

Written evidence submitted by Refugee Rights Europe & Help Refugees (COR0160)

Refugee Rights Europe is a human rights organisation and registered UK charity (1185102) founded in 2016 in response to the humanitarian crisis experienced by refugees and displaced people across Europe.

Help Refugees is a humanitarian organisation supporting refugees and displaced people through more than 120 projects in 15 countries. Help Refugees is registered in the UK under the auspices of Prism the Gift Fund, Charity No 1099682. Founded in 2015 in response to the refugee situation in northern France, we have continued to work in the region since.

Both organisations are present in northern France, working on documentation and advocacy projects to help ensure respect of human rights and refugee law for the displaced populations in the area.

Introduction

1. We are submitting evidence regarding the work of UK Border Force (UKBF) at the UK border in northern France, and the conditions for displaced and destitute populations coming into contact with them.

2. There are currently an estimated 1,500 displaced people surviving in squalid conditions, with severely restricted access to water, to sanitation facilities and to shelter, among other basic rights.¹ The individuals trapped in northern France are fleeing war, persecution, torture and other forms of protracted crises, and are attempting to rejoin friends and family and seek asylum in the UK, human rights which are enshrined in international legal instruments to which the UK is a signatory, including the 1951 Refugee Convention and 1967 Protocol.

3. The vast majority of these individuals will be coming into contact with UKBF officials either in Calais and Dunkirk, or in Dover and along the Kent coastline. In addition, as a consequence of wielding sovereign legal powers on French territory as a result of the 1991 Sangatte Agreement, 2003 Le Touquet Treaty and later bilateral border agreements, UKBF by extension holds high levels of responsibility for the impact of their operations on individuals at the border.

(1) Insufficient protections / living conditions

4. Since the beginning of the Covid-19 pandemic and the national confinement measures introduced by both the French and British governments, we have witnessed a severe deterioration of conditions for individuals living in the informal, outdoor tented settlements along the northern French coastline.²

5. There is minimal access to water for hand washing and drinking, with one water tap per 500 people in Grande-Synthe and one active water source with two taps without provided soap for the majority of the ~1000 people in Calais, supplemented with jerry can drops by NGOs. Over-crowded tent-to-tent sleeping areas leave no possibility of social distancing, whilst continued daily police evictions of living sites and confiscation of tents reduces living spaces and the possibility of distancing or self-isolation.

6. The accommodation that has been put in place by French authorities is insufficient and inadequate, with many centres severely deficient in access to food, sanitation, healthcare and information. These reception centres have not been adapted to the Covid-19 sanitary requirements, with small rooms

¹ https://www.gisti.org/IMG/pdf/urgent_communication_un_special_rapporteurs.pdf

² <https://helprefugees.org/news/covid-northern-france/>

shared between multiple people, and remote locations where access to emergency healthcare is difficult. A number of these centres have already closed down following national de-confinement measures, limiting further options of accommodation. This has meant that large numbers of people, including pregnant women, young children, the elderly and those with disabilities, remain outside.

7. Contrary to the notion that people are in a 'safe' place where they are able to access basic rights as well as legal information,³ people are in fact in extremely unsafe situations that they are desperate to leave from. It is therefore not surprising that we have seen an increase in desperation and lifethreatening risks being taken to reach the UK, particularly by rubber dinghy. There has also been an increase in the number of minors attempting these crossings,⁴ showing the heightened risks that vulnerable people are being led to take.

8. People hidden in lorries being intercepted by UKBF at the ports, including vulnerable individuals such as unaccompanied minors or potential victims of trafficking, are not being referred to safe accommodation in which to self-isolate, which goes against both British and French current public health guidance.⁵ This suggests that UKBF personnel are not sufficiently equipped to identify or provide protections for vulnerable people that they are coming into contact with. Instead, these people are returned to insalubrious camp conditions where the risk of contracting the virus is high.

(2) UK Border Force funding

9. The Government has committed extensive funding in the past to UKBF operations in northern France. Between 2010-2016 it spent over £315 million on securing the border in France,⁶ with the 2015 Joint

Declaration, 2018 Sandhurst Agreement and 2019 Joint Action Plan commitments totalling over £60 million.⁷ These bilateral border agreements commit the UK to assist in funding reception facilities in northern France for displaced people,⁸ and yet during this Covid-19 period during which adequate and safe accommodation is in greater need than ever, the UK is currently providing **no funds** to reception facilities in France.⁹ As stated above, the lack of appropriate accommodation is directly resulting in an heightened risk of propagation of the virus as well as in increasingly dangerous attempts being made to leave the area and seek safety.

10. The UK expenditure in northern France includes funds going towards private contractors who manage security operations at the ports and Eurostar stations as well as in the UK Short Term

³ This argument is used repeatedly by the Government to justify its crack down on those attempting the border crossing irregularly: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-05-11/45146/>

⁴ <https://www.bbc.com/news/amp/uk-england-kent-52680025>

⁵ <https://www.gov.uk/coronavirus>; <https://solidarites-sante.gouv.fr/soins-et-maladies/maladies/maladiesinfectieuses/coronavirus/tout-savoir-sur-le-covid-19/article/deconfinement-quelle-conduite-adopter>

⁶ Letter from Home Office re FoI response 41250 (28 April 2017)

⁷ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-05-11/45263/>

⁸ Art. 1 and 4, 2018 Sandhurst Agreement https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/674885/Treaty_Concerning_the_Reinforcement_Of_Cooperation_For_The_Coordinated_Management_Of_Their_Shared_Border.pdf; Art. 21 and 23, 2015 Joint Declaration https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/455162/Joint_declaration_20_August_2015.pdf.

⁹ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-05-01/42138/>; <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2020-04-28/HL3617>

Holding Facilities (STHFs) where people are detained. This spans from Eamus Cork Solutions who check vehicles and run the detention facilities, to the company Wagtail which provides dogs and dog handlers as part of a £9.3 million contract with UKBF.¹⁰ As outlined below, these private contractor companies fall short in ensuring the safe and effective operation of their services in relation to vulnerable people even outside of Covid times, but the risks have been accentuated during this health crisis.

(3) Detention

11. Despite UN Subcommittee on the Prevention of Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (SPT)¹¹ and Public Health expert¹² guidance on the risks of detention and incarceration during the Covid-19 period, the UK is continuing to detain people in its four Short Term Holding Facilities operated in Calais and Dunkirk.¹³

12. Although these detention facilities are intended to only hold people for short periods of time, some people are detained in the holding rooms for up to 16 hours, deemed “too long” by a 2019 HMIP inspection visit.¹⁴ There are no showers available, no access to fresh air and no natural light. These periods of time, as well as prison-like conditions, increase significantly the risk of virus transmission - supported by Public Health Expert research¹⁵ and the UN SPT recommendations.¹⁶

13. During this detention time, in several of the STHFs people have their medication removed from them¹⁷ and there is no emergency healthcare available on site, posing particular risks for those who are more likely to be affected by the virus such as people with pre-existing health conditions, the elderly or pregnant women. These conditions are again contrary to the recommendation of the SPT that those detained are provided with free medical care in accordance to that of the wider community.¹⁸

14. In addition, there are concerning practices of holding groups of people in caged escort vehicles whilst waiting for the police to arrive, for unrecorded periods of time. In the three months before the November 2019 HMIP inspection, over 1,000 detainees were held in escort vehicles.¹⁹ This makes it incredibly difficult to identify vulnerabilities, safeguarding concerns or health risks. Given the use of force and manhandling of detainees in the centres,²⁰ it would appear impossible to ensure one metre distance between detained people and/or staff, as required by healthcare guidelines.²¹

¹⁰ Pg 138-141 https://corporatewatch.org/wp-content/uploads/2018/10/UK_border_regime.pdf

¹¹ <https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf>

¹² <https://detentionaction.org.uk/wp-content/uploads/2020/03/Report-on-Detention-and-COVID-Final-1.pdf>; <https://global-dialogue.org/wp-content/uploads/2020/05/C-19-Impact-Assessment-Framework-Full-report.pdf>

¹³ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2020-04-28/HL3619/>; <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-05-11/45336/>

¹⁴ This was in the Calais Tourist facility: see 2020 HMIP Inspection Report, pg 28 <https://www.justiceinspectors.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2020/03/France-web-2019.pdf>

¹⁵ <https://journals.sagepub.com/doi/abs/10.1111/j.1748-720X.2007.00184.x>

¹⁶ <https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf>

¹⁷ 2020 HMIP Inspection, pg 8, 18, 28, 38

¹⁸ <https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf>

¹⁹ 2020 HMIP Inspection, pg 28

²⁰ Ibid pg 10

²¹ <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>

15. Even prior to the COVID-19 outbreak, the latest inspection report states that “we were not confident that detainees’ health issues would be addressed due to the lack of identification of individuals or use of interpreting services used when communicating with those with little or no English”,²² presenting an even more concerning risk in light of the current global health crisis.

16. The private contractors operating these STHFs alongside UKBF appear ill-equipped to identify vulnerabilities among those detained, or provide the necessary safeguards for vulnerable people. The regular detainment of children - 252 between three of the facilities in the three months prior to the 2019 inspection visit alone - and absence of referral pathways for potential victims of trafficking have drawn particularly harsh criticism.²³ In the Coquelles Tourist facility, throughout the last year there were no safeguarding referrals made to the French *Police aux Frontieres* (PAF) from UKBF when detainees were handed over,²⁴ even when a 17-year old child with a gunshot wound was found and detained.²⁵ The risk posed by poor safeguarding procedures is only likely to increase in the context of COVID-19, when protection for vulnerable individuals is imperative.

17. The detention facilities do not ensure the safe release of individuals and indeed many are placed directly to the French PAF or into the French detention centre in Calais (Centre de rétention administratif, CRA).²⁶ The recent HMIP report states that “those handed to PAF were then often released into the port or other public area”,²⁷ including women and children late at night,²⁸ meaning people are sent directly back to insalubrious camp conditions which now pose a higher physical and mental health risk than ever before.²⁹

18. When questioned regarding the protection measures taken in these STHFs in light of Covid-19, the Home Office responded vaguely that ‘high-risk individuals displaying symptoms of COVID-19 are referred to the French authorities in the first instance’.³⁰ It appears therefore that no structural changes have taken place that would allow the points raised above to be addressed, in order to sufficiently protect either those being held in detention or the UKBF officials and private contractors working in the facilities.

²² 2020 HMIP Inspection, pg 24

²³ <https://www.justiceinspectors.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/06/2014-DunkerqueWeb.pdf> (2014 Dunkerque Inspection report), <https://www.justiceinspectors.gov.uk/hmiprisons/inspections/dunkerque-short-term-holding-facility-2/> (2016 Dunkerque Inspection report), <https://www.justiceinspectors.gov.uk/hmiprisons/wp-content/uploads/sites/4/2016/12/Coquelles-CalaisWeb-2016-2.pdf> (2016 Calais Inspection report)

²⁴ 2020 HMIP Inspection, pg 10

²⁵ 2020 HMIP Inspection, pg 21

²⁶ France Terre d’Asile, an association providing legal advice in the French detention centre (CRA) in Coquelles, provided information that in 2020, 32 out of 388 detainees in the French CRA were transferred directly by UK Border Force.

²⁷ 2020 HMIP Inspection, pg 8

²⁸ 2020 HMIP Inspection, pg 5

²⁹ <https://www.theguardian.com/global-development/2020/apr/09/covid-19-spreading-quickly-though-refugeecamps-warn-calais-aid-groups>

³⁰ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2020-04-28/HL3619/>; <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-05-11/45336/>

(4) Obstruction of access to asylum in northern France

19. During the Covid-19 period, as outside of it, governments have an obligation to provide access to asylum procedures for those seeking international protection. However, despite UKBF being present and wielding sovereign legal powers on the French coastline, as discussed above, it has not made efforts to ensure effective access to asylum procedures for those it intercepts.

20. Given the consistent lack of access to legal information and interpreters in the STHFs,³¹ it is highly likely that people detained there are not able to have full access to relevant information regarding their own protection or recourse to legal advice in contravention of measure 17 outlined in the SPT advice.

21. Individuals hidden in vehicles who are intercepted by UKBF in Calais or Dunkirk are not being referred into French reception centres, where they may eventually be able to claim asylum in France. Even had these measures been taken however, between 31 March and 12 May it was not possible to place an asylum claim in France due to the closure of the relevant *Préfecture* offices where asylum claims are registered.³² For those wishing to claim asylum in the UK meanwhile, there is currently no possibility of a claim being placed at UK border point facilities or to UKBF officials present. This means that those in need of international protection have restricted access to asylum procedures, and for over a month during the French national confinement measures were effectively left without a legal solution, at an extremely precarious time.

Conclusion

22. It is vital that the UK government takes steps to respect public health guidance in northern France in respect to the displaced populations and UKBF staff and contracted operators. To mitigate risk here supporting the improvement of French reception facilities, namely in terms of access and improving safeguarding mechanisms would be simple, effective and in line with funding commitments. It currently appears that UKBF and its private contractors in the region are not effectively equipped to reduce the risk of virus contraction and transmission among the vulnerable populations that it works with, particularly displaced and destitute people intercepted in vehicles at the ports or detained in the STHFs, nor to respond to their protection needs.

May 2020

³¹ 2020 HMIP Inspection, pg 12-13, 2016 Dunkerque Inspection report pg 16, 2012 Calais Inspection report pg 16.

³² https://www.asylumineurope.org/sites/default/files/report-download/aida_fr_2019update.pdf; <https://www.lacimade.org/reprise-de-lactivite-administrative-apres-le-confinement/>