused initial confusion as it coincided with the start of the BIA's Case Resolution programme, which aims to resolve all outstanding cases where the application for asylum was made before April 2007 (see Refugee Council briefing on Case Resolution at <http://www.refugeecouncil.org.uk/policy/briefings/2007/casesresolution.htm>). This process is thought to include a backlog of around 450,000 files, and the target date for completion is June 2011.

The BIA have stated that the Case Resolution Directorate will prioritise certain categories of cases, one of which being families on support. Significant numbers of families whose cases have been processed have been now granted leave to remain.

However, families on support are also being targeted by Clannebor, which has caused confusion: in the initial months of the pilots some of the families we are working with in Leeds received two questionnaires from BIA – one from CRD and one from Clannebor (the content is the same, but the colour paper is different). As a result those Clannebor families that also received a general Case Resolution form have been withdrawn from the Clannebor pilot. However these have been replaced by other families to maintain the overall 60 in the pilot.

There continues to be a feeling among communities that the selection of families for the Clannebor pilot is arbitrary and that those families who are being dealt with by CRD are likely to benefit from a fresh look at their case, which may result in leave to remain, whereas the Clannebor pilot is focused on leaving the UK.

4. Refugee Council concerns about Clannebor

The Refugee Council has called for the government to end the use of detention for families and to find alternative approaches to working with families at the end of the asylum process. We accept that where a family has no protection needs or human rights case to remain, their case has been fairly decided, and their return can be safe and sustainable for them and their children, the BIA will expect families to leave the UK.

However, we are strongly opposed to assumptions that all families who are still in the UK whose asylum claims have been refused, should be returned, whether forcibly or supported by voluntary return packages.

Many of the families at the end of the process that we have worked with continue to fear return. Many have been in the UK for significant periods (often for the children's life time), have struggled to access adequate legal representation to put their case forward and feel they have not had a fair decision on their case and cannot return. For some nationalities, including Iranians, Congolese and Zimbabwean families, the current political or security situation in their country means that families feel it is inconceivable for them to go home. Many children and parents have had traumatic experiences in their home country and many have experienced long and difficult periods of uncertainty, instability and poverty in the UK.

We believe that BIA approaches to working with families at the end of the process must take account of the experiences and needs of families. Pilots that are established must:

- Include scope for meeting protection needs, granting leave to remain on humanitarian, medical or pragmatic grounds
- Be transparent and fair
- Take the experiences of families into account and avoid distress and harm to children
- Ensure that provision is made for families to access legal representation and advice

We are concerned that the approach taken by BIA Enforcement in the Clannebor pilot is flawed, potentially unfair and has caused distress to parents and children. The lack of clarity about the process has meant that Refugee Council staff have been unable to effectively support families and provide information. The process has not been transparent and it has been difficult to obtain information and clarity from BIA.

In particular, we are concerned about the following:

1. **BIA strategy:** Some families are being targeted for early removal or when there is an overall Case Resolution programme under way that would have reviewed their case. The Refugee Council has sought to argue to BIA that the pilot should be suspended so that there is one process dealing with families. The BIA have argued that the Case Resolution agenda does not preclude them from taking enforcement action against people on an ongoing basis.¹
2. **Selection criteria:** The criteria for selecting families to be part of Clannebor are not clear and we are concerned that some families with health needs and others with a fear of return have been included. We are also concerned that families who have fresh representations outstanding or are of nationalities where there are currently problems enforcing removals, for example those from the Democratic Republic of Congo, have been included.
3. **Legal representation:** The Legal Services Commission (LSC) confirmed that legal aid is available, however this is limited to help with completion of forms. Any further help is subject to the merits test in the normal way. Thus all the Clannebor cases have been referred to the

¹ BIA Case Resolution Director, Letter to Immigration Law Practitioners Association, 7 September 2007 "...we explained our position which is that at any time, those individuals who have no right to remain in the UK may be removed. The work of the Case Resolution Directorate does not change this and we have no intention of it doing so. Whether an individual receives a questionnaire from the Case Resolution Directorate or is contacted by an enforcement office they have an equivalent opportunity to explain their current circumstances - their case to remain in the UK will be assessed against the same criteria. As you note in your letter, even where enforcement action has begun, individuals have the right to make further representations/fresh claims and more generally applicants should, if they have any other basis on which they wish to remain, continue to let us know in the normal way."

Immigration Advisory Service (IAS) for advice. However some families have told Refugee Council that they have not been able to access adequate legal assistance.

4. **Intimidating nature of “case conferences” and threat of prosecution:** Families feel that they are being discriminated against compared to other families dealt with by CRD. Refugee Council staff working with families have reported that families say there are many instances in which there is no dialogue, and that the families are told that they are considered ‘appeal rights exhausted’ but they are told nothing about what is to happen to their fresh representations that have already been made to the Home Office. These feelings of injustice and confusion are compounded by the manner in which the interviews are being conducted. Families feel that the sole objective is to get the people to sign up to voluntary return, and have been upset by aggressive and sometimes threatening questioning happening, often in front of the children. We are opposed to the use of the threat of prosecution under Section 35 of the 2004 Act for failing to cooperate with re-documentation, if families do not attend the meeting with Clannebor. We are also concerned that support organisations and family contacts are being prevented from attending interviews, including school teachers and workers from the Children’s Society.
5. **Treatment of children:** We are concerned that families have been required to bring along their children to interviews. The Project Manager of Clannebor explained that this was because there had been problems in the past where children were entirely ignorant that they were liable to be removed from the UK and this caused distress when enforcement action was carried out. BIA has said that families can opt not to have their children in the interview, and we understand that children are now expected to attend the second 30 day interview, but not the others. Parents can ask that children be removed from the interview room but no childcare is provided.
6. **Timing and relevance of the pilot:** We are concerned that the pilot is being conducted at a time when the BIA operations are undergoing significant changes, with the introduction of Case Resolution. It seems disproportionate to target families in one region with a process where they feel frightened, unfairly treated, and discriminated against. We are concerned that the conduct of the pilot and the selection of families means that it will be of little value in measuring voluntary return sign-up.
7. **Evaluation of the pilot:** The Refugee Council has written to the BIA to raise our concerns about Clannebor and ask that these be included in the evaluation. We think that the evaluation should be an open process and that the findings should be made public and have asked for clarification on this from the BIA.

**Refugee Council
December 2007**

Asylum: Deportation [Clan Ebor]

House of Commons - 19 Nov 2007 : Column 499W

<http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm071119/text/71119w0010.htm#07111937000072>

Greg Mulholland: To ask the Secretary of State for the Home Department how the effectiveness of the Clan Ebor scheme will be measured. [164183]

Mr. Byrne: The Border and Immigration Agency intends to review the scheme at the end of December 2007. The review will focus on the number of families that have departed from the UK voluntarily and the reasons why a voluntary departure has not occurred. It will also assess the effectiveness of the scheme in securing up to date information about the circumstances of the families, attendance at case conferences and compliance with reporting restrictions.

Greg Mulholland: To ask the Secretary of State for the Home Department in what language (a) the Clan Ebor questionnaires will be distributed and (b) the case conferences element of the Clan Ebor scheme will be conducted. [164184]

Mr. Byrne: The questionnaires are written in English. Case conferences are conducted in the first language of the applicants with the help of an official interpreter.

Greg Mulholland: To ask the Secretary of State for the Home Department on what date the Clan Ebor scheme began. [164185]

Mr. Byrne: The Clan Ebor project began on 22 June 2007.

Greg Mulholland: To ask the Secretary of State for the Home Department how participants were selected for the Clan Ebor scheme in West Yorkshire; what criteria were used in this selection process; and what geographical area the scheme will cover. [164186]

Mr. Byrne: Families were selected for inclusion for the project which had had their asylum claim refused, had exhausted all of their appeal rights and did not have any applications for leave outstanding or barriers that would prevent their lawful removal from the United Kingdom. A sample of families from a wide cross-section of nationalities from within the local authority areas of Leeds, Bradford, Calderdale, Kirklees and Wakefield have been included.

Greg Mulholland: To ask the Secretary of State for the Home Department what steps will be taken against those within the Clan Ebor scheme who do not return the questionnaire in the allotted two-week period. [164187]

Mr. Byrne: Whether or not a questionnaire is returned, participants will be asked to attend a case conference.

Greg Mulholland: To ask the Secretary of State for the Home Department what advice will be available for those selected to take part in the Clan Ebor scheme. [164188]

Mr. Byrne: Participants are advised to research and pursue their voluntary departure from the United Kingdom with the help available from the International Organisation for Migration (IOM). The families are provided with literature and contact details of the International Organisation for Migration in their own language and it is explained to them that the IOM may be able to provide assistance with travel arrangements, funding and reintegration. As a direct result of this project, IOM has arranged a drop-in centre twice a month in Leeds city centre and families are briefed on how to access this facility. The risk to the family of enforced removal action being taken is also explained.

Greg Mulholland: To ask the Secretary of State for the Home Department whether families with children under the age of five years have been included in the Clan Ebor scheme. [164196]

Mr. Byrne: Families with children under the age of five are included in the Clan Ebor project.