

The Detention Forum



Short term holding facilities in Northern France

A policy paper
April 2022

SUMMARY

This paper provides a context for discussing short-term holding facilities (STHFs); it then presents an overview of what is known about STHFs in Northern France, including numbers of people detained, facility conditions, jurisdictional ambiguity, accountability issues, and outcomes of inspections by HMIP. We characterize STHFs in Northern France that operate under the UK's externalised border controls as legal and procedural grey zones. Finally, the paper articulates the Detention Forum's position on STHFs in Northern France, which include calls to:

- End the use of extra-territorial detention by closing these STHFs where there are significant barriers to accountability.
- Challenge the externalised border control set-up between the UK and France which allows for the existence of these centres, without transparency on corresponding human rights responsibilities.

BACKGROUND

At a Detention Forum meeting in 2020 (Dec. 9th) Frances Timberlake, then UK Advocacy Officer for Refugee Rights Europe, briefed the forum on short term holding facilities (STHF) in Northern France. At that meeting it was agreed that Detention Forum members would welcome more information on these facilities in order to facilitate discussion toward development of the Detention Forum's position and recommendations on these sites. This paper culminates drafts and discussions that followed, including:

- i) Follow up discussion and valuable input from Frances Timberlake, Bill MacKeith and Jonathan Ellis.
- ii) A review of HMIP inspection reports¹ and follow-ups to these reports.
- iii) A review of research, which is quite limited, on these STHFs.
- iv) Open meeting and discussion of drafts with Professor Mary Bosworth (Director of the Centre for Criminology / Director of Border Criminologies, University of Oxford), representatives from Anafé (Association nationale d'assistance aux frontières), migration law experts, and with members of the Detention Forum.

SHORT TERM HOLDING FACILITIES (STHFs) in GENERAL

STHF are part of the infrastructure of immigration detention. In the UK, the stated purpose of STHFs is to hold individuals for limited time periods on arrival or pending removal from the UK. Many airports and ports as well as immigration reporting centre sites have STHFs. Estimates indicate that, currently, there are more than 25 STHFs in the UK.² The first and only national inspection of STHFs by HMIP, completed March 2020, identified "an urgent need to undertake a comprehensive national audit" of these facilities when Border Force senior managers could not state "with certainty which of

¹ HMIP (Her Majesty's Inspectorate of Prisons) inspection reports are available at: <https://www.justiceinspectors.gov.uk/hmiprison/>

² A complete list of STHFs was not available at time of writing; based on HMIP inspection reports there are three residential short-term holding facilities (Larne, Colnbrook, and Manchester airport) where individuals can be detained for up to seven days and at least 25 STHFs. There are also at least an additional 13 STHFs at border sites (seaports and airports) operated by Border Force. See: <https://asylumineurope.org/reports/country/united-kingdom/detention-asylum-seekers/detention-conditions/place-detention/>

their ports actually had detention facilities [which suggests] an alarming lack of oversight and accountability.”³ STHFs should also be considered in relation to expanding use, re-designation of IRCs (for example in August 2020, Yarl’s Wood IRC was re-designated and now operates wholly under STHF rules), and increasing use of ‘quasi detention’ sites.⁴ In short, short-term holding facilities in the UK are part of a continuum of immigration detention sites that, to date, have received limited attention and where scrutiny is needed. This was highlighted as a matter of concern and an issue to be taken up in more depth by members of the Detention Forum.

STHFS in NORTHERN FRANCE

This paper focuses on STHFs in Northern France, where UK authorities operate the facilities to function alongside border control operations. Like facilities in the UK, these STHFs are part of a continuum of detention and enforcement measures. They are an extant example of extra-territorial immigration controls and, as such, must be considered alongside campaigning against the proposal on the use of off-shore detention facilities that are part of the UK Nationality and Borders Bill.⁵

The publicly stated purpose of STHFs in Northern France is to hold people who are suspected of having incorrect paperwork before they can either be allowed to continue their journey to the UK or handed over to French border police. Individuals can be detained in STHFs on a temporary basis, up to 24 hours.⁶ STHFs in Northern France have operated under the terms of ‘juxtaposed controls’ treaties since 2004.⁷ Juxtaposed controls refer to the set of legal arrangements that allow one nation state to operate within the territorial borders of another; in effect, they are the legal rules that facilitate extra-territorial border control.

There are currently four STHF sites in operation in Northern France; two are located in the town of Coquelles, which is part of the Eurotunnel area, and one is located within each of the ports of Calais and Dunkerque. French authorities run parallel facilities as well as a Centre de Retention Administrative (a detention facility), also in Coquelles. Three of the British facilities are contracted out to Mitie (two at Coquelles and one at Calais) while Eamus Cork Solutions (ECS), a registered private security company in France,⁸ runs the Dunkerque facility. A Border Force presence is maintained, along with contracted security, Wagtail, a sniffer dog company,⁹ as well as the French border officers, la Police Aux Frontières (PAF). UK nationals working at three of the facilities (at Coquelles and Calais) commute from the UK and some stay at local hotels while completing shift work. The Dunkerque facility is staffed by French workers contracted by ECS.

NUMBERS

Based on the 2019 HMIP inspection, an estimate of 900+ people are detained on a monthly basis across the four STHFs in Northern France. The overall average number of hours detained across all four facilities is 3.5 hours; however, there have been reports of people being detained for 16 hours or more. **Table 1** (see p. 3) presents a summary of available information related to each facility.

³ HMIP Report on a national inspection of the short-term holding facilities in the UK managed by Border Force (2020: 4), available at: <https://www.justiceinspectors.gov.uk/hmiprisons/>

⁴ See <https://appgdetention.org.uk/inquiry-into-quasi-detention/>

⁵ See <https://bills.parliament.uk/bills/3023>

⁶ Detention in STHFs can be extended to 48 hours in exceptional situations, when authorized.

⁷ ‘Juxtaposed Controls’ refer to a border control system implemented by a series of protocols that include the 1991 [Sangatte Protocol](#), the 2000 Additional Sangatte Protocol, the 2003 [Treaty of Touquet](#), as well as subsequent amendments that set out legal arrangements for the operation of extra-territorial border controls by the UK in Northern France, and vice versa. For a useful overview of juxtaposed controls see Mary Bosworth’s blog post (2016) <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2016/02/juxtaposed-border>

⁸ <http://www.eamuscork.com>

⁹ <https://www.wagtailuk.com>

More information on companies contracted to operate in Calais is available here (last update appears to be July, 2017) <https://calaisresearch.noblogs.org/contractors/>

STHFs in Northern France					
Facility location	Coquelles		Calais		Dunkerque
Facility name	Coquelles - tourist	Coquelles - freight	Calais - tourist	Calais - freight	
Managed by	Mitie Care & Custody	Mitie Care & Custody	Mitie Care & Custody	ECS escort vehicles used	Eamus Cork Solutions -ECS
Average number of people detained p/month	270	30* *Note: Additional unknown #s are held in vehicles for transfer to PAF	150	Facility closed in 2012 however, an estimate of +300 people p/ month held in escort vehicles (per HMIP 2019 inspection).	160
Ave. # of children detained p/month	19¹⁰	Adequate records not kept	17¹¹	No record available	48¹²
TOTAL Estimated # detained p/ month	910 persons detained per month				
Average length of detention	3 hours, 5 mins.	2 hours, 55 mins.	5 hours, 28 mins.	Average wait 56 mins, 38% held +1 hour	5 hours, 8 mins.
Longest period of detention	10 hours	10 hours, 30 mins.	16 hours	3 hours, 30 mins.	16 hours, 30 mins.
Notes on facility conditions	<p>Separate holding room for children and families.</p> <p>No on-site medical care.</p> <p>No access to outdoors for fresh air/exercise.</p> <p>Phones with cameras not permitted. Non-private phone use allowed.</p> <p>UK staff on site.</p>	<p>Persons found in commercial vehicles, handed over to PAF.</p> <p>Facility now includes two holding rooms, one for families and children.¹³</p> <p>No on-site medical care.</p> <p>Limited information on supports available.</p> <p>UK staff on site.</p>	<p>Persons detained from cars/ coaches.</p> <p>Two holding rooms, one for families/children</p> <p>No on-site medical care.</p> <p>Non-camera mobiles allowed not well-communicated.</p> <p>Concerns about release at night, esp. children and women travelling alone.</p> <p>UK staff on site.</p>	<p>Holding room closed Dec 2012 (HMIP Inspection report, 2012). Individuals are transferred directly to PAF or held in escort vehicles awaiting transfer.</p> <p>IS91 (authority to detain forms) not always fully completed.</p> <p>No on-site medical care.</p> <p>UK staff on site.</p>	<p>Two holding rooms.</p> <p>No on-site medical care.</p> <p>Phones held by ECS for duration of detention.</p> <p>Phone calls require Border Force permission.</p> <p>Run by French staff working for ECS.</p>

Table 1: Overview of detention in STHFs in Northern France draws from HM Inspectorate of Prisons (HMIP) inspection report on STHFs at France-UK Borders, 2020¹⁴

¹⁰ In the 3 months preceding the 2019 HMIP inspection a total of 57 children—including 36 unaccompanied children—were held in the Coquelles tourist site.

¹¹ In the 3 months prior to the 2019 HMIP inspection 51 children—including 32 unaccompanied children—were held at the Calais tourist site.

¹² In the 3 months prior to the 2019 HMIP inspection 144 children—including 5 unaccompanied children—were held at the Dunkerque site.

¹³ The Coquelles freight site was replaced after a 2012 HMIP report recommended closure.

¹⁴ Available from: <https://www.justiceinspectrates.gov.uk/hmiprison/inspections/france-short-term-holding-facilities/>

FACILITY CONDITIONS AND ISSUES

According to Home Office statistics, in 2019, over 8,000 people were refused entry to the UK at sites where juxtaposed controls operate.¹⁵ No asylum claims can be made to UK authorities within the control zones. This is a condition set out in both the Touquet Treaty and the Sangatte Protocol, which specify that any asylum claim must be passed to be handled by French authorities.¹⁶ In effect, an individual's right to make an asylum claim is limited by the juxtaposed controls. A Refugee Council report for the European Council on Refugees and Exiles (ECRE) notes: "Although there is little or no substantiated evidence of *refoulement* taking place at the border, current UK policy and practice creates a risk of this occurring"¹⁷ because of the lack of assessment of individual asylum claims at the border. The Refugee Council report notes that research is needed to accurately assess this situation.

Writing in 2016, Mary Bosworth observed that these STHFs are under-researched sites of confinement where "the mix of jurisdictions in these sites, and personnel, and nationalities, is both difficult to describe concisely and confounds easy understanding."¹⁸ What is clear, nonetheless, is that the UK exercises extra-territorial jurisdiction, and this has problematic implications for the possibility of asylum seekers' claims being made in the UK.

Bosworth notes that the facilities are "built into the border zone itself, small clusters of buildings alongside passport control" where people are 'handed over' to different authorities depending on where they are discovered (car and coach passengers: UK Border Force, those discovered in trucks: French border police). The facilities vary in appearance; Dunkerque and Calais tourist facilities resemble a "police lock up" whereas the Coquelles tourist site "appears more like a NHS waiting room." Time zones fluctuate across a threshold, in the British-run STHFs clocks run an hour earlier than outside the facilities. Telephone calls to French phone numbers require an international area code, meals and food are brought in from the UK. In effect, then, these are pockets of British sovereignty that operate outside UK territory. Bosworth notes that juxtaposed controls mean jurisdiction shifts repeatedly and invisibly, which deflects, and ultimately evades, responsibilities, scrutiny, and accountability.¹⁹ At the same time, as Frances Timberlake observes, the principle of extra-territorial jurisdiction raises a question about the UK government's liability for individuals in STHFs, including potential asylum claims.²⁰

¹⁵ Home Office Immigration Statistics, year ending December 2020. Available at: <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-december-2020/how-many-people-are-detained-or-returned>. Note: Figures reported here refer to sites in France and Belgium; for more Home Office information on juxtaposed control sites see <https://homeofficemedia.blog.gov.uk/2017/07/11/fact-sheet-the-uks-juxtaposed-border-controls/>

¹⁶ Article 9 of the Touquet Treaty: <http://www.fortunes-de-mer.com/mer/images/documents%20pdf/legislation/Internationale/Surete/Traite%20Touquet%202003%20RU.pdf>
Article 4 of Sangatte Protocol <http://www.gisti.org/spip.php?article647> (This document is not published in English).

¹⁷ AIDA Country Report: United Kingdom – Border Procedure (border and transit zones, p. 41). Available at: <https://asylumineurope.org/reports/country/united-kingdom/asylum-procedure/procedures/border-procedure-border-and-transit-zones/>

¹⁸ Information, including all quoted text, in this paragraph draws from Bosworth, M. (2016) British Border Control on the French North Coast. Available at: <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2016/07/british-border> (Accessed May 20th 2021).

¹⁹ Mary Bosworth (2020) Immigration detention and juxtaposed border controls on the French north coast. *European Journal of Criminology*, 1-17.

²⁰ Frances Timberlake (2020) Experimenting and Exporting the UK Border Regime. *Oxford Monitor of Forced Migration*, 9(1): 52-68. Available at: https://764cab94-a9b5-43c3-a608-3aca9e914cb0.filesusr.com/ugd/701039_9b5bf64b949f4cbfbd609028faf496db.pdf (accessed July 23rd 2021).

HMIP INSPECTION REPORT FINDINGS

Some of the impacts of these ambiguities are clear from HMIP inspection reports and recommendations addressing conditions in these STHFs. HMIP conducted inspections in 2012 (Calais and Coquelles), 2016 (all STHFs in Northern France) and, most recently, in 2019. In addition to information about numbers detained and length of detention (summarized in Table 1, above), the 2019 report notes the following:

* While staff in each facility was generally “friendly and reassuring, and supportive to distressed detainees” (p. 4) and individuals were typically briefed on arrival at the STHFs, handovers between British and French authorities were not always comprehensive. For instance, the report repeatedly notes concerns about reporting related to safeguarding for vulnerable and at-risk adults as well as children’s welfare.

*No on-site medical care is available. Individuals’ medications are routinely withheld during detention. Accessing emergency medical care is protracted as it requires authorization by Border Force due to facilities’ being located in restricted areas.

Access to food, water, and hot drinks is available, and, while other provisions, such as toiletries and phone access, are also available, these are not always explained to individuals.

*Access to outdoors for fresh air or to smoke is generally not available unless requested.

*Frequently, detained individuals’ medications are removed on arrival. Access to emergency services is convoluted and, if needed, requires authorization from Border Force.

*Use of available telephone interpreting services is uneven across the facilities.

*Access to information about legal rights and other support resources is available but quite limited. For example, contact information for only one charitable organization is provided and legal documents relating to an individual’s detention are not translated.

*Improvements noted in the facilities since last inspection include updating, refurbishment, and the addition of separate holding rooms for children and families.

*Complaints procedures are generally inadequate, in some of the facilities the timeframe to acknowledgement is very slow (1-2 weeks), in others it’s impossible to submit complaints anonymously.

*Escort vans, used in transferring individuals to French authorities (PAF), are an issue, particularly because they can be used for prolonged periods and don’t allow individuals access to information or provisions.

*The timing of release once document review is completed is a concern. On occasion, this occurs at night, when onward transportation may not be available, which heightens vulnerability for individuals, particularly women and young people.

The 2019 HMIP report issued 50 recommendations intended to address the above as well as several other issues. A Service Improvement Plan (SIP) was prepared in May 2020, and provides a status update on recommendations.²¹ Of the 50 recommendations, the Home Office ‘accepted’ 18 (or 36%) and has addressed or is in the process of addressing these; 15 (30%) were ‘partially accepted’ and 17 (34%) were ‘not accepted’. The recommendations that the Home Office agreed to address are, in general, easy fixes such as changing the location of complaint forms and reminding staff that telephone translator services are available. Partially accepted recommendations include reviews of safeguarding data collation, healthcare provisioning, and providing access to fax (but not internet) facilities, where needed. Rejected recommendations include the provision of access to outdoor space, as detention is intended to be as short as possible, and provision of information related to legal services and supports in France, on the basis that this is a “recommendation with respect to the national administration and procedures for another country (France)” (p. 4). More than

²¹ Available at: <https://www.justiceinspectors.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/03/2020-05-21-Approved-Service-Improvement-Plan-France-UK-Borders-STHFs-Final.pdf>

12 months have passed since this approved plan was released; this coincides with the maximum time frame (12 months) indicated to address all accepted and partially accepted recommendations. Prior inspections in 2016 made 38 recommendations; of these 6 were achieved while 22 (56%) were not.

OUR KEY CONCERNS

- By nature of the fact they are beyond UK soil, STHFs in Northern France that operate under the UK's externalised border controls are legal and procedural grey zones. Ambiguities related to jurisdiction and oversight mean that the government is able to shift or indeed entirely deny responsibility for those held in the centres, thus limiting clarity, transparency, and, potentially, adherence to domestic and international human rights obligations.
- The impossibility of placing an asylum claim to UK authorities from these zones (as written into the 'juxtaposed controls' bilateral agreements) and the lack of access to information or legal advice, creates a risk of *refoulement*, or pushbacks, at the UK border.
- There are extremely poor safeguarding practices in place in the functioning of these centres, meaning that vulnerable people including unaccompanied minors and potential victims of trafficking are left without access to protection either from UK or French authorities.
- Conditions are unacceptable, despite some improvements over the years, with a lack of access to on-site healthcare, adequate legal advice, fresh air and interpreting services among multiple other issues.
- The wide-scale use of caged escort vehicles is a concerning trend, in particular due to the poor conditions during extended holding periods, and lack of paperwork issued to those detained.

WHAT WE ARE CALLING FOR

The Detention Forum works to challenge the UK's use of detention; our stance on STHFs in Northern France is consistent with this. Long term, we are calling for:

- Ending the use of extraterritorial detention by closing the short-term holding facilities in Northern France. The centres' complicated legal status, under juxtaposed controls, create significant barriers to accountability.
- Challenging the externalised border control set-up between the UK and France, which allows for the existence of these centres, with limited transparency related to corresponding human rights responsibilities.
- Further investigation into STHFs in the UK, which we recognize as part of a continuum and troubling expansion of detention and quasi-detention sites.
- Finally, we acknowledge the need to challenge all forms of extraterritorial detention by the UK.

We also call for the following immediate changes in the interim that would:

- Enable more effective oversight of and accountability for these centres, including, by:
 - Ensuring access to on-site medical care
 - Ensuring IS91 and IS91R forms are provided and completed fully
 - Providing access to reliable, independent UK and French legal advice from the centres.
 - Ensuring regular HMIP visits continue to be carried out.
 - Ensuring all centres are covered by the UK STHF Rules (2018).
 - Establishing an Independent Monitoring Board. According to the HMIP's 2020 report, an IMB has been designated. Updated information on the status of the IMB and reporting on its monitoring activities should be made publicly available.
 - An update on the agreed Service Improvement Plan (SIP) progress and implementation, which is now past due.
- Establish effective safeguarding procedures for vulnerable individuals held in the centres.
- End the use of escort vans for detention purposes.

END