



Background paper on children from the Calais camp

April 2017

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Context

- 88,000 unaccompanied children claimed asylum in Europe during 2015¹
- 10,000 people were living in the Calais camp at the time of its clearance (with many more having passed through it) including children with their families and unaccompanied children
- 1,022 children were living in the Calais camp in September 2016²
- In June 2016 the Mayor of Calais announced the camp would be demolished - this eventually happened during the week of 24 October 2016. In the week prior to the clearance, UK/French authorities finally attempted to transfer children from France to the UK.³
- For a week 1,500 unaccompanied children were living on the site of the camp or in converted shipping containers before the French authorities moved them in buses to reception centres in France saying no more applications for transfer to the UK would be handled in Calais.⁴ According to Safe Passage, the end of the registration process was done without prior warning. Children on the site were left without adequate food, water, accommodation or supervision and c.50 children were driven out of the cleared camp without being registered.⁵
- The UN Committee on the Rights of the Child has called the (in)action of the French and UK governments at Calais as having completely disregarded children's best interests.⁶
- Research with children at the reception centres found some were not getting sufficient information about their asylum applications. Some had begun to abscond and others were being forced to work on fruit farms or share accommodation with adults.⁷

¹ Reuters, Nearly 90,000 unaccompanied minors sought asylum in EU in 2015, 2 May 2016 <http://uk.reuters.com/article/uk-europe-migrants-minors-idUKKCN0XT15M>

² Help Refugees figures quoted in The Guardian, Calais camp charity threatens UK with legal action over vulnerable children, 19 October 2016 <https://www.theguardian.com/uk-news/2016/oct/19/calais-camp-charity-threatens-uk-with-legal-action-over-vulnerable-children>

³ Safe Passage, Calais Demolition Report, 22 November 2016 http://safepassage.org.uk/news_posts/calais-demolition-report/

⁴ BBC, Calais 'Jungle': Last remaining children evacuated from camp, 2 November 2016 <http://www.bbc.co.uk/news/world-europe-37845135>

⁵ Safe Passage, Calais Demolition Report, 22 November 2016 <http://safepassage.org.uk/wp-content/uploads/2016/11/Calais-Demolition-Report.pdf>

⁶ Office of the UN High Commissioner for Human Rights, Calais camp: French and UK Governments fell well short of their child rights obligations – UN experts, 2 November 2016 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20815&LangID=E>

⁷ Safe Passage, Calais refugee children frustrated as they wait for information on UK transfers, 19 November 2016 http://safepassage.org.uk/press_posts/calais-refugee-children-forced-to-work-on-fruit-farms/; The Observer, Child refugees forced to work for nothing after leaving Calais, 19 November 2016 <https://www.theguardian.com/world/2016/nov/19/calais-child-refugees-forced-to-work-for-nothing>

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- In December 2016 the Home Office arbitrarily ended the process of transferring children to the UK, advising children to instead claim asylum in France.⁸ A significant number of children remain stranded in France with legal rights to enter the UK⁹ and more still remain in Italy and Greece (where just five children have been transferred to the UK during 2016.¹⁰)
- By early 2017, people (including children) were migrating back to Calais, as well as Dunkirk and Paris, looking for opportunities to cross to the UK.¹¹ In April 2017 a fire destroyed the *Grand-Synthe* camp in Dunkirk. At the time 80 children living at the camp were identified as either having relatives in the UK, or as being particularly vulnerable, and therefore eligible for transfer to the UK.¹²

How can children in Calais/France enter the UK?

- Through their own means
 - Children who enter the UK without legal authorisation, for example by hiding in a lorry through the Eurotunnel.
- Dublin III Regulation
 - Children who have a legal right, under an EU regulation, to enter the UK to claim asylum because they have certain family members already in the country.
- Dubs Amendment, Section 67 of the Immigration Act 2016
 - A limited number of unaccompanied children in France, Italy and Greece eligible to enter the UK to claim asylum upon meeting certain conditions.

⁸ The Guardian, Hundreds of Calais child refugees have UK asylum claims rejected, 16 December 2016 <https://www.theguardian.com/uk-news/2016/dec/16/hundreds-calais-child-refugees-uk-asylum-claims-rejected-home-office>

⁹ The Guardian, Alone in Paris, refugee children frantic to see their British families, 18 December 2016

<https://www.theguardian.com/society/2016/dec/18/paris-refugee-children-british-families-christmas-appeal-charities-asylum>

¹⁰ UNICEF and Save the Children, Just five refugee children transferred to UK from Italy and Greece in 2016, 15 December 2016 <https://www.unicef.org.uk/press-releases/just-five-refugee-children-transferred-uk-italy-greece-2016/>

¹¹ The Huffington Post, Bulldozing The Calais 'Jungle' Did Not Solve The Challenge Of Migrants On The Move - It Merely Displaced It, 5 April 2017 http://www.huffingtonpost.co.uk/diane-abbott/calais-jungle_b_15806634.html

¹² Help Refugees, Charities call for government to urgently transfer 80 children from Dunkirk ruins to the UK, 12 April 2017 <http://www.helprefugees.org.uk/news/charities-call-government-urgently-transfer-80-children-dunkirk-ruins-uk/>

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What is the Dublin III Regulation?

- What is it?
 - An EU regulation governing which states have responsibility for asylum claims made in the EU
- What are the rules?
 - People must claim asylum in the first safe country they enter. In practice this means that states use Dublin III to remove people back to the frontier states of Europe.
 - Dublin III also says that people with nuclear family in a third country should claim asylum on entry to the EU and can then formally request that the third country 'takes charge' of their asylum application.
 - In January 2016 Migrants' Law Project and Bhatt Murphy took a legal challenge to the Dublin III procedure, representing three children and one vulnerable adult living in the Calais camp, in a case known as *ZAT & Others*. They successfully argued that all four should be swiftly allowed to travel to the UK to be reunited with relatives as to do otherwise would disproportionately interfere with their family life.¹³
 - In *ZAT & Others* the courts found that rather than needing a full and formal 'take charge' process it would be sufficient, given the conditions in Calais, for a child's lawyers to write to the French authorities claiming asylum and that on receipt of proof of this the Home Office should admit the child to the UK.¹⁴
- What status do they enter the UK with?
 - Children are given temporary admission and must then go through the asylum process.
- How many children have entered?
 - In the first nine months of 2016, only 140 children in total came to the UK under Dublin III (80 from France).¹⁵
 - Amber Rudd told MPs at the end of October 2016 that 800 children claiming family links with Britain had been interviewed by Home Office officials in the Calais camp in the previous week.¹⁶

¹³ Migrants' Law Project, Calais, accessed 24 November 2016 <https://themigrantslawproject.org/cases/calais/>

¹⁴ Citizens UK, Family Reunification - The story so far, accessed 24 November 2016 http://www.citizensuk.org/family_reunification_the_story_so_far

¹⁵ The Guardian, UK to take small group of children from Calais refugee camp, 16 October 2016 <https://www.theguardian.com/world/2016/oct/16/uk-to-take-small-group-of-children-from-calais-refugee-camp>

¹⁶ The Guardian, UK to take hundreds more children from Calais, home secretary says, 24 October 2016 <https://www.theguardian.com/world/2016/oct/24/uk-to-take-hundreds-of-children-from-calais-home-secretary-says>

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- As of 6 December 2016, 320 children had entered the UK under Dublin III¹⁷ including children who arrived in October and were subject to widespread commentary in the tabloids about their ages, and calls from a Tory MP for them to have dental checks to assess their ages.¹⁸
- Since the judgment in *ZAT & Others*, Safe Passage and a number of legal organisations in the UK and France, including GMIAU, have worked to ensure that as many children in Calais as possible were offered a legal, safe and quick passage to the UK, while an accessible process continued to be lacking.
- GMIAU and others pre-screened family members in the UK, went to Calais to meet with children, took witness statements from UK family and ensured they had legal refugee status, verified the family relationship, collated evidence and prepared applications to the Home Office. Between January and July 2016, this led to 50 children being reunited with family in the UK.¹⁹
- In February 2017 the Home Office announced that of the c. 750 children transferred from the camp in Calais, c. 550 were transferred under an accelerated process based on Dublin III but operating outside it.²⁰ Safe Passage has brought legal action against the Home Office claiming the expedited process was ‘arbitrary, unreasonable and unfair’ and had left over 400 children claiming to have family in the UK with no proper decision about why their claims to be transferred were refused.²¹

What is the Dubs Amendment?

- What is it?
 - In May 2016 the government conceded (in the face of public pressure) that some unaccompanied children who had arrived in Europe before the March 2016 EU/Turkey refugee deal would be allowed to enter the UK lawfully to claim asylum (Dubs children).²²

¹⁷ Safe Passage website, accessed 6 December 2016 <http://safepassage.org.uk/>

¹⁸ The Huffington Post, Calais Child Refugee Front Pages On The Sun And Daily Express See British Media Taken To Task On Twitter, 19 October 2016

http://www.huffingtonpost.co.uk/entry/child-refugee-front-pages-see-british-media-taken-to-task-by-twitter-users_uk_5805f0cce4b0dcd0298fb183

¹⁹ PILnet, 2016 Pro Bono Awards: From the ‘Jungle’ to the UK, Reuniting Migrant Families, 11 November 2016 http://www.probonoforum.org/europe/2016-pro-bono-awards-from-the-jungle-to-the-uk-reuniting-migrant-families/?utm_content=buffer957a&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer#.WCxbGdvLKbE.twitter

²⁰ UKVI, Policy Statement: Section 67 of the Immigration Act 2016, 10 March 2017 <https://www.gov.uk/government/publications/policy-statement-section-67-of-the-immigration-act-2016>

²¹ Safe Passage, Citizens UK granted permission to bring legal action over Home Office’s failure to implement family reunification for unaccompanied refugee children in Europe, 28 February 2017 http://safepassage.org.uk/press_posts/citizens-uk-granted-permission-to-bring-legal-action-over-home-offices-failure-to-implement-family-reunification-for-unaccompanied-refugee-children-in-europe/

²² Prime Minister’s Office , Unaccompanied asylum-seeking children to be resettled from Europe, 4 May 2016 <https://www.gov.uk/government/news/unaccompanied-asylum-seeking-children-to-be-resettled-from-europe>

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- The Dubs amendment (named after Alf Dubs, the Labour peer who arrived in the UK on the *kindertransport*) resulted in Section 67 of the Immigration Act 2016. The Act says the number of Dubs children accepted - from France, Italy and Greece - would be determined in consultation between the government and local authorities. At the time it was widely reported that the Home Office had talked to councils about receiving c.3,000 children.
- It was hoped that children would be quickly identified and processed (the Act specified it must happen ‘as soon as possible’), but four months later no Dubs children had arrived in the UK and there was no process in France for identifying and registering applications.²³
- With the imminent closure of the Calais camp in October 2016 this became an urgent issue. On 18 October 2016 Help Refugees issued legal proceedings against the Home Secretary arguing that children entering the UK had done so under separate rights through Dublin III and that no child had entered under the Dubs Amendment. They also argued that the failure to implement duties under Dubs had left children at risk of serious human rights violations. Registration of claims under Dubs finally began on 21 October (three days before the clearance began and after JR proceedings were lodged) with relocations starting on 22 October.²⁴
- In February 2017 the Immigration Minister announced that local authorities had confirmed they had spaces for 400 unaccompanied children seeking asylum for this financial year. As a result the Dubs scheme was capped at 350 children – 200 of whom had already been transferred from Calais (50 spaces were reserved for children transferred under Dublin III who would not be able to live with relatives).²⁵ The announcement was widely criticised including by parliamentarians. In March 2017, MPs voted in favour of a motion expressing disappointment at the closure of the Dubs scheme and urging the government to re-consult with councils to identify space to help more children.²⁶ But days later an amendment to the Children and Social Work Bill (which would have forced the government to assess councils’ capacity to take in more children) was defeated.²⁷
- How many children have entered?
 - 3,000 children were expected

²³ The Guardian, It is a disgrace to Europe’: former child refugee Lord Dubs on the Calais camp, 5 September 2016 <https://www.theguardian.com/uk-news/2016/sep/05/disgrace-to-europe-former-child-refugee-lord-dubs-calais-camp>

²⁴ Help Refugees, High court grants permission to challenge High Secretary Amber Rudd over Dubs children (sic), 24 November 2016 <http://www.helprefugees.org.uk/news/high-court-grants-permission-challenge-high-secretary-amber-rudd-dubs-children/>

²⁵ House of Commons, Immigration: Written statement - HCWS467, 8 February 2017 <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2017-02-08/HCWS467>

²⁶ Safe Passage, Safe Passage welcome vote in favour of Dubs scheme and call on MPs to vote in favour of amendment to save the scheme next Tuesday, 1 March 2017 http://safepassage.org.uk/press_posts/safe-passage-welcome-vote-in-favour-of-dubs-scheme-and-call-on-mps-to-vote-in-favour-of-amendment-to-save-the-scheme-next-tuesday/

²⁷ Help Refugees, Help Refugees statement on Dubs latest, 7 March 2017 <http://www.helprefugees.org.uk/news/help-refugees-statement-dubs-latest/>

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- As of 6 December 2016, 100 Dubs children had entered the UK²⁸ including a group of girls aged 15-17 who arrived in Edinburgh in November.²⁹ Citizens UK then reported that the Home Office transfer process had ground to a halt³⁰ and in December 2016 the Home Office advised children to claim asylum in France.
- As of April 2017 Safe Passage reported that 200 children had been transferred to the UK from Calais under the Dubs Amendment.³¹
- What status do they enter the UK with?
 - Children transferred to the UK under Dubs are given temporary admission and must then apply for asylum.³²
- What are the rules?
 - The Immigration Act 2016 specifies that eligible children should
 - be unaccompanied
 - be transferred from France, Greece or Italy
 - have entered the EU before 20 March 2016.
 - On 8 November 2016 the Home Office published guidance which significantly narrowed eligibility for Dubs children. Eligible children had to meet one of the following criteria:
 - be aged 12 or under
 - be at high risk of sexual exploitation
 - be aged 15 or under and of Sudanese or Syrian nationality
 - be aged under 18 and the accompanying sibling of a child meeting one of the three criteria outlined above.

²⁸ Safe Passage website, accessed 6 December 2016 <http://safepassage.org.uk/>

²⁹ The Independent, Group of refugee children from Calais Jungle arrive in Scotland, 14 November 2016 <http://www.independent.co.uk/news/uk/home-news/refugee-children-scotland-edinburgh-dubs-amendment-just-arrived-a7415101.html>

³⁰ The Guardian, Migrant teenagers without family in UK barred except Syrians and Sudanese, 16 November 2016 https://www.theguardian.com/uk-news/2016/nov/15/migrant-teenagers-without-family-in-uk-barred-except-syrians-and-sudanese?utm_content=buffer4170&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer

³¹ Safe passage website, accessed 19 April 2017 <http://safepassage.org.uk/>

³² Home Office, Guidance: Implementation of Section 67 of the Immigration Act 2016 in France, 8 November 2016, section 4-5; Hansard, Refugees: Children: Written question – 51377, 11 November 2016 <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-11-01/51377>

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- In addition to meeting one of the above criteria they must also had to have been in the Calais camp on or before 24 October 2016, have entered Europe before 20 March 2016 and their transfer to the UK must be determined to be in the best interests of the child.³³
- According to Safe Passage the eligibility guidance was only released because of legal action by Citizens UK. The guidance was roundly criticised for being immoral and possibly illegal in its failure to include 15 year olds from countries other than Syria and Sudan and to exclude 16 and 17 year olds.³⁴ (Safe Passage estimates that 40% of children in the Calais camp at the time of the clearance were Eritrean or Afghan.³⁵)
- In March 2017 the Home Office released new guidance for transferring the remaining 150 Dubs children.
 - Nationality restrictions were removed
 - Responsibility for referring children was given to the authorities in France, Italy or Greece
 - Eligible children had to be in Europe before the EU/Turkey refugee agreement, be 'likely to be granted refugee status in the UK', had to fulfil the UNHCR requirement for being at risk, and had to have had a Best Interests Determination.³⁶

What is the National Transfer Scheme?

N.B. Because this applies to unaccompanied children, it is relevant for children from Calais entering the UK through their own means and under the Dubs Amendment but not those entering under Dublin III.

- There are powers within the Immigration Act 2016 to direct local authorities to take responsibility from other local authorities for unaccompanied children seeking asylum in the UK.³⁷ The stated aim is ensure that the responsibility for supporting these children is not

³³ Home Office, Guidance: Implementation of Section 67 of the Immigration Act 2016 in France, 8 November 2016

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/568565/Implementation_of_section_67_of_the_Immigration_Act_2016_in_France_v2.0.pdf

³⁴ Hansard, Calais Children and Immigration Act Vol 617 Col 241, 16 November 2016 <https://hansard.parliament.uk/Commons/2016-11-16/debates/AF497695-37C8-46E9-92D5-300854DDEA74/CalaisChildrenAndImmigrationAct>

³⁵ Safe Passage, Citizens UK legal action forces government to reveal restrictions on children who qualify for sanctuary under Dubs amendment, 16 November 2016

http://safepassage.org.uk/news_posts/citizens-uk-legal-action-forces-government-to-reveal-restrictions-on-children-who-qualify-for-sanctuary-under-dubs-amendment/; Safe Passage, "Betraying the letter and spirit of Dubs": charities criticise Home Office for ban on teenage refugee transfers, 16 November 2016 http://safepassage.org.uk/press_posts/betraying-the-letter-and-spirit-of-dubs-charities-criticise-home-office-for-ban-on-teenage-refugee-transfers/; The Guardian,

Home Office block on Afghan and Eritrean teen refugees 'a disgrace', 16 November 2016 <https://www.theguardian.com/world/2016/nov/16/home-office-block-on-afghan-and-eritrean-teen-refugees-a-disgrace>

³⁶ UKVI, Policy Statement: Section 67 of the Immigration Act 2016, 10 March 2017 <https://www.gov.uk/government/publications/policy-statement-section-67-of-the-immigration-act-2016>

³⁷ Immigration Act 2016, sections 69-73

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bunched into a small number of local authorities situated next to entry points into the UK (e.g. Kent) and is more evenly shared across the country.

- In practice this has been enabled through a voluntary interim transfer protocol in place since 1 July 2016, so the powers to direct local authorities have not yet needed to be used.³⁸ However it is clear that the government can use powers to make the transfer of children mandatory if it deems it necessary.
- The transfer protocol can be triggered when the number of unaccompanied asylum seeking and refugee children under the age of 18 in a local authority area (the entry authority) reaches more than 0.07% of the area's child population. Then the local authority can request a child is transferred to another local authority. This can either be done directly with another local authority (the receiving authority) or through the Home Office's central administration team. If areas in the rest of the entry authority's region are under the 0.07% ceiling then a transfer should be made within that region, if not the transfer should take place outside the region. For the purposes of the transfer protocol, Kent is treated as a region on its own.
- According to a Freedom of Information request, between 1 July and 31 August 2016, Kent made 89 requests for a child to be transferred to another local authority, 55 of whom went on to be transferred to a receiving authority – none of these children ended up in the North West.³⁹
- The data used in the 0.07% calculation is based on 2014 census figures to calculate an area's child population, and the financial receipts each local authority puts into the Home Office to cover the cost of supporting unaccompanied children.
- At the same time as the voluntary protocol was published, annual central Government funding support for each child was increased from £34,675 to £41,610.⁴⁰
- If not otherwise agreed, the local authority receiving the child will be responsible for covering the costs of transporting the child from the local authority where they entered the UK.
- The central administration team will maintain a database of unaccompanied asylum seeking children based on the financial receipt information submitted by each local authority and the forms associated with the transfer protocol.

³⁸ Department for Education, Home Office, Department for Communities and Local Government, Interim National Transfer Protocol for Unaccompanied Asylum Seeking Children, 1 July 2016

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534258/Interim_National_UASC_transfer_protocol.pdf

³⁹ Freedom from Information Act request from Adrian Matthews to Kent County Council https://www.whatdotheyknow.com/request/unique_unaccompanied_child_recor_2

⁴⁰ Home Office, Home Office funding: Unaccompanied asylum seeking children (UASC), October 2016

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/561388/UASC_Funding_Instructions_2016-17_version_3.pdf

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- There is no right of appeal if a child wishes to challenge a transfer decision but the interim protocol states that ‘where children are settled and established in a local authority area, that local authority may make the decision that it is not in the best interests of the child for them to be moved’. This could be the basis of a judicial review if it is considered this assessment has been improperly made.⁴¹

⁴¹ The interim protocol further states: ‘This decision will take in to account the child’s best interests alongside other considerations - this may include but not necessarily be limited to: medical treatment, family ties, legal representation and advocacy, education, ethnic group, religion and continuity of care.’

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