

## Home Affairs Committee

### Oral evidence: [Channel crossings, migration and asylum-seeking routes through the EU, HC 705](#)

Wednesday 2 December 2020

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Members present: Yvette Cooper (Chair); Laura Farris; Simon Fell; Dame Diana Johnson; Tim Loughton; Stuart C. McDonald.

Questions 577-668

#### Witnesses

I: Chris Philp MP, Minister for Immigration Compliance and the Courts, Home Office; Dan Hobbs, Director, Windrush, Asylum, Immigration and Citizenship, Home Office; Dan O'Mahoney, Clandestine Channel Threat Commander, Home Office; and Abi Tierney, Director General, UK Visas and Immigration, Home Office.

## Examination of witnesses

Witnesses: Chris Philp, Dan O'Mahoney, Dan Hobbs and Abi Tierney.

**Chair:** Welcome to this evidence session for the Home Affairs Committee as part of our inquiry into channel crossings, migration and asylum-seeking routes through the EU. Today, we welcome Chris Philp, the Parliamentary Under-Secretary of State in the Home Office, and Dan O'Mahoney, the Clandestine Channel Threat Commander. We also have, joining us online, Abi Tierney, Director General, UK Visas and Immigration, and Dan Hobbs, Director, Windrush, Asylum, Immigration and Citizenship. Our witnesses are very welcome today. We have a series of issues that we wish to raise with you.

Q577 **Tim Loughton:** Minister and Mr O'Mahoney, welcome. It is your first session in front of the Home Affairs Committee, so we will be even less gentle with you.

Last week, the Government announced that we are giving a further, I think, £28 million to the French. We seem to have given the French a substantial amount of money over recent years. You might bring us up to date with exactly how much. We have given them intelligence support. We have lent them officers. We have provided drones. We have subsidised their reception centres. Yet this year we have had a record number of people coming over in boats, and we have a record number of them still being processed in the UK. Is this throwing more good money after bad?

**Chris Philp:** Thank you for the question, Tim. Let me start by just putting this in the context of the last five or six years. Since September 2014, and including the £28 million announced at the weekend, we have provided total funding of £192 million for illegal migration-related activities in France. That started in September 2014. The vast majority of that—in fact, all of that, if you exclude the £31 million on Saturday and a further £5 million that was for small boats—was for measures to do with infrastructure around the channel tunnel, around Coquelles and around Calais.

That has, by the way, been very successful. You will recall that, back in 2014-15, there were very large numbers of people crossing the English channel by jumping on the back of lorries or even jumping on the Eurostar trains themselves. So that money that was spent previously, between 2014 and last year, was successful in meeting that objective. Before this Saturday, we had only actually spent about £5 million, which was spent in 2019 on small boats—a relatively small sum of money. So really, I think it is rather early to judge whether the money expended on small boats has or has not been effective, because the bulk of that was only announced three or four days ago.



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In terms of the numbers, you are quite right to observe that the numbers have increased alarmingly this year, as you said a few moments ago. The Committee has asked in the past for the figures. Back in calendar year 2018, only 299 people crossed by small boat. In calendar year 2019, last year, it was 1,844. In the nine months—January to September inclusive—of this year, it was 6,901. Since then, I think approximately 1,300 people have crossed in the succeeding two months, so it has gone up a lot. But let me say this: in the last two months, in October and November—and this is kind of new news—the numbers have reduced. They went through an increasing trajectory through May, June, July, August, September of this year. They peaked in September of this, a couple of months ago, at 1,868, but they have come down in October and November. You might say, well, that's the weather—

**Q578 Tim Loughton:** I will say it. Can I follow that up? We know the figures, we know they are alarming and we know that there has been a slight downturn recently, which hopefully is not just down to the weather, but is down to the good work that is being done by Dan O'Mahoney and his team, as well.

I want to query one thing. You said that we have actually only spent £5 million on the boats. We know a lot of money was spent around Coquelles, and we even gave them fences and things like that. Surely, it is rather more than £5 million if you include all the money that we have been giving them for joint intelligence operations, the physical presence of officers working alongside the gendarmerie, and the money we have given for reception centres, where people in Calais, who would otherwise have come across in boats or been caught doing that, are taken. That is substantially more than £5 million, I would have thought.

The point I am trying to make is that the Home Secretary herself said the previous time she was in front of the Committee that in order to break this route we have to intercept boats at sea. Is it not the case that an agreement still has not been reached with the French Government about them proactively turning back the boats—intercepting them once they get into the water? Without that, we will continue to see a flow of people taking their chances at the hands of people smugglers and coming across the channel in those small boats, in whatever numbers.

**Chris Philp:** That is currently correct. The French operational posture on the water is that they do not forcibly intercept migrant boats. They will rescue them if they start sinking and if the migrants request assistance, but they do not currently forcibly intercept migrant boats in French waters. That is a matter we have been discussing with the French, and we will no doubt continue to discuss it with them. As of today, your assessment is correct.

To return briefly to the point about the numbers in the past two months, they have dropped very significantly. The best metric we use of the effectiveness of all the various measures is the number of people who cross on what we call a red day. A red day is when the weather is basically calm and crossings are quite easy.



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The number of people crossing per red day in November—the month just finished yesterday—compared with September, has gone down by 65%. That is a significant, huge reduction. I do not want to say that that is job done. It most certainly is not, and it is probably too early to say that it is a trend, but it is a significant step forward. That is partly as a result of the work that Dan and others have been doing, but also thanks to increased activity by the French. They have significantly increased their patrols on the beaches. They have been preventing a lot more embarkation attempts in the past eight weeks than they had been over the summer. So that has all been a lot more effective in the past eight weeks than it was previously.

**Q579 Tim Loughton:** I understand that, but even if the figures go down by two thirds it would still mean that the outturn for this year would be substantially more than double what it was last year. We are still dealing with a large problem. Part of that is obviously displacement, as we know, but there is also recent evidence that it is moving back to vehicles and up the border into Belgium.

I want to nail down the point about why the French are continuing not to co-operate on interception, once those boats are in the water. Some of us believe that that is the real way we are going to prevent people from trying that route—on the basis that there is a very strong likelihood that they would be turned round and that they will have paid money to go back to where they started on the French coast, effectively. I presume that you agree with the Home Secretary that the way to have a material impact is to get those boats intercepted.

Have you seen the evidence that we on the Committee have taken recently from maritime lawyers and of other countries' experiences? We have now had advice that boats in distress can be intercepted, whether or not they request assistance from, say, the French authorities. Why are the French not doing that? Under the UN refugee convention of 1951, the UN protocol against the smuggling of migrants and the international convention for the safety of life at sea, there are grounds that would enable the French, under international law, to intercept and tow back migrants picked up by British Border Force or to allow British Border Force to land them back on French land. Do you agree that the French are allowed to do that under international law? Therefore, why are they not doing it? Why have we not challenged them in the European Court to uphold those international principles?

**Chris Philp:** On the question of the potential utility of interceptions at sea, I do agree with the Home Secretary. It could be a critical component of completely stopping this route. I say "component" because it is important to have action on land to prevent embarkations in the first place. Returns, which I suspect we will come to, are important as well for those people who get across. I would agree that stopping people and turning them around at sea has a critical role to play as well.

On your question about lawfulness, I agree with your analysis and the evidence that you have heard that it is lawful to use enforced rescue



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methods where someone is in danger or distress. Moreover, there may be law enforcement statutes, certainly in some jurisdictions, that would allow interception because illegal activity, or potentially illegal activity, is taking place. Our view is that there is a lawful basis for that kind of activity.

You asked if we had raised this with the French. Yes, we have. I will observe that it is not being done at the moment. I do not want to speak for the French Government or comment on matters that are under discussion, but I think you will understand me if I say that it is certainly a point that we have raised.

In saying that, the French have stepped up enormously on land in the last few months. The figures for their own interceptions on, and near, the beaches are very striking. Dan will correct me if I have mis-recollections, but I think there was a red day—a relatively calm day—earlier this week, and they intercepted well over 200 people on the beaches and on land, and only about 20 actually got across. There was a 90% interception rate. I pay tribute to the work that the French have done on land, because it has been very effective of late.

**Q580 Tim Loughton:** Perhaps we should only pay them by results, rather than up front, on that basis.

Dan O'Mahoney, what do you think has been the prime reason for that apparent drop-off in the last couple of months? Where is there better enforcement, beyond just weather factors? Other than your appointment, which has had a material difference, what physical actions are having the most success?

**Dan O'Mahoney:** I completely agree with the Minister. Last time I appeared in front of the Committee I was in my third week in the job. This is a very complex suite of interventions that we need to make. There is no one thing that will make a difference.

In terms of what is different since September, which was the last time I appeared in front of the Committee, we have been negotiating very hard with the French. We have been liaising with them on a regular basis. I have been over there about half a dozen times since I started in the job.

We established the joint intelligence cell with France, and that has been responsible for over 1,000 of those crossings that have been prevented. So intelligence is playing a key role, not just in disrupting the criminal gangs but also in telling the French where to get their boots on the ground, and which beach to look on and at what time, to stop those crossings. That has been extremely successful.

The French have already started using some of the technology that we invested in. That has made a big difference. The reason we can be confident in that reduction is because last year and the year before—2018 and 2019—the trend during the autumn and winter was that the average number of crossings on high-risk days increased. Not only has it got down, but it has bucked the trend of the previous two years.



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That may not continue. We would expect to see a slight increase in December, as we have in previous years, but I think that is very encouraging. It is down to the intensive co-operation we have been undertaking with the French.

**Q581 Simon Fell:** We have heard repeatedly in these sessions just how crucial and detrimental the role of criminal gangs and organised criminal activity is in terms of driving this activity. We know that the NCA is having to work with agencies far afield, within the EU and beyond, to try and track these people down and stop this. We have a deadline coming up of 31 December. What is your assessment of whether the NCA will still have access to the data they need from EU partners to continue this activity and to continue to be as effective in this activity as they are at present?

**Chris Philp:** Simon, you are completely right to point to the criminality. We should be in no doubt at all that these crossings are facilitated by ruthless criminals who are exploiting migrants for financial gain. Very often they will tell migrants things that are not true about life in the UK, making out that it is totally different from France and Germany, which of course, in practice, it isn't really, in order to persuade people to make these dangerous crossings and to relieve them of large amounts of money. The ruthless and exploitative criminality that underlies this trade is clear. That is one of the many reasons why we should be looking to stop these crossings in their entirety.

In terms of the investigations, on both sides of the channel they have been going well. This year, so far, there have been 375 arrests by the CFI, the NCA and others in this area, of which 110 have directly related to small boats. So there has been a lot of law enforcement activity. I went on a raid in July to arrest people who were involved in moving the money—those behind all of this.

In terms of leaving the transition period, the law enforcement co-operation, the exchange of information between French and UK authorities, and the work in the joint intelligence cell will all continue. None of that is contingent or reliant on being part of the transition period. We now have structures like the joint intelligence cell up and running and embedded. We have UK NCA officers working alongside French colleagues, liaising very closely with them. All of that will continue. In fact, the intention is that it will step up in the coming months, because it has been delivering results, as we have discussed already.

**Q582 Simon Fell:** So you are not concerned that, post transition, we are going to lose access to any relevant data, intelligence or people.

**Chris Philp:** In terms of criminal intelligence, the co-operation is extremely close and stands on its own two feet, regardless of the transition period exit. There are of course some databases that may change, like the EURODAC database, for example, which is the database of people who have claimed asylum in other European countries. In terms of investigating criminality, that is not the principal source of information that officers use.



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Q583 **Simon Fell:** Just moving on a bit, I would like to look at social media, because we know that they are quite often enabling platforms to allow this activity to go ahead. What support are the Government giving the NCA and other agencies at the moment to help clamp down on some of that activity by closing sites, communication channels and so on?

**Chris Philp:** I saw the transcript of your session in September, when Rob Jones from the NCA told the Committee that there had been occasions when evidence had been given to social media companies of traffickers promoting this sort of illegal activity and the social media companies had taken action in some cases, but not all. I take the very strong view that social media companies should be responsive to law enforcement, and where law enforcement agencies such as the NCA point to material that is inciting illegal activity or is effectively acting as marketing material for ruthless people smugglers, social media companies are certainly under a moral obligation to take that material down very quickly.

I have asked for a further briefing on this topic, and if it turns out that the social media companies are continuing to behave in this way, that is something that I will be raising directly with them. I think it is the kind of thing that Parliament and the public should know about, so I would certainly be prepared to name companies in the future who are not acting in a proper manner. The Government are looking to legislate more generally as far as online harms are concerned, but it is morally reprehensible for social media companies to leave this material online, when it is acting as marketing collateral for criminals.

Q584 **Simon Fell:** We have them in front of us early in January, so I am looking forward to that session. In your experience, are they moving in the right direction on this or is it still an area of concern?

**Chris Philp:** In my view, they are not going far enough. Sometimes they hide behind procedure and policy, where common sense would dictate that they should take a different course of action. As I say, it is something I intend to dig into personally. From what I understand, they are not doing enough at the moment and they are ignoring, or on occasions failing to act in response to, information provided to them.

Q585 **Chair:** To follow up on what you said about EURODAC, are we not going to have access to EURODAC after 1 January?

**Chris Philp:** EURODAC is part of the common European asylum system and part of the Dublin process, so, no, we don't envisage having access to EURODAC or DubliNet.

We do obviously intend to continue co-operating closely with European nation states, and, if there is no European-level agreement on returns, for example, then we intend to rapidly enter into bilateral discussions once the European-level discussion has concluded. That could well be within the next few days. As the Committee knows, we tabled a very detailed paper—draft agreement—back on 19 May, one of which covered unaccompanied asylum-seeking children, and the other covered returns. I don't have any positive news to report on that, so if the European-level



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negotiations don't deliver anything, then we will be rapidly seeking bilateral discussions. Countries like France will be top of our list.

Q586 **Chair:** It sounds like in any of those scenarios we will not have access to the EURODAC information. Is that correct?

**Chris Philp:** Yes, that's correct.

Q587 **Chair:** So the EURODAC information is the information which says whether somebody has applied for asylum including biometric or other information in other European countries. Will we not know that after 1 January?

**Chris Philp:** Obviously, there are other sources of evidence we could look to in terms of people's travel patterns, particularly the small boat cohort. It is obvious where they can come from, we can see it is from France.

Q588 **Chair:** But we won't have any information about whether they've claimed asylum in any other countries?

**Chris Philp:** Not unless that information is bilaterally shared, no.

Q589 **Chair:** It sounds like you are not hopeful that there is going to be a replacement for the Dublin arrangements as part of the post-transition agreement with the EU. That is in line with the evidence that we have taken. Is that correct?

**Chris Philp:** The discussions have not concluded and I don't want to comment directly on what is happening. I think it is fair to say that if those conclude imminently without that agreement, then we will very rapidly be looking to commence bilateral discussions with the relevant member states. Clearly we will be unlikely to talk to all 17 in one go, but we will talk to the critical ones to start with.

Q590 **Chair:** Given that asylum is something where there are significant EU policies and arrangements, do other European countries have the competence to be able to negotiate individual, bilateral agreements? Has France, for example, agreed with you in principle that they would be able to make this kind of an arrangement about returns in the absence of an EU-wide agreement?

**Chris Philp:** We are very clear that, particularly if the EU choose not to enter into an agreement with us, even though we have tabled one in these areas, individual member states can do so and we would expect to do so.

Q591 That is your position. Have any other EU member states agreed that that is also their position?

**Chris Philp:** We haven't tested it in a very formal sense, because while the European-level negotiations have been ongoing, member states across this issue and many others have been reticent, to put it delicately, to engage in bilateral discussions—presumably because they didn't want to undermine the European Commission's wider negotiation. It is something we will test, if we have to, in the near future, but our expectation is very clear. In the absence of a European agreement, this is something that



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individual member states can discuss. Dan, have you got any expertise in this area?

**Dan Hobbs:** What you have said is entirely correct. While the negotiations are ongoing it is not those discussions with member states on the potential for any bilateral agreement until the other negotiations conclude. As you say, if they are to conclude without agreement, we will seek to progress those bilateral discussions that are in our mutual interest.

Q592 **Chair:** Have you had any of those bilateral discussions so far?

**blank:** Not formally, because the European discussions are ongoing. Member states have been reticent to do so.

Q593 **Chair:** Have you got any informal indication then that France or Spain, for example, accept that it is possible for them to do bilateral agreements, never mind what the content would be? Have they agreed informally that it is possible to do such agreements?

**Chris Philp:** We have had warm, friendly and collegiate general discussions about these issues. At no point has it been suggested that there would be a problem in continuing them.

Q594 **Chair:** It is now 2 December and we do not yet have the conclusion of the post-transition agreement. We all hope that that will be resolved as swiftly as possible but, at best, you will have a couple of weeks to agree some bilateral arrangements if, as we are hearing, there is no EU-wide agreement. That is going to be during the Christmas and new year period as well. Realistically, what chance do you put on being able to get a bilateral agreement, say with France, for them to take back people who have arrived here from France in just a couple of weeks?

**Chris Philp:** I do not want to pre-empt how those discussions may go but, as I say, we are co-operating very well with the French at the moment, particularly in relation to action on land. I would say, on the French position, that I think it serves their interests as much as it serves ours to completely cut this route. At the moment, the existence of this route across the channel is acting as a magnet that is drawing people who want to reach the UK into northern France to then make the crossing. It would not take a very long period of returns before the migrants wishing to get to the UK gave up trying this route.

Q595 **Chair:** You have had difficulties so far. You have been discussing it with them for many months. In the evidence that you have already given to Tim Loughton, you recognised the difficulties that you have had in persuading the French authorities to take returns for people who have been intercepted in the channel. You know that this is a very complex issue, so realistically, do you reckon that you will get an agreement within two weeks over Christmas, when there have been no preliminary discussions at all—no formal discussions and, it sounds like, not much in terms of informal discussions? Are you seriously telling us that you reckon you have a chance of getting an agreement in place by 1 January?



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**Chris Philp:** I am not making a forecast. I am not making a prediction. What I am saying is that we have good bilateral relations with the French, cemented by the deal we, or the Home Secretary, did on Saturday with the extra money and the extra measures being taken. It does serve the French national interest to completely cut this route.

Returns would be a critical part, along with other measures that Tim Loughton mentioned, in making this route completely pointless. Then people would not have any incentive to come to northern France in the first place. There is a very strong case of mutual interest that we can make. How that discussion ends up, I cannot make a prediction.

Q596 **Chair:** Okay, but you have made that argument previously. What are the contingency plans? It sounds highly likely that there will not be any legal provision in place, either bilateral or in agreement with the EU, on 1 January. During January, if people arrive here in the UK who have passed through an alternative safe country and who you therefore believe should be claiming asylum elsewhere, is there any legal provision on which you can return them?

**Chris Philp:** People talk about the existing Dublin arrangements and the fact that they will end on 31 December, but it is worth mentioning that they are quite cumbersome arrangements bureaucratically—indeed, the European Union is looking at replacing them with something different. Because of the inherent bureaucratic problems with Dublin and because of the repeated legal challenges we have domestically, which I would say are an even bigger problem than the bureaucracy with Dublin, the numbers returned under Dublin this year are pretty small.

In terms of total Dublin returns—via not just small boats, but everybody—the exact number in 2019 was only 263. So Dublin is not a particularly effective mechanism at all, and other European member states recognise that, which is why they are looking to change it. It is not as if we are losing something that has been hugely effective.

To answer your question directly, clearly our priority is to reach proper bilateral agreements. That will be our No. 1 priority. In the absence of those, we will approach member states on a case-by-case basis, as we are entitled to do, and indeed as we did in the past before Dublin came into being. We are certainly not going to give up on returning people who have crossed the channel from a manifestly safe country. We should bear in mind that these crossings are completely unnecessary because France is a safe country and nobody has to come here to claim asylum. They can claim asylum in France or elsewhere.

Q597 **Chair:** I understand that is your policy. What I cannot see is how you are going to implement your policy from 1 January. David Blundell, QC—a barrister who often represents the Government on asylum and immigration cases—and the barrister Michelle Knorr told us that they were not aware of any safe returns arrangements taking place to any countries outside countries covered by the Dublin agreement. Once you do not have the Dublin agreement, is it correct that it will be much harder



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for you to implement your policy on safe returns than it is currently?

**Chris Philp:** If I may say so, that is somewhat speculative. First of all, it is underpinned by an assumption that bilateral agreements cannot be reached. As I say, one of our priorities will be to reach those agreements and, as I have said a couple of times, it is, I think, strongly in the French national interest to agree such a returns agreement because, if we do return everybody who makes the crossing, pretty quickly—within a matter of weeks or a couple of months—people will stop attempting it in the first place. That gives me significant cause for optimism.

Secondly, even in the absence of any bilateral agreements we can approach member states on a case-by-case basis. Indeed, when it comes to returns more generally, whether it is foreign national offenders, failed asylum seekers or other people who have overstayed, we frequently return people to countries around the world where there is no formal readmissions or returns agreement.

Q598 **Chair:** But we are talking about people who may well have a valid asylum claim. We are not talking about people who are foreign national offenders; we are talking about people who may well have a valid asylum claim, which you want not to be assessed here in the UK. You want to be able to safely return people to other countries. Will you accept that the consequence of what looks most likely to happen, in terms of losing the Dublin agreement, is that at least in January and at least until you have any new arrangements in place it will be much harder for you to implement your own stated policy?

**Chris Philp:** I am not going to speculate about what may happen in January. I have already said that we are going to try to get bilateral agreements.

Q599 **Chair:** Sure, but on the basis that if you lose access to the Dublin arrangements in January, with no new provisions in place, will it be harder for you to implement your policy on safe returns?

**Chris Philp:** It depends on the stance taken by individual member states.

Q600 **Chair:** Do you think it would be easier to do so on an individual case-by-case basis than it is under the current arrangements?

**Chris Philp:** People point to Dublin as this great panacea. As I have said, it is not. It is extremely difficult to operate Dublin. There are strict time limits and various processes to go through. The number of people we returned under Dublin last year, as I have said, was under 300, so pointing to Dublin as this great, fantastic system I do not think is accurate at all. That is why the European Union itself is looking to change it.

In addition to that, we have substantial domestic legal challenges that, even where returns agreements exist, make them very hard to operate. We see this the whole time with Dublin flights. We are running Dublin flights at the moment to return people where we have Eurodac hits, and we have extraordinarily high levels of legal attrition, which is why the Government intend to separately legislate next year to close down the—I



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hesitate to use the word loopholes, but I will use it anyway—loopholes and weaknesses in our current legal system, which allow domestic challenge. We have a number of problems already.

**Q601 Chair:** Given the problems that you think there are with the Dublin system, are you still telling us that, without the Dublin system, without any chance of getting a new arrangement in place within a couple of weeks over Christmas and without the crucial Eurodac information, the arrangements in January/February next year on safe returns are going to be a more effective implementation of your policy than they have been this year?

**Chris Philp:** The answer to your question is that it depends on the stance taken by other European member states. I cannot answer the question because it involves me speculating on what their stance may be. Because of the European negotiations that have been happening, we have not hitherto been able to enter into those substantive negotiations, because essentially the European Commission has asked member states not to, and they have essentially abided by that request.

You are asking me to speculate. I am not going to speculate. What I am going to say is that we will do everything that we can to make sure that returns paths are available. It would not be very difficult to improve upon Dublin, because Dublin is not, particularly when taken in conjunction with some of our domestic legal issues, a very effective mechanism at all. The small numbers pay pretty powerful testament to that fact.

**Q602 Chair:** But you will need agreement from other countries in order to do so.

**Chris Philp:** Yes. By definition, any returns process requires the agreement of the receiving country.

**Q603 Chair:** So although the Home Office responded, "At the end of the transition Period in January 2021...we will be free of the Dublin Regulation and the Common Asylum System and will be able to negotiate new returns agreements on our own terms", those will not be on our terms; they will be on agreed terms.

**Chris Philp:** By definition, any agreement requires the agreement of both parties. That is axiomatic, but it does mean that we are not constrained by the common European asylum system or Dublin, which, as I have said, is quite a restrictive and clunky system. It is not very easy to operate, and European member states and the European Commission recognise that because, just a few weeks ago, they published a consultation paper in which they contemplate or propose fundamentally changing the Dublin mechanism themselves, because they recognise it does not work. Once we are outside of it, as we will be in four weeks' time, we will be free to negotiate our own bilateral agreements, which I hope—I cannot guarantee—will be a significant improvement on Dublin. Given how poorly functioning Dublin is, that is not a very high hurdle to clear.



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**Chair:** While we are on the subject of Dublin, we want to ask questions about family reunion and children.

Q604 **Laura Farris:** The first question that I have—

**Chair:** We can't quite hear you. The volume is very low. Perhaps speak more loudly.

Q605 **Laura Farris:** I want to ask about age verification. The evidence that we heard over the summer months was about people dispersing— the phrase used was “pocket litter”—in France, and then arriving in the United Kingdom claiming to be children and there being no uniform agreed method of age verification. Can you tell us what steps have been taken to try and arrive at an agreed method? If there isn't one, what do these current vagaries mean at the point of arrival?

**Chris Philp:** Thank you, Laura. In terms of age-assessing people for the purpose of determining whether they are over or under 18, there is a well-defined process called the Merton-compliant age assessment process, which is named after a court case that I think involved the London borough of Merton many years ago. It specifies a set of processes that social workers go through in deciding someone's age. Ultimately, if there is an age dispute, the person concerned will go through a so-called Merton-compliant age assessment process, as in that court case and subsequently sanctioned. That is ultimately the way that these things get decided.

Q606 **Laura Farris:** But I think it is right to say, as I remember from my own experience, that there were constant challenges to the Home Office around that issue, and there tended to be a sort of benefit of the doubt that was given. Is that still the case? Is that a problem? Perhaps it is not.

**Chris Philp:** It is an area that is heavily litigated. Obviously, you then have questions around the screening that happens at an earlier stage before you can do a full Merton-compliant assessment, but it does get litigated. The Home Office has social workers who assist local authorities with that process in some cases, particularly in Kent, to try and get it right first time. The gold standard is currently the Merton assessment.

I mentioned earlier that we plan to legislate next year in some areas. I do not want to announce policy, but one area we are looking at closely is whether we can legislate to clarify better in statute how these age assessment processes work so that we remove some of the ambiguity that currently exists. Of course, the risk goes both ways. The lawyers representing people say it is very risky if you take someone who is under 18 and accidentally say they are over 18, which is obviously true. Equally, if you take someone who is significantly over 18 and put them in a school, that itself has very significant safeguarding risks. These risks are two-way. In the commentary that we hear about this, sometimes the second of those risks is not adequately taken into account.

Q607 **Laura Farris:** Hypothetically, if it was the case that the Home Office was able to clarify in statute the criteria and mechanisms for establishing age,



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next year you would still have some children who are under 18 arriving in the United Kingdom. Potentially, in the absence of an agreement with the European Union, what steps would be in place to enable them to reunite with their families?

**Chris Philp:** Do you mean unaccompanied children who are in continental Europe and have family in the UK?

**Laura Farris:** Yes.

**Chris Philp:** Okay. If there is an unaccompanied asylum-seeking child in continental Europe, or indeed anywhere in the world, and they have family in the United Kingdom, there will be a number of ways that they could reunite from 1 January. The first of those—I will ask Dan Hobbs to expand on this in a moment—is the refugee family reunion route. For example, if their parents are here, they can reunify. Even if they have a slightly more distant relation here, like a sibling, aunt or grandparent, and there are compelling and compassionate circumstances and the interests of the child are served, they can come over and be reunified. That applies to children not just in Europe, but anywhere in the world.

Separate from that, there are also family reunion rights for people who are British citizens or have settled status in the UK more widely. Those routes exist. In terms of how effective those are compared with Dublin, they are not quite the same as Dublin. In some respects, actually, they are better, because if someone gets reunified, they get settled status, whereas Dublin simply allows people to come here with the purpose of claiming asylum, which may or may not be successful. In that sense, they are better. In other senses, the criteria are slightly different.

At the highest level, if you are asking the question of how these refugee family reunion, and more general family reunion, rules compare with Dublin in their effectiveness, only about 700 people came into the UK last year under Dublin. Of those, obviously not all were children, by any means. Dan will tell us the number—probably 200 or 300 were children, or a number like that. I have mentioned the other family reunion routes, particularly the refugee family reunion route—6,400 children came in via that route. Our existing routes in UK law, which will apply from 1 January, have seen something like more than 10 times more people being reunified with family members last year than under Dublin. Dan may want to slightly expand on that, as it is his area.

**Dan Hobbs:** Thank you, Minister. It is right to say that in the absence of an EU-wide agreement on 1 January, we will no longer participate in the Dublin regulation, which will include the family reunion elements for those seeking asylum. As the Minister alluded to, that is to bring people and families together for the purpose of examining their asylum claim. What we will have is a global, single system that allows for family reunion, and there are a number of measures for that. There are the refugee family reunion measures, which allow refugees in the UK to bring their pre-flight family—members of their household, such as a spouse or partner and children under the age of 18—to the UK. That system is without charge

and does not require any sponsorship or maintenance requirements for the individual, and the family get the same leave as the refugee in the UK.

Separately, as the Minister alluded to, there are what we call the appendix FM rules, which allow people who are settled British citizens to sponsor their family members to come and join them. Equally, we have two other paragraphs set out in the immigration rules—319X and 297—which are routes that are incredibly flexible and allow, in compassionate and compelling circumstances, for a range of family members to join people in the UK. Again, under 297, they get immediate indefinite leave to remain. Under 319X, they also get leave in the UK.

In answer to the question on Dublin, approximately 400 of those 714 were unaccompanied children brought into the UK. As the Minister said, in the past five years we have issued 29,000 family reunion visas, over half of which were to children.

**Q608 Laura Farris:** On the issue of children, is the UASC category used by the people smugglers as an incentive or as a route to family reunification in the UK, whereby they persuade families to get the child across the channel and then take advantage of whatever rights may exist under the immigration rules to reunite the family?

**Chris Philp:** For exactly that reason, we expressly do not allow a child to act as a sponsor to bring over their adult relations or other relations. Otherwise, we think it would create an incentive to send a child ahead in the hands of people smugglers and to bring the rest of the family over subsequently. We think that were that incentive to exist, it would be deeply damaging to the interests of children and create a terrible, terrible set of incentives. We expressly exclude that mechanism. We think there is some evidence that our quite generous provision for UASC does encourage some people who are in fact well over 18 to say that they are under 18. We see a fair amount of that. Obviously, we use expert social workers and others to try to stop that from happening.

**Laura Farris:** Thank you.

**Q609 Tim Loughton:** Minister, we had this conversation before with your colleague Kevin Foster. The truth is that the existing international rules are far less generous for unaccompanied children coming into this country, despite the figures that you quote, because they are largely based on officially designated refugees. Under rule 319X of the Immigration Rules—grouped in with other routes of dependent children joining family members—between 2018 and 2020, there were only 95 applications, of which only 56 were granted.

We are talking about children who are in limbo in EU countries at the moment, suffering appalling circumstances, for example in the recently burnt down camp in Lesbos. They have very little prospect of qualifying under any of those other schemes, because they are primarily aimed at those children with parents with whom they can reunite in the UK. There is a very strict set of criteria with very high thresholds, which has meant that very few of those sorts of children have been able to come to the UK



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or would be able to come to the UK in the future post a Dublin arrangement. That is the truth of the matter, is it not?

**Chris Philp:** I will invite Dan to comment in a moment. Children in Europe have had Dublin available and even today they have Dublin available, which may explain why the other routes have lower numbers. I do not accept the suggestions—although we are reviewing it, as we said we would—that our regular domestic rules are unfair or exclusive. You have pointed to a particular paragraph—paragraph 319X—but taking the refugee family reunion route in general, in the year to March 2020, 6,400 people came in under that route. Dan has already referenced 29,000 people over five years, half of whom were children. Those numbers are orders of magnitude larger than the numbers of children coming in under Dublin, which I think makes the point.

Q610 **Tim Loughton:** They are a different class of children, Minister; that is the whole point. As many have said, this Government have a very generous record in terms of bringing in genuine refugees, usually directly from places of danger or close to places of danger, for example from refugee camps in Jordan. But we are not talking about those children. We are talking about those children who are currently stranded in EU countries, for whom, at the moment, there is no safe and legal passage to the UK. There will be even less of a safe and legal passage without a replacement for Dublin. The situation is highly prescriptive in future, compared with what they could potentially do now.

**Chris Philp:** I was not conflating a moment ago, in those figures, the resettlement programme, which is where we go directly to Syria or places near Syria and find people—that is the 25,000 over the last five years. The 6,400 refugee family reunion number that I mentioned is wholly separate from the resettlement programme number; I was not conflating the two.

I am pointing to that 6,400 in one year—the refugee family reunion—as evidence that people can come to the UK to rejoin their families. I am pointing to the fact that that 6,400 refugee family reunion number, wholly separate from the resettlement scheme, is in the order of 10 times larger than the Dublin numbers.

Q611 **Tim Loughton:** I understand that, but this is a different sort of classification of child. These are genuine refugees, and when it comes to genuine refugees, classified as refugees, the UK does a much better job than other EU countries. We are talking about children who are not classified as refugees—they are unaccompanied asylum-seeking children who are within the system somewhere in the EU who will have no obvious safe or legal route to get to the UK unless they have parents, potentially, or meet some other very strict criteria that depend on compassionate and compelling grounds, which you know is applied to a very small proportion of those children.

The truth is that unless we find a replacement for Dublin or unless we make the existing international rules much more flexible, there are going to be an awful lot of children stuck in the EU who would have had a chance



to come to the UK but will not after 1 January.

**Chris Philp:** You have accepted in your question that the existing immigration rules do permit quite wide-ranging family reunification with wider family members—not just parents—if there are compassionate and compelling circumstances. Because we have had the Dublin arrangements—we are currently in them—those compassionate and compelling circumstance tests have not needed to be applied because Dublin has been in operation.

I am going to ask Dan Hobbs to come in in a second. I have a high level of confidence that those compassionate and compelling circumstance tests will catch cases that you, I, our constituents and the wider public would consider to be genuinely in need—although we are, as you know, conducting a review of that to test that belief. Dan, would you like to add some comments?

**Dan Hobbs:** Thank you, Minister. Obviously, this is against the backdrop of the statutory commitments made in the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020, in which the Government have committed to reviewing legal and safe routes, having a public consultation and publishing that. That will happen in parallel.

Under the legislation, we are required to update by 10 February—that is, within three months of Royal Assent. It is right, though, that the refugee family reunion rules are distinct from our resettlement programmes. The individuals who reunite do not need to be recognised refugees; you could have an asylum-seeking lone child seeking to join their parents in the UK. They do not need to be recognised; it is the status of the individual in the UK that determines who they can bring to the UK under the family reunion rules.

Then, as I said, separately there are paragraphs 319X and 297. Paragraph 297 is flexible in enabling the whole variety of family members to be joined together under that rule. That would potentially include unaccompanied asylum-seeking children in compassionate and compelling circumstances to join a variety of family members in the UK if they can provide for that child. An important element is that they should be able to provide suitable maintenance and childcare for the child they are bringing into the UK. As I say, that would not be bringing them in as an asylum seeker, but bringing them and providing them with status in the UK.

Q612 **Tim Loughton:** When the Immigration and Social Security Co-ordination (EU Withdrawal) Bill was discussed in the House of Lords, informal undertakings were given by Baroness Williams that effectively no child who would currently qualify to apply legitimately under the Dublin rules for family reunification would be disqualified if there was no replacement scheme, or if they were purely subject to the international scheme, as at 1 January. Is it your undertaking, Minister, that a child now in a camp in Lesbos, who may qualify for the family reunion scheme under Dublin, would have the same chance of applying for a scheme and being accepted, if there has not been a direct replacement for Dublin negotiated



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with the EU from 1 January, and that they are not being prejudiced, therefore, by the transition coming to an end?

**Chris Philp:** Our domestic rules are not identical to Dublin, as we have discussed already.

**Tim Loughton:** Exactly.

**Chris Philp:** That is self-evident. Any child in the circumstances you describe, would be able to apply under our existing rules. Because of the provisions that we have discussed already—in those two paragraphs in particular—where there are compelling and compassionate circumstances, which I think we would all recognise, those would bite and apply.

Q613 **Tim Loughton:** Will their chances be diminished? That is the simple question I am asking. Under the scheme that you envisage, will they still have an equal chance of being able to make it to the UK on 1 January as opposed to now?

**Chris Philp:** That question, essentially, is asking whether the two schemes are identical, and they are not identical.

Q614 **Tim Loughton:** Are they better or worse?

**Chris Philp:** It is fact specific. There is this provision that we have discussed several times already about the compassionate and compelling circumstances, which gives a certain amount of discretion, to ensure that we can behave in a way that is compassionate, humane and everything else. As Dan said, in addition to that, we made a commitment in statue, in the recently passed immigration Act, that we will do a formal consultation and review debating the sort of issues that we are discussing now.

Q615 **Tim Loughton:** But a review is not a scheme. The situation is that you cannot say—as was the understanding that Baroness Williams had given Lord Dubs and others—that no child who would currently qualify and stand a decent chance of getting to the UK under Dublin will be at a disadvantage, in the absence of any of these schemes and with just a review happening, on 1 January. You cannot now give that undertaking, can you?

**Chris Philp:** Hang on. I can say—I think this is what Baroness Williams said—is that all the children who might be eligible under Dublin would be eligible to apply under existing schemes.

Q616 **Tim Loughton:** We know that. But will they be at a disadvantage? The answer, given what you are saying, is potentially yes.

**Chris Philp:** I am not sure that I accept that, because each case will be considered on its own merits. Dan, do you want to add anything to that?

Q617 **Chair:** In that case, let us pursue some of those detailed issues. We were told that under the existing immigration rules, a child would have to get to a processing centre. Clearly, children on a Greek island would not be able to do that, because they will struggle to get to the embassy. Will you accept, from 1 January, applications from Safe Passage or other charities



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working on behalf of a child who might be on Lesbos or another Greek island and who has family in the UK, or will you maintain the current requirement for a child to get to a processing centre?

**Chris Philp:** Dublin applications currently must be made in a formal way.

**Chair:** Sure.

**Chris Philp:** Dan, do you want to comment on the application process?

**Dan Hobbs:** Thank you, Minister. Dublin, as you suggested, Minister, is a state-to-state process, so it requires a child to have made a formal claim for asylum in a member state. There is then a process where they declare if there are family members, and there is a take charge request as a state-to-state arrangement.

Q618 **Chair:** Will you accept that kind of application from 1 January?

**Dan Hobbs:** If I may, that will depend on the conclusion of the negotiations at the EU level, which—

Q619 **Chair:** We are working on the assumption—because we are trying to explore the circumstances—that there is no successor to Dublin, either around family reunion or returns. In those circumstances, what happens to a child on a Greek island with family in the UK who can care for them? They are alone. The camp they are in, which was already awful, has burned down. What happens to that child? We know that under the Dublin arrangements that it would be possible for a take charge request to go in and for them to get support from a charity to do so. We have also been told, in the evidence we heard previously, that under the immigration rules, if they tried to do the same thing, they would have to physically get to a processing centre. For that child, what will the arrangements under the new system now be?

**Chris Philp:** I think it is right to say that under the Dublin system, the Greek Government, to use your example, would have to facilitate and indeed make the application to the UK. Similarly, if the Greek Government encountered someone on an island or elsewhere that they thought they might have previously put through Dublin, but may now qualify under other schemes, the Greek Government could, instead of facilitating an application via the Dublin system, facilitate one at the relevant place.

Q620 **Chair:** So the Greek Government would have to transfer somebody to take this child all the way to Athens to the British embassy. Is that how it would have to work? Are they then going to have to find accommodation for them in Athens? Is this a new, parallel process for the Greek Government that is going to be set up by 1 January?

**Dan Hobbs:** There is always a process in taking charge of and transferring a child and making sure they have the relevant travel documentation to be able to fly to the UK. In that respect, those requirements would remain—whether that was done under Dublin or globally.



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Q621 **Chair:** That's fine. Once you have agreed a take charge request, then travel arrangements are made. We are at the very first stage for a child that has family in the UK. At the moment I cannot see how this application process is even going to start in four weeks' time.

**Dan Hobbs:** The process will be as per the—*[Inaudible.]* On the assumption that there is no EU deal or we have not made bilateral arrangements, which was what we always set out as our commitment, we would look to clarify agreements with member states on the issue. There are saving provisions in the withdrawal Act which mean if any application is made to the UK from an authority, be that Greece or any other member state, before 11 o'clock on the 31 December we will honour that transfer. Thereafter, it will need to follow the standard application route that is the same for a child anywhere in the world to transfer to join a sponsor or family member in the UK. It would be the same standard system.

Q622 **Chair:** So they still have to get to the British embassy in Athens. They are not even going to get as far as your compelling and compassionate circumstances, because they're not going to be able to get an application in in the first place, let alone the fact that this is a child on their own in Greece that has family legally in the UK who could be looking after them. I do not see how this new process is going to work.

**Chris Philp:** On the travel arrangements, at the moment the Greek Government would have to facilitate the application in the first place. Today, the Greek Government have to identify the person—child or otherwise—who might be Dublin eligible, collect all their information, details and particulars, and then get that information to the UK Government. So, the Greek Government or whichever other Government currently undertakes that bureaucratic process. Equally, after 1 January, there is a process to go through. But the Greek Government, if it chose to, could equally choose to facilitate that in the same way that it facilitates gathering information for Dublin. I do not think that is unreasonable.

However, we have committed, as Dan and I said, to this statutory review and consultation, which is due to report back in less than three months now—by 10 February, I think. There will be an opportunity for anyone with these kinds of concerns or who wants to explore this issue further to do so through that consultation. There will be a formal opportunity for the Home Office to respond at that time.

Q623 **Chair:** This is going to take you some time. You are effectively saying that the Greek and other Governments are going to somehow apply an entirely new bureaucratic process that they haven't used before and are unfamiliar with, which also includes transporting people to UK processing centres, and then, given their duty of care, providing them with accommodation near that processing centre while they wait who knows how long for the UK Government to process those cases.

**Chris Philp:** But they currently facilitate Dublin, which is quite a difficult bureaucratic process.

Q624 **Chair:** They have a process to facilitate Dublin. That is the point. They



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have a process where they do not have to move the child while facilitating that process. You are asking them to apply an entirely new, unused bureaucratic process in four weeks' time, which also includes physically moving a child for an unknown period of time, because they don't know how long this process is going to take. Can you also confirm under what circumstances the child would be able to join an older sibling who is not a refugee?

**Chris Philp:** On the logistics point, under the current Dublin system, the sending Government—Greece in your example—does undertake a great deal of logistical activity. This actually includes not only the preparatory phases of the application and gathering of information, which we have discussed, but getting them onto a plane and into the UK.

Q625 **Chair:** That is after there has been an agreement. You are asking them to do something additional. You are asking them to move children even before there has been an agreement or a conclusion on whether the UK Government are going to agree to take someone. Isn't the bottom line with all this that you are making it harder for young people, teenagers and children, who are alone in Europe and have family in the UK, to find a safe, legal route to rejoin their families?

If you make it harder for them to take a safe, legal route to join their families, you also expose them to much greater risk. They will end up trying to find illegal routes and they will end up having to make all kinds of other dangerous journeys. They will end up being exploited by smuggler gangs or trafficker gangs, placing their lives at risk and causing other wider problems. Isn't that your problem with taking away the only remaining safe, legal route for some of those children currently in Europe?

**Chris Philp:** It is not the only remaining route, as we have discussed extensively.

**Chair:** For some of those children you just agreed that it was.

**Chris Philp:** I said the schemes aren't identical. I said all the children would be eligible to apply. We are not trying to make it more difficult. In terms of the bureaucracy and logistics that the Greek Government may have to undertake, clearly, with our new rules, it is not the same as Dublin. But both systems entail a certain amount of paperwork and logistics—not the exact same paperwork and logistics, but paperwork and logistics nonetheless. The suggestion that the Dublin scheme is this fantastic panacea that facilitates the magical, friction-free transfer of children around Europe in the twinkling of an eye is simply not the case. It is not a very effective system. The numbers coming in on Dublin are extremely small, as already discussed. The suggestion that it is an amazing system doesn't really bear scrutiny.

Q626 **Chair:** Is that not part of the issue here? These are small numbers of children, but they are cases we should be being very compassionate about. Therefore, for you to set up a unilateral system, even if only on a temporary basis until you can get your new bilateral arrangements in



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place, for that small number of children, who really desperately need to be back with their families, is actually not that big a deal. You really should be able to put a temporary arrangement in place until you have the new system, whatever it is.

**Chris Philp:** I accept the premise that we should be helping vulnerable children who need to be reunited with their families. That premise is universally accepted. Although our existing domestic scheme, which has been running in relation to the rest of the world for years and years, is different to Dublin, I do not think it is any more onerous than Dublin. It is different, but not more onerous. However, people have raised issue like the ones you are raising now, as they did in the course of the House of Lord's debate. That is why in statute we are now running this rapid consultation and review process to make sure these issues are ventilated. In the meantime, it is my belief that our system does and will operate. We have this compassionate and compelling circumstance override.

Q627 **Chair:** Will you apply those compassionate and compelling circumstances in a particular way in the meantime while we wait for that review? Will you use your discretion under the compassionate and compelling circumstances to accept applications from children who are not at processing centres? Given the issue about the Greek islands, will you agree to accept applications without expecting the child to get to a processing centre first?

**Chris Philp:** As I say, the Greek Government already undertake a lot of bureaucracy and logistics.

Q628 **Chair:** I understand that. Will you put arrangements in place that you will agree to accept, lifting the requirement for the children to get to a processing centre before their application can be considered? We are only talking about a small number of cases.

**Chris Philp:** I do not want to make an off-the-cuff commitment.

Q629 **Chair:** Would you write to us by the end of the week? I urge you to exercise your discretion and allow applications from Greek islands or similar places where children cannot easily get to the processing centres.

**Chris Philp:** I will take advice on the logistical issues you're raising. The end of the week is only two days away.

Q630 **Chair:** The first of January is less than a month away.

**Chris Philp:** I will aim to come back to you on this particular point by the end of next week, if I may.

Q631 **Chair:** The clock is ticking massively. Would you also undertake to not have overly difficult requirements on the financial support that people who are not refugees—the family here—will be expected to meet, in order to be able to have a child come here if it is in their best interest and have their asylum claim heard here?

**Chris Philp:** You are inviting me to rewrite our immigration rules.



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**Chair:** I absolutely am, because you are going to have to do that.

**Chris Philp:** These are immigration rules that have applied to the rest of the world for a long time and have been functioning very well when applied to the rest of the world. I am not going to make an off-the-cuff commitment to change the way that our family reunion rules operate.

Q632 **Chair:** As we have described, these are unaccompanied asylum seekers, they are not refugees. We are talking about the unusual circumstances likely to apply from 1 January, when we expect none of these arrangements to be in place, and you are currently creating an incentive for some of those young people to make dangerous journeys, which this whole enquiry has been about trying to prevent. You keep saying that you have all of this compassionate and compelling discretion that you are able to use.

What am I asking is that you write back to us on the issue of processing centres and all the other elements as well, including the fact that it is much harder to rejoin a sibling, for example, under the immigration rules than under the Dublin rules and the fact that it is much harder to rejoin somebody who is not a refugee. If somebody has been living here a long time or has a status other than refugee status, it is much harder for them to have that family member rejoin them. You are expecting people to fulfil much greater financial criteria than under the Dublin system. I am asking you to agree to exercise that compassionate discretion on all of those things, even if it is simply from 1 January to 10 February—or whenever you complete your review—and to put that discretion in place for those children and young people in Europe.

**Chris Philp:** I will be happy to come back to you on those issues. You have highlighted three issues there, I think.

Q633 **Dame Diana Johnson:** Minister, I want to take us back now to the channel crossings and the practical arrangements in place, as in, what happens when people arrive in the UK. In September, Her Majesty's chief inspector of prisons found that the reception arrangements at Tug Haven were not fit for purpose. On the day the inspection was carried out, Abi Tierney told the Committee, "We have been using some really significant continuous improvement to look at making sure that every step in the process is absolutely as slick as possible." To continue her quote, people had been "often, in the Channel overnight, so we need to make sure that they are looked after". What was your take on what the inspector said and then what the director general of UKVI said?

**Chris Philp:** Dan can comment on Tug Haven, and since Abi has been referenced, she could maybe respond after that.

Q634 **Dame Diana Johnson:** Before they do, I want to ask what your view is. As the Minister you are obviously responsible. Have you visited Tug Haven?

**Chris Philp:** I have visited Tug Haven. Have you?

Q635 **Dame Diana Johnson:** I haven't, but I am not the Minister. I just



wondered what your take was on the position of the reception.

**Chris Philp:** I have visited. To be clear, Tug Haven is the bit of the quayside in Dover in the western docks underneath Shakespeare cliff, where the coastal patrol vessels and others come in and disembark migrants who have been picked up at sea. They are there for, what is, historically, quite a short period of time, before being moved to the Kent intake unit, which is in the docks on the other side of Dover harbour. This is a reasonable-sized building where various procedures happen.

It's designed as a relatively short transitory disembarking point.

When the crossings commenced a couple of years ago, the numbers were relatively small, and that was broadly appropriate. Clearly, this year, in the few months from approximately May of this year, numbers increased significantly and, logistically, the practicality of it became a lot more difficult. That is why in recent months, since September—since you previously took evidence—a number of improvements have quite rightly been made to the arrangements at the Kent intake unit, which the Home Secretary and I fully endorse and support and agree with. Dan can probably elaborate a bit more on exactly what steps have been taken.

**Dan O'Mahoney:** As I said to the Committee last time, my overriding responsibility in this operation, particularly as it applies to the UK, is to protect the lives of vulnerable migrants who are making this crossing. In the first week that I was in the job, I visited Dover and Tug Haven and I saw the conditions that the inspectorate saw. My officers told me that they were really uncomfortable with the current arrangements and that they clearly needed improvement and some of that improvement was already under way. When the inspectorate came to visit in September, we had already started that work. If the inspectorate or the Committee came to visit Tug Haven now, it would be completely unrecognisable compared with what they saw in September. There have been very significant improvements there.

Q636 **Dame Diana Johnson:** Can I just stop you there? You just said that in September the work was under way, but the inspector said it wasn't fit for purpose in September. I am a bit confused about that.

**Dan O'Mahoney:** The improvements were already under way. In fact, one of the new Portakabins had already been delivered to the site. We told the inspectorate that that work was under way. I wrote to the chief inspector before he appeared in front of the Committee to update him on that progress.

Since the visit, a very large double-roomed Portakabin has been installed for family groups and children, with improved medical facilities. Three very large military grade tents have been installed, which are heated. There is hardstanding flooring, which goes above what the inspectorate described as rubble that looked like a building site—that is no longer there. There is extensive fencing around the area to increase privacy for the migrants. As I say, if the Committee wished to visit or the inspectorate came back to visit, they would find the site unrecognisable from what they saw in



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September. I assure you that I was as concerned as the inspectorate when I first visited.

It is important to recognise, though, that the increase in the numbers over the summer was very sudden and very extreme. The Department recognised that very quickly and we got those improvements under way. The improvements are much more satisfactory than what was there before.

**Q637 Dame Diana Johnson:** It is good to know that improvements have been made. One of the issues that was raised with us was about insufficient dry clothing being available to people who had been rescued at sea. Has that been sorted out? I know that this is supposed to be a short-term place for people to be in, but are there adequate facilities in terms of access to showers or washing facilities? Has that all been sorted out as well?

**Dan O'Mahoney:** A number of different sites were looked at by the inspectorate, including Tug Haven, which is the one I have just described. Migrants are then moved by coach into the asylum system—my colleague Abi might want to say a bit more about that—and improvements have been made in those locations as well.

**Abi Tierney:** We have continued to make improvements at the Kent intake unit, which is where the asylum seekers go once they have been processed initially at Tug Haven. That includes improvements to the holding area and the main room, which we call the atrium. Some of those improvements have also been made.

**Q638 Dame Diana Johnson:** We were told last time we took evidence on this that especially with covid-19, basic cleanliness facilities were not available. I think they were out of order. Is that still the case? Are all the toilets and washing areas working properly?

**Abi Tierney:** Yes, the facilities are all working. As Dan says, we have had very large numbers, and sometimes with large numbers going through those facilities we do have issues, and then they have to get repaired. However, as far as I am aware, they are all working at the moment.

**Q639 Dame Diana Johnson:** On that point, the Committee was told by Her Majesty's inspectorate of prisons that the number of migrants arriving in Dover had been high, but not unpredictable, and that a lack of effective contingency planning had led to the reception services being unfit for purpose. I just wondered what contingency plans were made when the Home Secretary declared the channel crossings a major incident in December 2018, and how they have been adjusted during 2019 and 2020 when we started to see the rise in numbers. Could you take me through that?

**Chris Philp:** On the question about whether it was predictable, I do not think it was predictable that the numbers we saw crossing this summer would have arisen. As recently as January, February or March of this year, we were seeing 100 or 200 people a month make the crossings. Within a



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very short space of time—partly triggered by the pandemic and the difficulty of taking other illegal routes into the country, such as arrival by air and, in particular, getting on the back of a lorry, combined with very good weather in April and May—we saw a very sudden, very rapid, and, I would say, unpredictable increase in numbers across the summer months, culminating in September. Thankfully, the numbers have dropped considerably since then, not just due to the weather but due to the much more effective activity by UK and French authorities, such that the number of crossings per red day has now dropped 65% in the past couple of months.

**Q640 Dame Diana Johnson:** I heard you say that, Minister, but I just wondered what changed when the numbers started to increase and we started to be aware that other routes were closed to people trying to get to the UK. During the summer months when the figures were climbing, what did you do to deal with the problems at Tug Haven to make sure it was fit for purpose?

**Chris Philp:** As Dan O'Mahoney said a minute ago, by September we had already been installing new facilities. Clearly, the process of commissioning those had commenced prior to that, so a process for improving those facilities commenced very rapidly.

**Q641 Dame Diana Johnson:** When did that start? When did you start to do that?

**Chris Philp:** Dan will give a precise time in a moment, but as you acknowledged earlier, the Tug Haven location is a very temporary place that people pass through very rapidly as they get off the boat, prior to getting on to a coach to go into the Kent intake unit, which is a much more substantial, proper building. It was only when we got very large numbers all arriving at the same time that it really caused a big problem: the biggest day, for example, was 3 September, when over 400 people arrived on one day. Thankfully, we have seen nothing like that since, but on your very specific question about the timing of commissioning the improvements, Dan can provide an answer to that.

**Dan O'Mahoney:** As we saw the numbers increasing in the summer, into July and August, and we recognised that those numbers were outstripping our ability to manage Tug Haven, we assessed the site, looked at the improvements we could make and ordered the new accommodation. In fact, some of it had actually been delivered by the time the inspectorate visited, but wider than that—we should not focus exclusively on Tug Haven—as this year progressed and the numbers started increasing, there was a move from what was a relatively self-contained operation run primarily by Border Force, Immigration Enforcement and other parts of the Home Office to a truly cross-Government operation. We increased the number of surface assets—the cutters and CPVs—available in Dover, and commissioned aerial surveillance from the Coastguard Agency and from private contractors.

**Q642 Dame Diana Johnson:** Can I just stop you there? I want to concentrate



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on what happens when someone arrives; I want to be clear because, as I have said, the Home Secretary declared the channel crossings a major incident in December 2018. That leaves us with 2019, where it sounds like nothing was really done, and in 2020, something started to happen in perhaps August, when the numbers started to climb considerably. Is that what you are telling me? I just want to understand the timeframe of when you made these changes.

**Dan O'Mahoney:** A number of changes were made. They were under way in the early summer, but—

Q643 **Dame Diana Johnson:** Was that in June? Sorry, I do not mean to be difficult, but I just want to understand, with the numbers going up, when you then took action to deal with these rising numbers. Which month did that happen in?

**Dan O'Mahoney:** If you are specifically talking about the infrastructure changes that we made for receiving migrants at Tug Haven, that was before my time in post, but my understanding was that the significant spike really happened in July into August. At that time, my teams recognised that improvements needed to be made. Those were made very rapidly, but they are infrastructure improvements and require the agreement of the port of Dover. We need to order things and commission things, and a health and safety assessment needs to be done, so we could not click our fingers and have those arrive immediately, but it was done very rapidly. The real spike in numbers happened in July into August, and my teams recognised what needed to be done at that time. They started the work, and it was implemented very quickly. It is just unfortunate that at the time that HMIP came to inspect, some of the infrastructure had been delivered, but it was not operational yet. But it was operational very shortly after the visit.

**Chair:** I am conscious of the time, but we still have Stuart McDonald to ask questions about some of the wider accommodation issues, if that is fine by you. The information I had was that you need to be gone by 11.15 at the latest, but we will try to conclude as swiftly as we can. We are grateful for your time.

Q644 **Stuart C. McDonald:** Thank you to our witnesses. I will start with a couple of factual questions, building on Diana Johnson's questions, then I have a couple of quick questions on wider accommodation issues. Are the pressures, in terms of numbers, the reason why the pro forma screening interviews are not being completed in full at Tug Haven or at the Kent intake unit?

**Chris Philp:** This was the subject of recent legal action and a recent reversion in process to the process that took place previously. I think it was as much to do with coronavirus as it was to do with numbers. We were just keen, for reasons you will obviously appreciate, to try to keep face-to-face contact as limited as possible, so changes were made to speed up the process and make it less intensive. Those changes have now been reversed, as you will be aware, but Abi perhaps might just confirm that.



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**Abi Tierney:** That is absolutely correct, Minister. Changes have been reversed, but it was very much in response to coronavirus, in line with PHE guidance on ensuring that, particularly when we had large numbers of small boat arrivals coming from France who would need to be quarantined, our staff and the asylum seekers [*Inaudible.*]

Q645 **Stuart C. McDonald:** You will appreciate the concern that by curtailing the screening interviews, very important questions, which might have identified trafficking victims, were being missed out. To be clear, the full screening interviews are now being carried out and there is no intention or need to curtail that any more.

**Abi Tierney:** That is correct.

Q646 **Stuart C. McDonald:** When he gave evidence to us, the inspector also referred to some information that he had been unable to get, so I want to try to fill some of that in. I seem to recall that he referred to a number of age assessments that had been done by chief immigration officers, and I think he said that 109 people had been considered adults, but he had not been able to get a figure for the number who had been considered kids. Are you able to give us that figure?

**Abi Tierney:** I can. For small boat arrivals from January 2020 through to September 2020, there was a total of 2,480 who claimed to be UASC, and we confirmed approximately 1,900 of those to be UASC. The remainder were adults.

Q647 **Stuart C. McDonald:** Has the inspector got all that information now?

**Abi Tierney:** I would need to confirm the exact information he has, if that is okay. I will confirm that in writing.

Q648 **Stuart C. McDonald:** That is grand; thank you. He also referred to a 12-year-old who had somehow been sent to asylum accommodation along with his brother, without any referral being made to the local authority until the inspector from the inspectorate of prisons did so. He was even struggling to find out whether that 12-year-old was now safe. Are you able to provide that information today, and how on earth did that happen?

**Abi Tierney:** You will understand that we do not go into huge detail in individual cases, but in answer to your first question I can confirm that that 12-year-old is safe, that they are in school and that there are no welfare concerns, so thank you for asking that question. I am doing a thorough review of the process that was undertaken at the time, to ensure that we learn any lessons from any mistakes or errors that were made.

Q649 **Stuart C. McDonald:** Okay. It would be good if we could get at least a summary of the findings in relation to that.

Also, we have heard about children ending up in Yarl's Wood. How has that happened?



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**Abi Tierney:** We have talked already today about the age assessment process, which we do when they are in KIU—we have social workers there who do it.

There might be two reasons why they then claim to be UASC. They may dispute the outcome of that age assessment process; or they may not claim to be a child at the initial screening, but they then go to Yarl's Wood and claim at a later stage, at which point we would then refer them to the local authority for an age assessment process.

Q650 **Stuart C. McDonald:** But there must be some sort of policy in place that tries to stop that happening.

**Abi Tierney:** Absolutely. Following our assessment, if we think that the asylum seeker is under the age of 25, we give the benefit of the doubt and they are referred to a local authority as an unaccompanied asylum-seeking child. If we believe, through an assessment process, that they are over the age of 25, they are referred into the adult accommodation system.

Q651 **Stuart C. McDonald:** How many children have ended up in Yarl's Wood or other parts of the detention system?

**Abi Tierney:** I do not have that data to hand, but I can write to you with it.

Q652 **Stuart C. McDonald:** That would be helpful as well.

Minister, another concerning development has been the prosecution of those who are on these boats and are described, even by the judges, as ultimately being one of the trafficked, but because at some point they have been seen to be steering that boat, they end up in prison for 18 months. How do you justify that?

**Chris Philp:** The prosecutions for facilitation under section 25 of the Immigration Act 1971 take place where there is clear evidence, and where a court and a jury are satisfied, that a particular person has been facilitating the attempted entry. That is obviously tested to the normal evidential standard. Evidence has to be provided to a court; if the defendant pleads not guilty, obviously a jury has to be persuaded to the normal standard of proof.

Q653 **Stuart C. McDonald:** I get the fact that it has been to court and that the jury has been satisfied, but the point that I am making is that I do not believe for a minute that that is the type of person that Parliament was getting at when it passed those laws. Until recently, it has not been the practice to treat them in that way. If somebody is just one of the trafficked, but they end up as the one who is coerced or forced to drive the boat, why are they being put in the same bracket as the people-smugglers? Surely that is very harsh and unfair.

**Chris Philp:** We are not going to apologise for prosecuting people who are involved in the facilitation of these crimes by driving the boat or by doing other things.

Q654 **Stuart C. McDonald:** But do you recognise that they are, as the judges



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have said, ultimately people who are themselves being trafficked? They are not members of any gangs or anything like that; they have ended up paying money to the smugglers themselves, just like everybody else on the boat.

**Chris Philp:** Well, you are hypothesising about what happens. Each case is considered individually by the courts. I think that it is right—and that Parliament, when it legislated originally and when it has updated the Act since, has been right—to say that people involved in facilitating these dangerous and unnecessary crossings should be prosecuted for doing that. It is absolutely right that we do so.

Q655 **Stuart C. McDonald:** But if somebody is not part of the gang, what does that achieve? It is absolutely right that we go after the gangs and the people who are responsible for running them, but these people are victims of the gangs.

**Chris Philp:** If somebody is facilitating these crossings, they are not a victim; they are a perpetrator. They are enabling these crossings to happen and they are putting people in physical danger. Moreover, the entire enterprise is entirely unnecessary, because France is a safe country and people needing protection are perfectly able, if they want to, to claim asylum in France, or indeed in other European countries. Prosecuting people who are facilitating these very dangerous crossings is absolutely the right thing to do and I am certainly not going to apologise for it.

Q656 **Stuart C. McDonald:** Right, fine. On the accommodation issue, you made a very welcome decision earlier this year to pause cessations and evictions, and you said that was to ensure that people were not made homeless and were able to follow social distancing. That was right and the Committee welcomed that. Surely the same logic applies now, particularly given the increased risk—especially in areas in the highest tiers of covid risk—faced by people in destitution and who are black or minority ethnic. Surely, the policy has to be to maintain that pause through the winter?

**Chris Philp:** We did pause the move-ons from asylum accommodation on—from memory—27 March. That stayed in place both for positive and negative cessation cases until mid-August, when we resumed positive cessation cases. Those are when someone has been granted asylum and we then work with the local authority in the relevant area to ensure that as they move out of asylum accommodation, proper arrangements are made, because they are then entitled to work and benefits, like anybody else. That is continuing at the moment, and it is right that it does.

The negative cases were resumed for a relatively brief time earlier in the autumn, but have now been paused, particularly as England has been in an enhanced state of coronavirus controls for the last few weeks. We will keep that under very careful review and develop a plan to safely, and in a careful way, come out of that in due course, but no decision has yet been made on that. Clearly, we will pay very careful attention to the public health implications. We should keep in mind that the people who have had a negative asylum decision will only be served noticed where there is



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obviously a route home for them and where they would not be at risk of destitution. Once someone's asylum claim has been rejected and they have no further appeal rights, they should return home, because it is both safe and possible for them to do so.

I should add that pausing those move-ons for health reasons, as we have done, has led to a gigantic increase in the number of people who we have been accommodating in asylum accommodation. The number started off at about 48,000 before the pandemic. It has now gone up to about 60,000 as a result of pausing cessations, because we still have people coming into the system as they are still claiming asylum, but we have had far fewer people leaving, and that has caused massive, massive logistical challenges, as you can imagine.

Q657 **Stuart C. McDonald:** Sure. We should hopefully—normally— agree that any end to the cessations has to be done in a safe manner. I think that is what you said there.

**Chris Philp:** Yes.

**Stuart C. McDonald:** It is now a question of how you decide that it is safe. You said that you would be looking to see that they were not at risk of destitution, but I do not understand how ceasing asylum support and evicting somebody can do anything other than force them into homelessness and destitution. The fact is that, in relation to a route home, the same logic would imply that it was here, ultimately. There will still be people who, although not found to be objectively refugees, will still be fearful of returning home and will take that up. If you look at it from a public health point of view, surely we just have to hold on another two or three months and not start evicting people again?

**Chris Philp:** As I said, and as you acknowledged, we will recommence the negative cessations in a very careful and phased way. A decision has not yet been made. We will obviously be very careful and cautious about how we approach that matter, which has also, as you probably know, been the subject of litigation, to which the Home Office is responding as well.

On your last point about being fearful, we have an asylum system, and it is, I would say, quite a generous asylum system in assessing people's well-founded fear of persecution, as set out in the 1951 convention and the 1967 protocol. If someone's asylum claim has been rejected and there is an appeals process against that decision before a tribunal, the courts will ultimately have made a finding that the person does not have a well-founded fear of persecution. In those circumstances, it is reasonable to expect them to return home.

**Stuart C. McDonald:** I recognised that in my question, but—

**Chair:** I am conscious of the Minister's time. We may raise further points to get answers in writing.

**Stuart C. McDonald:** One more question?



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**Chair:** I have one further question as well, if that's all right. Go on, Stuart—very quickly.

Q658 **Stuart C. McDonald:** I am grateful, thank you. I have asked, as you know, a million questions about consulting Public Health England and public health directors at local authority level. Freedom of Information requests show that public health directors at local authority level were not consulted about the decision made in September.

Will you undertake to this Committee to speak to the public health directors at local authority level before you commence evictions in those special areas and to follow their advice?

**Chris Philp:** I will ask Abi to come in on that in a second. We will be talking to relevant public health officials. Public Health England, Public Health Scotland and Public Health Wales are the key bodies to consult. Different local authority public health directors may have divergent views. The decision is one that ultimately the Home Office will take. We will certainly be consulting closely with relevant public health officials in all parts of the country.

Q659 **Chair:** I am going to ask Abi to come back with further information in writing. There are a couple of final points that we haven't had time to cover but were serious points that had been raised with us. Firstly, there is a letter from the British Medical Association and Royal College of Psychiatrists' faculty of public health raising concern about Napier Barracks and Penally that you are currently using as asylum accommodation. It talks about the "inadequate provision of primary and specialist healthcare services", that the "accommodation is highly inappropriate for survivors of captivity, human trafficking, torture", that people are "sleeping in dormitories of up to eight people and using shared bathrooms, eating places" and so on.

It also states that it is not compliant with covid regulations, even though people have moved from all kinds of different areas. They are raising some very serious concerns. We have also heard from the independent monitoring boards about Brook House particularly. The evidence we have heard there concerns a very substantial increase in the levels of self-harm taking place in August and September after you changed policy on who was being located into Brook House. This was very alarming. These are probably not answers you can give us in detail now and you may need to write to us, but is there any reassurance you can give us that there is actually proper support for those who are vulnerable either in the MOD sites or Brook House?

**Chris Philp:** I am confident that the measures are appropriate in terms of health and other matters. I visited Napier just yesterday and met with the nurse who is onsite five days a week talking to residents about any health needs that may arise. The short answer is that I am confident. You have raised quite a few issues there, so maybe the best way is for you to write us with those and then we can reply.

Q660 **Chair:** That would be very helpful. Basically, they were the points that



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had been raised in the letter that was sent to the Home Secretary from all of those medical organisations raising very serious points. The points that have already been raised with you by Dame Anne Owers include the scale of self-harm as a result of concentrating people with particular issues all in Brook House and the change in policies that you made in the summer, which have increased the level of self-harm and the lack of vulnerability assessments.

**Chris Philp:** In relation to those two letters, the best thing would be to get back to you and the Committee with our response if that would be helpful in preparing your report. We will also respond to the letters directly, obviously.

Q661 **Chair:** That would be very helpful, because it was quite alarming. On a final point of issue that was raised much earlier in the Committee, could you just confirm that you are no longer looking at sending asylum seekers to the Ascension Island?

**Chris Philp:** The Home Office has explored a wide range of options. I do not want to give any definitive commentary on what we have and have not thought about or rule in or out what steps may be taken in the future.

Q662 **Chair:** Seriously? You're seriously not going to rule out sending asylum seekers to the Ascension Island to be processed?

**Chris Philp:** We have no current plans to do that, but I am not going to make future commitments.

Q663 **Chair:** Can you rule out putting people on disused oil platforms?

**Chris Philp:** I am not going to go through a whole list of hypothetical questions, but we do not have any current plans to put people on oil platforms, no. I am not going to go through a whole list of hypotheticals.

Q664 **Chair:** These things have been reported in the papers. You should at least be able to rule them out and say these are not your policies and that you are not going to send people to a disused oil platform.

**Chris Philp:** We do not have any current plans to do that.

Q665 **Chair:** Can you at least confirm one of the things reported in the papers, that you aren't planning boats with pumps generating waves that would force boats back into French waters? Can you rule that one out?

**Chris Philp:** We don't have any current plans to do that either.

Q666 **Chair:** Seriously? Can you just rule out ever having giant wave machines in the channel as part of your policy?

**Chris Philp:** I have just said that we do not have any current plans to do that. I am not going to engage in endless hypotheticals and speculation.

Q667 **Chair:** Mr O'Mahoney, can you rule out having giant wave machines in the channel in order to deal with the problems?

**Dan O'Mahoney:** It is not something we have looked at. I don't know where that came from.



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Q668 **Chair:** Thank goodness for that. We have had a very detailed discussion about a whole series of detailed policies. It would improve your credibility if you could rule out some of the completely bonkers proposals.

**Chris Philp:** I have told you we are not planning to do it.

**Chair:** Minister, Mr O'Mahoney, Mr Hobbs, Ms Tierney, thank you very much for your time this morning.