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Ref: SHORT-TERM HOLDING FACILITIES AND CHILD-PROTECTION

Dear Jane

You wrote to me on 5th August about short-term holding facilities and child protection. At roughly the same time Alan Kittle of the UK Border Agency addressed the same topic at a meeting of the Detention Users' Group on 27th July which was attended by Richard Lumley of the Refugee Council. I am sorry that in providing information for that event, the need to reply to your letter on the same topic was overlooked.

As made clear by Ministers during the passage of the Borders, Citizenship and Immigration Act, the purpose of amending the definition of "short-term holding facility" in section 147 of the Immigration and Asylum Act 1999 was to allow for future flexibility in the use of the UK Border Agency's short-term holding facilities. In particular, holding rooms located at ports. This is part of the overall desire to ensure that the Agency is able to make the most effective use of its detention and custody facilities.

The amended definition will allow the UK Border Agency to hold both immigration detainees (including, as now, those detained under section 2 of the UK Borders Act as being liable to arrest) and persons arrested in connection with immigration or customs offences.

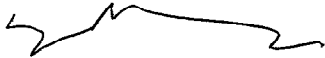
However, as Alan Kittle made clear at the meeting of the Detention User Group there are no immediate plans to make "mixed" use of short-term holding facilities, including holding rooms. As a consequence, no impact assessment has as yet been carried out into so-called "mixed" use. This would be done as part of the consideration stage before a decision to make such use of these facilities is taken.

We envisage an impact assessment that would cover a range of issues including: the feasibility and desirability of making "mixed" use of the facilities, either generally or at specific locations; the practicability of ensuring that individuals would be held in accordance with the relevant statutory safeguards, i.e. the Short-Term Holding Facility Rules (which would have to be developed at the time the decision was made to turn the facilities to this use) and the PACE Codes of Practice; and, most importantly, the security and safety of all those

concerned, both detainees and staff. So far as children are concerned, any decision to make "mixed" use of holding rooms would naturally have to take full account of child protection issues and would need to be taken fully in line with the Agency's statutory duty to safeguard and promote the welfare of children. These too would therefore be key issues for the impact assessment.

Contracted operators who run short-term holding facilities are required to comply with UKBA child protection policies and procedures. These are set out in Detention Services Order 6/2006. I am attaching a copy of this but please note that it is currently in the process of being updated to reflect the duty in section 55 of the Borders, Citizenship and Immigration Act.

Yours sincerely



**KRISTIAN ARMSTRONG
HEAD OF CENTRAL POLICY UNIT/
UKBA CHILDREN'S CHAMPION**

DETENTION SERVICES ORDER 6/2006

Child protection policy statement, procedures and procedures prompt card for escort and non-residential short-term holding facility contractor

The child protection policy statement, procedures and procedures prompt card attached to this Order were first issued to the escort and non-residential short-term holding facility (holding rooms) contractor in October 2005.

We are issuing these documents now as a Detention Services Order in order to ensure they are easily identifiable documents.

The child protection policies and procedures for immigration removal centres and residential short-term holding facilities were issued as DSO 5/2003 (revised Nov 2005).

If you have any queries about either this DSO or DSO 5/2003 (revised) please contact the Detention Services Policy Unit on 020 8760 2533 or 2534.

DSPU
July 2006

DSO 6/2006
UNITED KINGDOM IMMIGRATION SERVICE
DETENTION SERVICES DIRECTORATE
CHILD PROTECTION POLICY

The United Kingdom Immigration Service¹ has as one of its Key Functions "To remove from the UK those here in breach of the Immigration Rules....."²

As a Directorate, our Key Function is "By maintaining the capacity, occupancy and throughput of the detention estate" to support that process.³ The way we approach this role, however, is best summarised in our Mission Statement:

"Detention Services serves the public by escorting and holding people detained under immigration law and by assisting the removal of those not entitled to stay in the United Kingdom. Our purpose is to ensure that they are held securely and safely and cared for with humanity⁴."

We believe this statement and our practice reflect the UKIS stated values of:

- treating people with respect, dignity and confidentiality
- being impartial, open and honest
- operating within a legal framework⁵.

In relation to the protection of those children⁶ who, together with their families are being looked after within the detention estate, the approach the Detention Services Directorate will take is based on and reflects the principles of UK legislation and guidance⁷. Within the context of lawful detention:

- the welfare of the child is the paramount consideration

¹ UKIS

² Detention Services Business Plan, 2002-2003

³ Detention Services Business Plan, 2002-2003

⁴ Detention Services Mission Statement, 2002

⁵ UKIS Business Plan, 2002-2003

⁶ A child is anyone who has not yet attained their 18th birthday.

⁷ The Children Act 1989 – England and Wales

The Children Act 2004

The Children (Scotland) Act 1995

The Human Rights Act 1998

The Protection of Children Act 1999

The Protection of Children (Scotland) Act 2003

The Sexual Offences Act 2003

The Criminal Justice and Court Services Act 2000

Rehabilitation of Offenders Act 1974

Working Together to Safeguard Children, Department of Health 1999

Protecting Children - A Shared Responsibility, Scottish Executive, 1998

Caring for the Young and Vulnerable, Home Office, 1999

- all children, regardless of age, disability, gender, racial or ethnic origin, religious belief or sexual orientation have a right to protection from harm or abuse.

We recognise that the detention of children with their families for the purposes of removal may be distressing. We will endeavour to ensure therefore, that each step in the process is as sensitive to their needs as is possible, and that all possible safeguards are in place to protect their welfare.

Toward that end, and as part of our contractual arrangements, we will require all contractors carrying out duties on our behalf to demonstrate that they are able to meet the following standards.

1. They have adopted, and all staff are aware of, the child protection policy provided by the Detention Services Directorate, and have identified a senior 'designated person' responsible for its implementation.
2. They have adopted, and all staff are aware of, the child protection procedures provided by the Detention Services Directorate, and all residential units have had these agreed with the Local Safeguarding Children Board or Child Protection Committee. This must include reference to the duty of staff to refer to social services any situation where staff have reason to believe that groups of adults and children claiming to be families may not be biologically related.
3. They have adopted, and all staff are aware of, the staff 'code of good practice' provided by the Detention Services Directorate, advising staff on appropriate ways of behaving with and in front of children at work. This will do much to reduce the possibility of actions being misinterpreted, possibly leading to false allegations of abuse being made.
4. They have procedures in place for ensuring the suitability of all staff coming into contact with children at work, through seeking 'Enhanced Disclosure' checks from the offices of the Criminal Records Bureau/Scottish Criminal Records Office.
5. They have a child protection training programme in place for all staff coming into contact with children through their work, developed, and ideally delivered, in conjunction with those with specific knowledge of child protection. Staff should undergo this training prior to beginning work at residential units and those employed at short term holding facilities and/or in the transporting of children and families as a matter of priority.
6. They can demonstrate that any sub-contractors or agents carrying out activities in conjunction with, or on their behalf, which involves contact with children, are able to meet these same requirements.

7. They participate fully in any 'child protection audit,' that may be requested by the Detention Services Directorate.

In addition, all 'residential units' are also required to:

- have a 'Children's Welfare Group' in place, chaired by the senior 'designated person' and consisting of relevant internal staff, to review and monitor any effect on children of new, or changes in, policies and procedures. The group should meet monthly. Senior representatives from this group should also meet with representatives from the local child protection network at least quarterly. The purpose of these meetings is to agree and review protocols, including those relating to:
 - the referral of children to the local social services/social work department and the carrying out of child protection enquiries
 - the referral to the local social services/social work department and/or the police of legitimate concerns about the conduct of colleagues and managers in relation to the treatment and management of children
 - arrangements for providing support to children following any disclosure of abuse or mistreatment
- provide children and parents with information relating to their right to complain about bullying, or any form of abuse or neglect, and the procedures for doing so.
- provide suitable and appropriate facilities and activities for children, including the provision of crèche facilities while parents are engaged in legal or immigration interviews
- demonstrate that all staff coming into contact with children through specific professional post such as medical or teaching staff, nursery nurses etc, have relevant, recognised qualifications.
- forward to the Detention Services Policy Unit, details of any child protection referral made to the local child protection network, in relation to a child detained with their family.

In addition to 1 to 7 above, all short term holding facilities and escort services are also required to ensure:

- a gender mix of staff appropriate to holding/transporting families with children

Through these standards, the Detention Services Directorate will, as far as possible, ensure that children lawfully detained in its care are safe from harm or abuse.

Name of S T H F or Escort Service Contractor CHILD PROTECTION POLICY STATEMENT

The management of **name of contractor** recognise and accept the requirements placed on them by the UKIS Detention Services Directorate to ensure the welfare of children⁸ in their care. This policy, the related procedures and the code of good practice which follow, establish the roles and responsibilities of staff⁹, in relation to the protection of children, with whom their work brings them into contact.

In relation to child protection, and in the context of lawful detention, the approach **name of contractor** will take is based on, and reflects, the principles of relevant UK legislation and guidance relating to the protection of children¹⁰.

- the welfare of the child is the paramount consideration
- all children, regardless of age, disability, gender, racial or ethnic origin, religious belief or sexual orientation have a right to protection from harm or abuse.

Name of contractor management are responsible for the protection of children within all services they provide on behalf of UKIS. They have designated the **title of post** to oversee this on their behalf. This will include ensuring the implementation and monitoring of this policy and the related procedures, which have been designed to complement Local Safeguarding Children Board (LSCB) / Child Protection Committee (CPC) procedures. **Title of post** is also responsible for the development of appropriate links with the wider child protection network through the LSCB / CPC including, for short term holding facilities, having obtained agreement for the operation of the procedures.

⁸ Child refers to any person who has not yet attained their 18th birthday.

⁹ Within this document, the term staff refers to any person, either paid or unpaid, carrying out any duties on behalf of **name of contractor**.

¹⁰ The Children Act 1989

The Children (Scotland) Act 1995

The Children Act 2004

The Human Rights Act 1998

The Protection of Children Act 1999

The Protection of Children (Scotland) Act 2003

The Sexual Offences Act 2003

The Criminal Justice and Court Services Act 2000

Rehabilitation of Offenders Act 1974

Working Together to Safeguard Children, Department of Health 1999

Protecting Children - A Shared Responsibility, Scottish Executive, 1998

Caring for the Young and Vulnerable, Home Office, 1999

The UKIS Detention Services Directorate may, from time to time, also require an independent 'child protection audit' be carried out. The **title of post** will be responsible for liaison with the auditor, and all staff will be expected to co-operate fully with this process.

In relation to recruitment and selection of staff, the **title of post** must ensure that arrangements are in place for 'Enhanced Disclosure' Criminal Record Bureau / Scottish Criminal Record Office checks to be carried out on all staff that will come into contact with children through their work, prior to their taking up their position.

It is also the responsibility of **title of post** to ensure they have a child protection training programme in place for all staff coming into contact with children through their work, developed, and ideally delivered, in conjunction with those with specific knowledge of child protection. Wherever possible, staff should undergo this training prior to beginning any work which would bring them into contact with children. Where this is not possible, this training should be treated as a priority need. All managers must ensure that all relevant staff, for whom they are responsible, are able to attend this training.

It is the responsibility of all managers to ensure that all staff for whom they are responsible are aware of and understand the importance of implementing this policy, the related procedures and the code of good practice. The code has been developed to provide staff with guidance which not only will help to protect children but will also help to identify any practices which could be mistakenly interpreted and perhaps lead to false allegations of abuse.

Managers must also ensure that any contractors, agents or others whom they engage to undertake duties on their behalf, or with whom they work which involves contact with children, understand the importance of implementing this policy, the related procedures and the code of good practice.

Although not a child protection agency, **name of contractor** fully accept their responsibilities for the welfare of children in their care and expect staff to act responsibly and professionally toward that end. Any failure to do so may result in disciplinary action being taken.

Name of S T H F or Escort Service Contractor
CHILD PROTECTION PROCEDURES

PROCEDURE TO BE FOLLOWED IF STAFF THINK A CHILD MAY BE AT RISK OF ABUSE, IS BEING, OR HAS BEEN, ABUSED EITHER BY:

a member of staff

a member of their family

any other person, including another child

Each manager within **name of contractor** is responsible for ensuring that all staff, for whom they are responsible, are aware of and understand the importance of implementing these procedures.

It is recognised that a percentage of the children that staff come into contact with will, through the nature of their experiences, demonstrate behaviours which might be indicators of child abuse. Many factors can result in a child's behaviour being affected, thereby making the identification of abuse even more difficult. Staff are not expected to suddenly become expert in child protection nor are they expected to investigate child abuse. They are, however, expected to comply with these procedures.

Staff, who for any reason become concerned that a child may be at risk of abuse, is being, or has been, abused or that any person may pose a risk to children must immediately report that concern to the **title of post**, or in their absence to **agreed alternative**.

They will discuss the concerns with the member of staff to clarify their cause and obtain all the known relevant information. Based on this discussion, if the concerns suggest that a child or children may be at risk of harm or that someone may pose a risk to children the **title of post**, or in their absence the **agreed alternative** will then contact the local social services/social work department, stating it concerns child protection. The local social services/social work department will advise as to what, if any, further actions may be required. The **title of post** is also responsible for ensuring that the details of the referral are forwarded to the Policy Unit of the UKIS Detention Services Directorate for information.

Name of S T H F or Escort Service Contractor STAFF CODE OF GOOD PRACTICE

This Code has been developed to provide you with advice which not only will help to protect children, but will also help you and your colleagues identify any practices which could be mistakenly interpreted and perhaps lead to false allegations of abuse. Good practice will also protect **name of contractor** through reducing the possibility of anyone using their role within the organisation to gain access to children, in order to abuse them. For that reason, staff should be mindful as to the possible implications for them of any disregard for this guidance, and their duty to report to their manager any breaches of it by colleagues.

While it is not intended that this code should restrict staff from normal ways of working, there is much they can do to avoid situations which may give rise to misinterpretation, which will also work to protect children. If in doubt, consider how an action or activity may be perceived as opposed to how it is intended.

- avoid unobserved situations of one to one contact with a child. If unavoidable, always keep a door open and ensure you are within the hearing of others
- if it is necessary to do things of a 'personal' nature for a child, e g, nappy changing or toileting if they are very young or disabled, ensure these are carried out with the full knowledge of the parents/carers and that the child concerned knows what you are going to do and why
- develop a culture in which staff feel comfortable enough to point out inappropriate attitudes and behaviours to each other
- don't engage in or allow any sexually provocative games involving or observed by children, whether based on talking or touching
- never make suggestive remarks or discriminatory comments to a child
- don't engage in or tolerate bullying of a child, either by adults or other children
- don't engage in or tolerate inappropriate physical activity involving children
- never enter a room where a child may be changing their clothes or not be fully dressed, without first clearly getting their consent to enter
- avoid 'favouritism' and singling-out 'troublemakers'
- never take or invite a child to your own, or anyone else's, home
- never take or offer to take a child in your own vehicle
- never trivialise child abuse
- never let allegations by a child go unreported, including any made against you

**Short term holding facility / escort services
child protection procedures prompt card**

