

CALAIS MINORS:

BRIEFING ON NEW HOME OFFICE GUIDANCE ON ELIGIBILITY FOR SECTION 67 PROCESS.

BACKGROUND

For months Britain repeated its promise to accommodate all unaccompanied and vulnerable children who remained in the 'Jungle' refugee camp in Calais with resettlement in the United Kingdom. But without any declaration to the contrary, several hundred children, having been assured that their cases would be processed, have been left to their own fates and remain in France. Our government claims that life in France should cause little concern. However, French authorities have repeatedly failed to implement their own laws about care for the vulnerable and to communicate in age-appropriate terms and with better than incomplete or zero translation.

Britain is a caring and compassionate nation; we must play our part in the worst refugee crisis for more than 60 years. We have a proud history of welcoming children fleeing conflict and persecution. Kindertransport survivors and family members are a testament to this courage and compassion. We should demonstrate these values again now in responding to the Calais children left behind in France.

2016 IMMIGRATION ACT

The story is that we have accepted hundreds, and hundreds more are due to be processed. So far over 300 have arrived in the UK, being mainly those with family ties, subject to the obligations of the Dublin Regulation III (2015), to which the UK is a signatory. Few children have been accepted by the United Kingdom on compassionate grounds, as is demanded by Lord Dubs' amendment that became Section 67 of the 2016 Immigration Act. This reads:

Unaccompanied refugee children: relocation and support

(1)The Secretary of State must, as soon as possible after the passing of this Act, make arrangements to relocate to the United Kingdom and support a specified number of unaccompanied refugee children from other countries in Europe.

(2)The number of children to be resettled under subsection (1) shall be determined by the Government in consultation with local authorities.

(3)The relocation of children under subsection (1) shall be in addition to the resettlement of children under the Vulnerable Persons Relocation Scheme.

Members of the public, charities and MPs of all parties overwhelmingly supported this legislation which aimed to protect some of the vulnerable children left alone in Europe after fleeing conflict and persecution.

CLEARANCE ASSURANCES

Before the camp was finally cleared at the end of October, British officials, there to process the children, left – and those who accompanied the buses to Centres elsewhere did not remain after the journeys, leaving the youngsters unable to find out what would happen. We are concerned at the uncertainty experienced by the 1,600+ children from the camp in Calais, made anxious by the delay and absence of information.

On 8 November the Home Office issued new guidance to officials on Implementation of section 67 of the Immigration Act 2016 in France, which became public this week. It provides caseworker guidance on identifying and assessing children who are to be transferred to the UK and updates guidance previously used when assessments were being carried out within the Calais 'Jungle'.

NEW GUIDANCE

This guidance lists “General criteria for eligibility under section 67 of the Immigration Act 2016 for children in Calais.” Contrary to the wording of the Act, these state that:

To be eligible a child must meet **one** of the following criteria:

- they are aged 12 or under
- they are referred directly by the French authorities, or by an organisation working on behalf of the French authorities, to the Home Office as being at high risk of sexual exploitation
- they are aged 15 or under and are of Sudanese or Syrian nationality (these nationalities have a first instance asylum grant rate in the UK of 75% or higher, based on the asylum statistics for the period from July 2015 to June 2016)
- they are aged under 18 and are the accompanying sibling of a child meeting one of the three criteria outlined above

And they must meet all of the following criteria:

- transfer to the UK must be determined to be in the best interests of the child
- the child must have been present in the Calais camp on or before 24 October 2016
- the child must have arrived in Europe before 20 March 2016

The goalposts have been moved and as a consequence children, some very young, have been completely betrayed and deserted by one of the world's wealthiest countries. According to the International Red Cross many are “depressed and frightened”. It is ludicrous to maintain that they have endured dangerous and lonely journeys for any other reason than to get away from fear and oppression. They may perhaps have been misguided in their choice of destination, but they are not arriving here to have a good time or take a holiday break!

We are concerned that the government's decision to only take children from Syria and Sudan from Calais is a mistaken application of their intent to ensure that only children from refugee producing countries are admitted to the UK. It is clear from last year's asylum statistics (http://www.refugeecouncil.org.uk/.../Asylum_Statistics...) that Eritrean minors, for example, should be assessed as hailing from a 'refugee producing country'. (The fact that the 89% of successful applications by Eritreans required appeals against initial refusals is not relevant. Our government controversially changed its guidance upon the overall safety of Eritrea in March 2016, so requiring cases to be treated individually, and still 86% of appeals in the first quarter of 2016 succeeded.) Many hundreds of applications by refugees from Afghanistan are granted, too, every year. A blanket ban cannot be justified.

The apparently arbitrary opening date for acceptance is a concession applicable throughout Europe that was made during debate in Parliament, when assurances were given that, in the absence of documents, it could be assigned on the basis of various types of supporting evidence. The closing date marks the start of the removal of young people from Calais.

The 75% figure probably comes from an EU decision to use this figure as a threshold recognition rate in their relocation scheme with the twin objectives of (i) ensuring that all applicants who are in clear and urgent need of protection can enjoy their right of protection as soon as possible, and (ii) preventing applicants who are unlikely to qualify for asylum from being relocated and unduly prolonging their stay in the EU. It recognises that some of the 25% excluded will have some chance of success in applying for asylum and its effectiveness in speeding up decisions has been questioned by several analysts. In addition, using first decisions as the basis for applying the 75% figure is a false procedure (a) because the figures change every quarter and (b) because applicants from several countries have an above-average rate of success with appeals, leading to final outcomes well above the 75% level.

It is against international law to make categorical judgements about nationalities instead of considering every refugee claim on its individual merits. There are usually dangerous regions in a country and groups who rightly fear violence due factors such as tribal tensions, religion, sexual orientation or family involvement in politics or in media reporting of bad government.

Citizens UK's Safe Passage team estimates that 40% of children in the Calais camp at the time of the demolition were Eritrean or Afghan. If the Home Office applies its new criteria to the children who are being considered for sanctuary in the UK, it will be impossible to meet the Home Secretary's commitment to take "half" of the children from Calais.

With the new Home Office Guidelines on the implementation of Section 67 of the 2016 Immigration Act, the UK is abandoning its moral and legal duty to safeguard

unaccompanied minors, betraying both the spirit and the letter of the Dubs Amendment which makes no reference to age or country of origin.

Minors were of the understanding that all claims would be considered during registering and boarding buses, which preceded the date of issue of the guidelines which now only allow those of a certain age or specified nationalities above a certain age to be considered. Trust has been broken, and many very young unaccompanied minors of various nationalities will simply desert the Centres where they have been placed and instead try dangerous and extreme routes to claim asylum in the UK.

These criteria continue to penalise some of the most vulnerable unaccompanied children in the crisis. They do nothing to put into place any kind of safety net for the children that this amendment was designed to protect and as a result children as young as 13 are just as at risk as they ever were. An Afghan child of this age is no less deserving of safeguarding than a Syrian one. We have equal responsibility to them all.

OPINION

It is appalling that the Government is backtracking on its commitment to protect unaccompanied child refugees from Calais. Is this what we really expect from our government? Publicly making promises, filling the most vulnerable people possible with some justifiable sensation of hope and anticipation, just to be left in limbo. Is our word no longer our bond?

This may continue because the media are not interested – it's becoming an old story and doesn't sell papers. There is far more interest in the handful of immigrants who may manage to get too much money from social services or a few children who get through the system and turn out to be a couple of years too old to qualify. We need to speak up and change this attitude.

The change is shocking. The new guidance will leave children at risk and denied their right to seek sanctuary in Britain simply because of their age or nationality.

These disgraceful new rules betray both the spirit and the letter of Lord Dubs' amendment, despite the government's undertaking that they would accept both the letter and the spirit of the amendment. The new eligibility criteria breach Section 67: our Government has gone back on its word and ministers have arbitrarily drawn up stricter criteria to limit the chances of vulnerable children starting a new life in Britain.

It appears that they are trying to find a way of avoiding taking more than a handful of children, and while this currently applies to Calais, it will likely extend to unaccompanied children in Greece and Italy as well.

WHAT SHOULD HAPPEN

Seeking Sanctuary says that:

- The government should face up to its obligations and be a leader in accepting those who are young, vulnerable, traumatised and in danger. The Home Office must amend this guidance and meet its responsibility to all unaccompanied child refugees, regardless of their nationality.
- We do not object to certain children being prioritised, but the strict eligibility criteria totally rule out bringing many of the youngsters who had been living in the Calais camp before it was cleared in October. Hundreds of children now face an uncertain future. We strongly urge the government not to use the new criteria retrospectively, or at least to reconsider them and show compassion in this ongoing crisis.
- In order to stay true to Section 67 of the Act, each child's unique vulnerabilities should be taken into account, rather than applying arbitrary criteria. The government must ensure that a full and proper best-interests assessment is carried out for each individual, respecting the needs of children who have already been pushed from pillar to post in search of safety.
- Officials should understand that is important to avoid assessing children according to arbitrary criteria – especially to these, which leave any child subject to a medium or moderate risk of sexual exploitation on their own!
- We call upon the government to accept a maximum of the Calais children of all ages and nationalities by Christmas. During the camp demolition parliament was told that it would be a good outcome if Britain took in half of the total number of children. We agree. It is now clear that there were over 1600 unaccompanied children in Calais at the time of demolition. Compared to the 95,000 unaccompanied children who arrived in Europe last year in the refugee crisis, this is not too big an ask.

You can find out about contacting your MP at both these websites:

www.theyworkforyou.com

www.parliament.uk/get-involved/contact-your-mp/

Please pass this Briefing on to others so that they can take action.

*Seeking Sanctuary,
18 November 2016.*