



UK Short Term Holding Facilities in northern France: briefing

In the context of the response to the COVID-19 pandemic, there have been worldwide calls for an end to immigration detention and other forms of incarceration. In light of the serious risk of transmission, illness and death presented by conditions in detention,¹ many countries, including the UK, have decided to release detained people to safeguard individual and wider public health.

The UN Subcommittee on the Prevention of Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (SPT) among other international bodies, has urged for changes in the detention regimes of states to including; safe mass releases, maintenance of the lowest possible population numbers, and parity in healthcare and protection that are afforded to the non-incarcerated population - in line with the UN standard minimum rules for the treatment of prisoners (the Nelson Mandela rules).²

Detention practices in both France and the UK have received important scrutiny during this period, and some success has been made in the release of those in detention.³ However, the sites of offshore UK detention in northern France⁴ remain relatively unaccounted for and present a concerning risk to those held in them, as has already been highlighted for UK-based detention centres.⁵ This is heightened by the physical and mental health risks posed by the inhumane living conditions of many of the displaced people entering detention, including severe lack of access to sanitation, regular living site evictions and police violence.⁶

There is a pressing need for both immediate and medium-term change. For the immediate term, in the context of the current global health pandemic, we are calling for the suspension of the use of these detention facilities in northern France for the duration of the COVID-19 pandemic. As for the medium-term, we are calling for greater scrutiny to be placed on the concerning practices of offshore detention that take place there.

Brief background

- There are currently four UK Short Term Holding Facilities (STHFs) operated in northern France, which form part of the juxtaposed border controls between the UK and France established by the Sangatte and Touquet treaties.
- Under these agreements, the UK operates its border control and has powers of detention and arrest in France and Belgium, and vice versa. As part of this, Short Term Holding Facilities have been

¹ <https://www.globaldetentionproject.org/covid-19-immigration-detention-platform>

² <https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf>

³ https://www.lemonde.fr/societe/article/2020/03/21/les-centres-de-retention-administrative-se-vident_6033939_3224.html,

<https://www.theguardian.com/uk-news/2020/mar/21/home-office-releases-300-from-detention-centres-amid-covid-19-pandemic>

⁴ 2020 HMIP Inspection report

<https://www.justiceinspectores.gov.uk/hmiprisons/media/press-releases/2020/03/uk-border-short-term-immigration-detention-at-french-ports-improved-facilities-but-some-serious-concerns/>

⁵ <https://detention.org.uk/coronavirus-release-all-from-immigration-detention/>

⁶ <http://www.laubergedesmigrants.fr/wp-content/uploads/2020/04/Rapport-mensuel-Calais-mars.pdf>;
<http://www.laubergedesmigrants.fr/wp-content/uploads/2020/04/Rapport-mensuel-GS-Mars.pdf>

operated by the UK since 2004,⁷ but there is no reciprocal arrangement operated by France on UK territory. They are used to hold individuals making the crossing from Calais or Dunkirk to Dover who are suspected of having incorrect paperwork, or who are found hidden in commercial vehicles.

- These detention facilities have received concerningly little visibility compared to other UK and French detention sites, other than few and far between HMIP inspections.⁸ The inspection reports, the most recent following a visit in November 2019,⁹ point to a worrying lack of accountability and judicial oversight, as well as multiple serious safeguarding concerns which are only likely to become more pronounced during this global health pandemic, particularly for displaced individuals who are subject to insalubrious living conditions in informal settlements in northern France as well as a lack of access to proper healthcare and shelter.¹⁰

What we are calling for

- UK Border Force to guarantee the discontinued use of detention in these holding facilities, as well as in transit vehicles other than for transportation, whilst the risk of COVID-19 transmission is still high.
- UK Border Force, in cooperation with its French partners the Police Aux Frontières (PAF), to refer individuals directly to available accommodation in France, rather than holding them in detention and subsequently releasing them into the port area of Calais.
- Increased scrutiny to be placed on the Home Office regarding the practices, and legal basis, of these detention sites as the risks and rights infringements that they result in are becoming more evident. This should include: (1) the numbers of people being detained currently; (2) the safeguarding practices put in place. Given the absence of third-sector organisations, there is no information publicly available on either of these questions during this period.

Why is this important?

Health risks

- 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 the 2019 inspection visit.¹¹ 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 research¹² and the recommendations of UN SPT. During this detention time, in several of the STHFs people have their medication removed from them¹³ 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.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 inspection, over 1,000 detainees were held in escort vehicles.¹⁵ This makes it incredibly difficult to identify vulnerabilities, safeguarding concerns or health risks.

7

https://ora.ox.ac.uk/objects/uuid:7058db27-e9dc-4385-b35e-8e10ae96cfa1/download_file?file_format=pdf&safe_filename=calais_revised_31.10.19.pdf&type_of_work=Journal+article

⁸ Indeed, no inspection visits were made to these centres for a period of almost ten years due to ‘lack of jurisdictional clarity’. Pg 5

<https://www.justiceinspectors.gov.uk/prisons/wp-content/uploads/sites/4/2014/03/calais-coquelles-2012.pdf>

⁹ 2020 HMIP Inspection Report

¹⁰ https://www.gisti.org/IMG/pdf/urgent_communication_un_special_rapporteurs.pdf

¹¹ This was in the Calais Tourist facility: see 2020 HMIP Inspection Report pg 28

¹² <https://journals.sagepub.com/doi/abs/10.1111/j.1748-720X.2007.00184.x>

¹³ Ibid pg 8, 18, 28, 38

¹⁴ <https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf>

¹⁵ Ibid pg 28

- Given the use of force and manhandling of detainees in the centres,¹⁶ it would appear impossible to ensure one metre distance between detained people and/or staff, as required by healthcare guidelines.¹⁷
- 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”,¹⁸ presenting an even more concerning risk in light of the current global health crisis.

Safeguarding risks

- Throughout the HMIP inspection reports of the STHFs, concerns are raised regarding the systemic poor safeguarding practices and lack of detainee welfare available. The regular detention of children and absence of referral pathways for potential victims of trafficking have drawn particularly harsh criticism.¹⁹ 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.
- In the Coquelles Tourist facility, throughout the last year there were no safeguarding referrals made to the PAF from UK Border Force when detainees were handed over,²⁰ even when a 17-year old child with a gunshot wound was found and detained.²¹
- Children, both unaccompanied and accompanied, are regularly detained. In the three months prior to the 2019 inspection visit alone, 252 children had been detained between three of the facilities. In the Coquelles Freight facility, no records are kept of children who are detained, meaning any safeguarding referrals or trafficking investigations are undermined.
- Given the consistent lack of access to legal information, access to asylum procedures and interpreters,²² it is highly likely that people 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.
- 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).²³ The recent HMIP report states that “those handed to PAF were then often released into the port or other public area”,²⁴ including women and children late at night,²⁵ meaning people are sent directly back to insalubrious camp conditions which now pose a higher physical and mental health risk than ever before.²⁶
- With the Calais CRA now closed in the context of COVID-19,²⁷ it is unclear whether detainees from the UK STHFs are being transferred to different French detention centres, or are simply all released back into the port area and informal camps.

¹⁶ 2020 HMIP Inspection report pg 10

¹⁷ <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>

¹⁸ 2020 HMIP Inspection report pg 24

¹⁹ <https://www.justiceinspectors.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/06/2014-Dunkerque-Web.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-Calais-Web-2016-2.pdf> (2016 Calais Inspection report)

²⁰ 2020 HMIP Inspection report pg 10

²¹ 2020 HMIP Inspection report pg 21

²² 2020 HMIP Inspection report pg 12-13, 2016 Dunkerque Inspection report pg 16, 2012 Calais Inspection report pg 16.

²³ 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.

²⁴ 2020 HMIP Inspection report pg 8

²⁵ 2020 HMIP Inspection report pg 5

²⁶

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

²⁷

<https://www.lacimade.org/confinement-dans-les-hauts-de-france-demarches-administratives-possibles-accueils-de-jour-distributions-alimentaires-et-dispositifs-dhebergement/>

Lack of accountability

- The UK STHFs in northern France operate within a legal grey zone between UK and French jurisdiction, and are subject to very limited judicial oversight.²⁸ There are large lapses in between independent inspection visits (prior to the 2019 inspection the last one took place in 2016), and indeed for a period of eight years between 2005 and 2013 there were no inspections made due to “lack of jurisdictional clarity”.²⁹ Despite this large time lapse, between each inspection very few recommendations are implemented leaving concerns regarding accountability for breaches in legal and safeguarding matters.³⁰
- There is a black hole of legal accountability for any such breaches, since the UK’s STHF Rules do not apply to holding rooms at either Calais or Dunkirk, although they do apply in Coquelles.³¹ The recent inspection report stated that “we were concerned that Border Force could not tell us the legal authority under which [the Calais] detainees were held”.³²
- Moreover, the contracting out of the detention centres’ management to private companies Tascor and Eamus Cork Solutions allows the UK to “avoid engaging obligations under international and national refugee and human rights law”.³³
- Whilst individuals may be held in these centres operated by UK Border Force, under the control of UK authorities and indeed subject to UK criminal jurisdiction within the specified ‘Control Zone’,³⁴ they are unable to benefit from legal protections or indeed the right to present an asylum claim.³⁵ This has led to accusations of these centres becoming the UK’s own Guantanamo.³⁶

Conclusion

All of these serious gaps in protection, and lack of clear accountability for breaches in access to basic rights, produce an extremely concerning situation for those detained in the UK Short Term Holding Facilities even prior to the COVID-19 outbreak. Following the outbreak and the increasingly urgent need to ensure social distancing, access to healthcare and relevant information, and access to protection mechanisms for the most vulnerable, the UK detention facilities in northern France present a serious risk to those placed in them or held in escort vehicles nearby. For all those attempting to make the crossing from France to the UK, whether with documentation or otherwise, detention in unsafe conditions should be replaced immediately by proper safeguarding mechanisms including shelter, information and proper healthcare.

28

https://ora.ox.ac.uk/objects/uuid:7058db27-e9dc-4385-b35e-8e10ae96cfa1/download_file?file_format=pdf&safe_filename=calais_revised_31.10.19.pdf&type_of_work=Journal+article

²⁹ <https://www.justiceinspectors.gov.uk/prisons/wp-content/uploads/sites/4/2014/03/calais-coquelles-2012.pdf>

³⁰ In Coquelles Tourist, only one of nine recommendations from the 2016 inspection were achieved by 2019.

³¹ UK Short-Term Holding Facilities Rules, 2018

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721583/STHF-rules-operational-guidance-v1.0-EXT.pdf

³² 2020 HMIP Inspection report pg 4

³³ Refugee Council <https://www.unhcr.org/4d947e5f9.pdf>

³⁴ 1991 Protocol between the Government of the United Kingdom and the Government of the French Republic Concerning Frontier Controls and Policing, Co-operation in Criminal justice, Public Safety and Mutual Assistance Relating to the Channel Fixed Link

³⁵ https://refugee-rights.eu/wp-content/uploads/2020/04/RRE_PP_NewWaysAccessUKAsylum-2020.pdf

³⁶ <https://www.independent.co.uk/news/uk/home-news/the-calais-isquoguantanamorsquo-1650592.html>