

Bhatt Murphy Solicitors

PRESS RELEASE

For circulation on Saturday 18.2.12

Home Office pays £1m for wrongfully detaining children

In 2005 a number of children represented by Bhatt Murphy commenced judicial review proceedings of the Home Office's policy for disputing the age of asylum seekers. This policy permitted immigration officers to treat child asylum seekers as adults and to detain them without first properly assessing their age.

In response to this judicial review, the Home Office changed its age dispute policy in November 2005. However the Home Office refused to formally accept that its pre-November 2005 policy was unlawful until January 2007, when it stated that the policy: *"did not strike the right balance between, on the one hand, the interests of firm and fair immigration control and, on the other hand, the importance of avoiding the detention of unaccompanied children"*.

On this same basis, the Home Office also formally admitted that these children had been unlawfully detained. As a result, over the course of 2009 and 2010, the Home Office agreed to pay a total of one million pounds in compensation, plus costs, to a total of forty children represented by Bhatt Murphy who had been wrongfully detained whilst seeking asylum.

The children's solicitor, **Mark Scott** of **Bhatt Murphy** said as follows:

"It is obvious that vulnerable children who have done nothing other than to seek help should not be locked up by the State. The coalition government decided to end this abhorrent practice in 2010, such that it is of great concern if some child asylum-seekers continue to be detained contrary to policy. This comes at a time when Government cuts to legal funding for people on low income will make it increasingly difficult to hold the State to account in the courts".

For further information please email: m.scott@bhattmurphy.co.uk

Note to editors:

- There are court reporting restrictions against identifying any of the Claimants in this litigation.
- It has always been the Home Office's *overriding* policy that children who arrive in the UK separated from their families, should not be detained by the Immigration Service, save in

exceptional circumstances and then only overnight whilst arrangements are made for the child's care.

- Concern has been expressed by HM Chief Inspector of Prisons about the absence of child protection procedures within Immigration Detention Centres, thereby putting children at risk. The Home Office accepts that the conditions within Immigration Detention Centres are unsuitable for unaccompanied children.
- Despite this, the Home Office's *age dispute* policy prior to November 2005 allowed non-specialist Immigration Officers to refuse to accept an individual's age if they claimed to be a child and instead to treat them as an adult if their: '*appearance and/or demeanour strongly suggested they were 18 years or older*'. This test permitted immigration officers, with no training in working with children, to assess an individual's age purely on the basis of their appearance. The individual would continue to be treated as an adult for all immigration purposes until s/he could obtain evidence that s/he was a child.
- This is contrary to the assessment of a person's age by local authorities where the courts have developed a set of procedural safeguards to ensure that the age assessment process is fair: [R(B) v London Borough of Merton [2003] EWHC 1689 Admin.]
- Whilst the policy continued to operate, a number of NGOs such as *Save the Children* and *Amnesty International* voiced serious concerns about the plight of unaccompanied children.
- The *Refugee Council* based at Oakington Detention Centre also provided detailed statistical information to the Home Office at inter-agency meetings over a period between 2003 to 2005 that indicated that a high percentage of persons that had been treated as adults were later assessed to be children. At some Immigration Service offices the rate of error was 78% of those assessed as adults who were later accepted to be children by the Home Office.
- The Home Office's age dispute policy introduced on 30 November 2005 as a result of this judicial review, provides that more evidence of age must be available before an individual can have his/her age disputed and be detained by the Home Office.

End of release