



Home Office

Guidance: Implementation of section 67 of the Immigration Act 2016 in France

Version 2.0

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Contents

Contents.....	2
About this guidance.....	3
Contacts	3
Clearance and publication	3
Changes from last version of this guidance	3
Introduction	4
Background	4
The children duty	4
Eligibility Criteria.....	6
General criteria for eligibility under section 67 of the Immigration Act 2016 for children in Calais	6
Assessment Stages.....	7
Stage 1: Registration, Nationality and Age screening.....	7
Stage 2: Best Interest Determination	8
Stage 3: UK Processing - Security checks and referral to National Transfer Scheme	12
Stage 4: Granting of Temporary Admission to the UK.....	12
Stage 5: Transport to the UK and reception	12
Age Assessment	13

archived

About this guidance

This guidance sets out Home Office policy on transferring unaccompanied children who had been resident in the migrant camp in Calais on or before 24 October to the UK under the terms of section 67 of the Immigration Act 2016, who would not otherwise qualify for entry under another route. It is time limited to the period of the camp clearance operation, including the subsequent transfer of children to the centres d'accueil et d'orientation (CAOs). It provides caseworker guidance on identifying and assessing children who are to be transferred to the UK.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you, or you think that the guidance has factual errors, please [email the EU and International Asylum Policy team](#).

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance, please [email the Guidance Rules and Forms team](#).

Clearance and publication

Below is information on when this version of the guidance was cleared:

version 2.0

published for Home Office staff on 08 November 2016.

Changes from last version of this guidance

Changes to this guidance have been made to reflect that children will be interviewed from CAOs rather than the secure area of the Calais camp, and updates have been made to the eligibility criteria and the best interest determination section. It takes effect immediately and applies to any interview conducted on or after 08 November 2016.

Related content

[Contents](#)

Related external links

Introduction

Background

The Immigration Act 2016 requires the UK to bring a specified number of unaccompanied refugee children from Europe to the UK. It states:

Section 67 of the Immigration Act 2016

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.

The Government has further specified that:

- the focus will be on identifying children for transfer from France, Greece and Italy
- unaccompanied children must have been present in Europe before 20 March 2016 to be considered for transfer

The Government is under no obligation to transfer unaccompanied refugee children from Europe beyond the specified number to be determined following consultation with local authorities, where that transfer takes place other than in accordance with the Government's obligations under the Dublin III Regulation.

The children duty

Section 55 of the [Borders, Citizenship and Immigration Act 2009](#) requires the Secretary of State to carry out their immigration and asylum functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. Where a child is outside the UK, the spirit of the duty should be applied.

All Home Office staff (and contractors carrying out Home Office functions) must have regard to the statutory section 55 guidance, ["Every Child Matters: Change for Children"](#).

This guidance document operates alongside existing child safety procedures and considerations, and – in some cases – assists such procedures and considerations. It does not replace them, or reduce the scrutiny which must be given to child safety at asylum screening and throughout the asylum process.

For further information see:

[Section 55 Children's Duty Guidance](#)

[Every Child Matters – Change for Children](#)

[United Nations Convention on the Rights of the Child](#)

[Victims of human trafficking – guidance for frontline staff](#)

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Eligibility Criteria

General criteria for eligibility under section 67 of the Immigration Act 2016 for children in Calais

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

Assessment Stages

Stage 1: Registration, Nationality and Age screening

This section is for caseworkers undertaking the initial screening process. This should take place in a secure area.

For each case, you must record the following information:

- 1) Name
- 2) Date of birth (if known)/age
- 3) Nationality
- 4) Whether they have any accompanying siblings aged under 18.

The information should be recorded on the S67 IA Calais form.

Additional guidance

- Refer to Age Assessment section (p13) for the process on assessing age.
- If there is evidence that the child has arrived in Europe after 20 March 2016, the case should not progress.
- If there is evidence that the child was not present in Calais on or before 24 October, the case should not progress.

Decision criteria

A child should proceed to Stage 2 if **one** of the following applies to them:

- they are aged 12 or under
- they are aged 15 or under and are of Sudanese or Syrian nationality
- they are aged under 18 and are the accompanying sibling of a child meeting one of the two criteria outlined above

Referrals

An individual can also proceed to Stage 2 if they have been referred to the Home Office by the French authorities, or an organisation working on behalf of the French authorities, on the basis that they are at high risk of sexual exploitation, provided they are under 18. Any under 18 accompanying siblings of children referred on this basis should also proceed to stage 2.

Stage 2: Best Interest Determination

Individuals who have not met the criteria for Stage 1 should not proceed to Stage 2.

How to conduct a Best Interest Determination

A Best Interest Determination must be carried out for each individual child who meets the Stage 1 criteria. The intention of the Best Interest Determination is to establish whether it would be in the child's best interest to be accommodated as an unaccompanied asylum seeking child in the UK or to enter the French system and be accommodated as an unaccompanied asylum seeking child in France. A simplified Best Interest Determination process has been developed to respond to the timeframe available for the completion of the Calais camp closure operation.

This section sets out the duties of the interviewer including information that should be given to the child before the interview begins, and questions to ask the child during the interview. Where there is evidence that a detailed Best Interest Determination with the intention outlined above has already been conducted by another social worker or child protection expert for a child, you may choose to accept this evidence in lieu of conducting an assessment.

Recording the information

The S67 IA Calais form can be used to collect information to inform the Best Interest Determination.

Practical considerations:

- Best Interest Determination interviews should be conducted in a safe and secure room, with, as far as is possible, privacy for each interview.
- Social workers should, wherever possible, lead the Best Interest Determination, with input from UK Visa and Immigration (UKVI) staff as necessary.
- There may be occasions where, due to operational constraints, the Best Interest Determination interview will be conducted by UKVI staff. In such cases, at a minimum, a social worker should review the information collected and make a recommendation on best interests based on this information.
- Interpreters should be present where necessary. The child should be given the option to request an interpreter of a specified gender, which will be facilitated where possible.

Role of social worker:

- The social worker should lead the interview to establish the information to be collected in the S67 IA Calais form.
- The social worker should seek to ensure that the child understands the information given and questions being asked, and support them to provide full answers.

- The social worker may request that the interview be paused or rescheduled to a future time.
- Following the interview, the social worker should review the information collected and make a recommendation as to whether, in their view, it would be in the child's best interest to be accommodated as an unaccompanied asylum seeking child in the UK or to be accommodated as an unaccompanied asylum seeking child in France.
- The social worker may request input from other parties where appropriate, such as a second social worker opinion or input from the French authorities, United Nations High Commissioner for Refugees (UNHCR) or non-governmental organisations (NGOs) who have had prior contact with the child.
- Further input should be considered in particular for complex cases. A complex case may be where: there is a question as to the child's preference; the child has family in France or elsewhere in the European Union; or where there are any other indicators to suggest that transfer to the UK may not be in their best interests.
- In some cases, a social worker may be asked to make a recommendation on best interests based on information collected from a UKVI-led interview. The social worker may request further information from the child if necessary to inform this recommendation.
- In all cases, the role of the social worker is to make a recommendation based on their professional judgement. The final decision on whether to accept the recommendation will be made by UKVI staff. A recommendation of the social worker on best interests should be accepted except in exceptional circumstances (for example if there are strong grounds to doubt the veracity of the information collected or the basis for the recommendation).
- A determination that transfer to the UK would be in the child's best interests does not prevent the case from being rejected based on the criteria set out elsewhere in this document.

Information to be provided to the child to inform the interview:

The social worker should use their professional expertise to communicate this information in a manner which the child can understand.

- 1) On arrival in the UK, you will be supported to claim asylum.
- 2) The asylum system in France is very similar to the one in the UK, governed by comparable, and in many cases the same, international and EU laws.
- 3) If you are successful in your claim for asylum in the UK, or are granted Humanitarian Protection status, you will be granted 5 years leave after which you can apply for settlement in the UK. If you do not qualify for refugee status or humanitarian protection, you will be granted leave until the age of 17.5, after which we would expect you to make a further application for leave to remain. If you are unsuccessful, you may be liable to be returned to your home nation when you turn 18.
- 4) Children in the UK cannot bring their family members to the UK unless there are exceptional circumstances. The French system does allow minors who are granted refugee status to apply to bring their parents, and in some cases guardians, to France if certain conditions are met.

- 5) If you do not have family members in the UK who can accommodate you, you will be placed into foster care or into a children's home. You cannot choose the area of the UK that you will live. However, if you have family or other links and it is in your best interests to be accommodated in a particular area, that will be taken into account.
- 6) Overall, the rights afforded to a refugee in the UK, such as access to education, health care, supported accommodation and social work care, are broadly similar to those in France.
- 7) If you do not wish to claim asylum in the UK, you will be taken to safe accommodation in France and be supported to claim asylum there.

For each case, you must establish the following information:

- 1) Do they have an immediate family member (parent or sibling) in the EU (including the UK and France)?
- 2) Do they have immediate family members (parent or sibling) not in the EU?
- 3) Do they have any wider family (uncles, aunts, cousins, etc.) or other links in France, the UK, or elsewhere in the EU?
- 4) Based on the information provided to the child about what to expect when claiming asylum in the UK, is it their preference to come to the UK to claim asylum rather than claim asylum in France?
- 5) What is the basis for their preference, including:
 - Family or other links in the UK (collect details).
 - Skills (including language) which mean that they will find it easier to integrate in the UK rather than France.
 - Other relevant factors.
- 6) Is there any other information, other than family links, that may affect their placement in the UK (e.g. Individual physical or emotional needs; Specific protection needs, including for victims of trafficking and trauma; Need for continuity of feelings of security and stability; Actions required to provide for his/her health condition, including mental health).

This information should be collected using the S67 IA Calais form.

You can also refer to UNHCR's non-exhaustive list of Best Interest elements outlined on page 42 in the UNHCR document '[Safe and Sound](#)'.

Determining best interests:

Transfer to the UK may be considered in the child's best interests if they:

- express a preference to come to the UK to claim asylum rather than claim asylum in France, based on information provided about what to expect in the UK; and
- do not have relatives in France, or elsewhere in Europe, who it would be in their best interests to reunite with; and

- there is no other reason, based on the information collected, to believe that transfer to the UK would not be in the child's best interests.

You can also refer to UNHCR's non-exhaustive list of Best Interest elements outlined on page 43 in the UNHCR document '[Safe and Sound](#)'.

A case should not be progressed further if the individual:

- does not wish to claim asylum in the UK.
- has a relative elsewhere in the EU which meets the Dublin Article 8 criteria (the individual should be considered for transfer to the relevant Member State under the Dublin Regulation).

Further information on determining the best interests of a child, as set out by the UNHCR, can be found in the [UNHCR Guidelines on Determining the Best Interests of the Child](#).

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Stage 3: UK Processing - Security checks and referral to National Transfer Scheme

Individuals progressed from Stage 2 will undergo basic security checks conducted by the Home Office. If the individual passes these tests they need to be referred to the National Transfer Scheme for placement within local authority care. No individual should be accepted for transfer unless a local authority placement has been secured first. Please refer to [National Transfer Scheme Protocol](#).

Stage 4: Granting of Temporary Admission to the UK

Individuals are taken to the Control Zone and granted temporary admission to the UK using the standard temporary admission form.

Stage 5: Transport to the UK and reception

Individuals will be transported to the UK where they will register their asylum claim. The individuals will then go into care facilities as determined by their individual circumstances.

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Age Assessment

Age assessment in France

All those who claim to be a child must be asked for documentary evidence to help establish their age. If the claimed age is doubted and there is no evidence to support their claim, you must conduct an initial age assessment. The initial age assessment stage is divided into 3 possible outcomes:

1. treating the individual as an adult as their physical appearance and demeanour very strongly suggests that they are significantly over 18 years of age;
2. giving the benefit of the doubt and accepting the claimed age; or,
3. treating the individual as a child until further assessment of their age has been completed.

Physical appearance and demeanour very strongly suggests that they are significantly over 18 years of age

If your assessment determines that the individual appears to be significantly over 18, you must refer the case to another more senior officer to validate the assessment.

The countersigning officer must make their own independent assessment of the individual's age. The assessment must be:

- based on the same information as the assessing officer
- undertaken in the presence of the individual - remote assessment based on a photograph of the individual would not be sufficient.

If the other officer agrees that the individual is significantly over 18, you must immediately:

- inform the individual verbally that their claimed age is not accepted, and that they are not eligible for consideration under this process for transfer to the UK. This information should be given to the individual in the presence of other officials, and if it is perceived that the individual poses a threat, French authorities or security staff should be present.

At the start of each day your Duty Operational Security Liaison officer will brief you on the current security level in the CAOs and actions to take should you believe a child is over the age of 18.

You must review decisions to treat individuals as adults if you subsequently receive relevant new evidence.

Treating the individual as a child until assessment of their age has been completed

All other individuals must be afforded the benefit of the doubt and be treated as children and their claimed age accepted until further assessment has been completed. This policy is designed to:

- safeguard the welfare of children
- ensure that the individual is treated age-appropriately
- ensure that the individual receives the necessary services and support

It does not indicate final acceptance of the individual's claimed age, which will be assessed in the round when all relevant evidence has been considered, including the view of the local authority to whom unaccompanied children, or those who the Home Office are temporarily treating as unaccompanied children, must be referred.

Giving the benefit of the doubt and accepting the claimed age

Where a child's claimed age is doubted by the Home Office, they must be given the benefit of the doubt and their claimed age accepted **if** they meet all the following criteria:

- the child's claimed age is doubted by the Home Office but their claim to be under 18 years of age is not disputed.
- there is no definitive documentary evidence of age.
- the child has not previously been treated as a different age by the Home Office.

The information in this section is consistent with published guidance on age assessment. The full guidance can be found here:

<https://www.gov.uk/government/publications/assessing-age-instruction>

Assessing ages less than 18

The guidance outlined above should equally apply to the assessment of age where the age threshold to be assessed is one lower than the age of 18.