



Unauthorised Channel Crossings

Illegal Immigration: MW 474

Summary

1. The record daily total for illegal arrivals across the English Channel in small boats has risen from just over 80 in 2019 to more than 100 (and 130 people making the attempt) in the Spring of 2020. More than 650 people have been recorded entering via this unauthorised and dangerous route since the Covid-19 lockdown was ordered in March. *This problem is growing*. So much for the government's suggestion that this type of crossing would be an *'infrequent phenomenon'* by now. There are four key findings contained in this report:

- a. The number of crossings has surpassed **3,200** (during the period from the start of 2018 until early May 2020 - for a breakdown of this figure, see Annex A on p.6)
- b. Over **double** the number of people arrived in the first two months of 2020 as arrived during the corresponding period in 2019 (286 versus 131 - see Annex A on p.6).
- c. **Returns are abysmally low**. Only 155 people who arrived on small boats between the start of January 2019 and early April 2020 were returned (6% of the total), despite approximately 2,500 detected arrivals (Home Office, quoted by [BBC News](#)).¹
- d. The **collapse in removals** of those with no right to be here, including failed asylum seekers, is part of a worsening *paralysis of enforcement* which is spurring more trips.

Introduction

2. There are various routes used to enter the UK illegally from northern France and Belgium, including: by hiding in the backs of lorries and other vehicles or in small aircraft landing on the many isolated airstrips around the UK. In a 2016 report on illegal lorry drops, the Independent Chief Inspector of Borders and Immigration (ICIBI) said that the number of clandestine migrants encountered between 2014 and 2015 rose **threefold**, from 2,411 to 6,429. Of the latter, 93% claimed asylum. Only 2.3% (149) of the total encountered in 2015 were known to have been refused or removed by 2016 (see [ICIBI report](#), 2016).²

3. The wider context is the scale and growing population of unauthorised migrants in the UK: A recent estimate put the number of illegal migrants at between 800,000 and 1.2 million (the largest number in any European country).³ Similar estimates have been made by former senior Home Office personnel. Our own

analysis has found that the number of illegal migrants in the UK may be witnessing a net increase of at least 70,000 per year (see [paper](#)).⁴ The ONS's approach and methodology for estimating illegal immigration can be found [here](#) (published June 2019).⁵

Illegal Channel crossings

4. Since 2018, 3,226 people making attempts to cross the English Channel from Calais, Dunkirk and other points of origin in small boats have arrived in the UK, or have been 'rescued' or 'intercepted' and brought here by the Border Force. The record for a daily total of people arriving this way increasing from 86 people in September 2019 (see [press report](#)⁶) to more than 100 people being intercepted in one day in March 2020. However, 130 people made attempted crossings during a 24-hour period in early May (see [BBC News](#)).

5. From where are these trips originating? Although the previous Calais migrant camp was demolished by the French government in 2016, it was reported in March 2020 there were about 2,100 people in new camps that had sprung up since, including 1,500 in Calais and 600 in Dunkirk. Many of those at the camps are from Afghanistan, Eritrea, Iran, Iraq and Sudan (see [report](#)).

6. LBC reported in 2019 that smugglers said French police were 'assist[ing]' them in putting migrants into boats bound for UK waters. One smuggler said: "*If police catch you, they never send you back. It's secure to go, no danger*" (see [article](#)). Intelligence suggests that some migrants have paid up to £12,000 for transport from Dunkirk in Rigid Hulled Inflatable Boats. Migrants have reportedly told to ensure they cross into UK waters where they will be 'rescued'.

7. Former interim head of the UK Border Force Tony Smith [said](#) in 2019 that that this phenomenon had started manifest with increasing regularity from October 2018 and that authorities were having to respond to incidents **every two to three hours**. Before that, it had been a relatively 'rare event'. One media [report](#) suggested there were 13 known attempts in 2017.

8. The National Crime Agency (NCA) told a Parliamentary Committee in February 2019 that the share of those arriving via small boats was a **very small percentage** of the total of arriving 'clandestine' arrivals (including by lorry or air). The NCA added that the model of this particular form of immigration crime [attempts at unauthorised entry across the Channel] had shifted from one where people previously sought to avoid detection to one where they are happy to be seen and 'picked up': with most immediately claiming asylum (House of Commons Home Affairs Committee hearing - see [video](#), February 2019).⁷

What happens to those who arrive illegally in this way?

9. Those who do claim asylum are not meant to be granted it if it is believed they pose a threat to the UK or if their claim is ruled to be unfounded by immigration officials or ultimately, by asylum judges. However, while their claim is being processed, claimants are allowed to remain in the UK as well as provided with monetary assistance, paid by the taxpayer, to cover food and accommodation. Asylum seekers are given £37.75 per week for essentials like food, clothes and toiletries while they wait for a decision. Those who do not claim asylum can be subject to immediate removal.

10. It appears that a large share of those making the crossing hail from Iran, according to the NCA, which said some were motivated by the opportunity to 'join a thriving Iranian diaspora' in the UK. In the year up to

September 2019, 63% of Iranian nationals - equating to 2,406 people - were granted asylum on their first try, with more winning on appeal (Home Office). The number of Iranians applying for asylum in the UK rose by 79% to 4,749 in the year up to September 2019. See Annex C, beginning on p.12, for more on the legal context surrounding this topic.

Possible means of removal

11. There appear to be four ways in which those crossing the Channel in small boats may be removed or transferred out of the UK:

- a. Illegal migrants who have set off from France but who are returned there immediately
- b. Illegal migrants who enter the UK but who **do not** claim asylum and are liable for immediate removal
- c. Those coming here by way of Europe who go on to claim asylum here. As this will not be their first safe country of arrival, they may be transferred so that their asylum claim is processed by another European country, under the EU's Dublin III agreement
- d. Those who claim asylum in the UK but whose application is rejected, including after any possible appeal, who would then be subject to removal

12. For more detail on each of the above means of possible removal / transfer, see Annex B. In particular it shows that the number of asylum seekers transferred out of the UK to other European countries has halved (from 510 to 263, 2015-19). Moreover, the number of asylum claimants transferred **into** the UK from safe EU countries in 2018 was **nearly six times** the number transferred out (see our [2019 paper](#)). A wider collapse in removals and what appears to be growing enforcement paralysis since 2018 is likely incentivising more dangerous and unauthorised journeys as the traffickers know it is less and less likely those coming via the Channel will be removed.

What action is being taken?

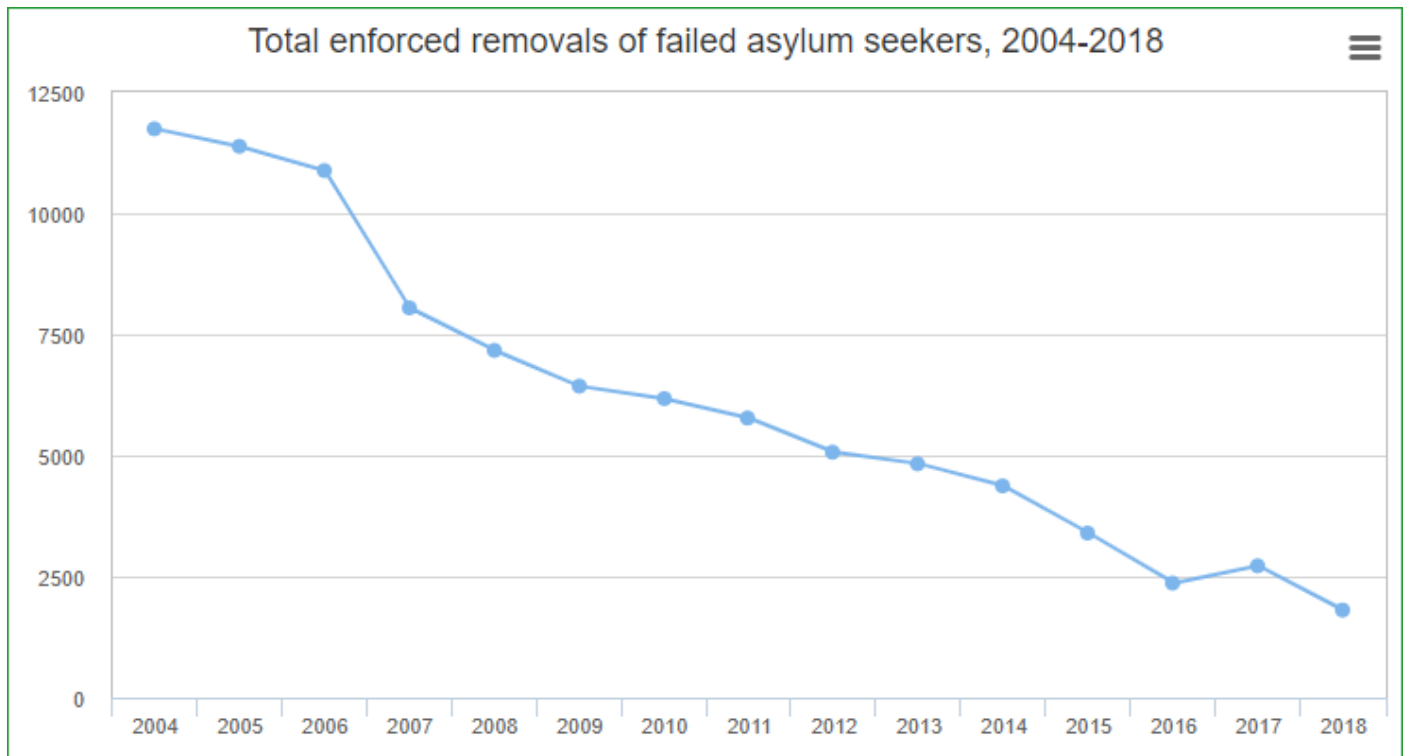
13. The French and UK governments say they have been working together to 'manage' illegal migration:

- The two governments signed a [joint declaration](#) in 2015 which committed to:
 - a. ensuring effective security at the Channel Tunnel and the Port of Calais
 - b. collaboration between French and UK law enforcement agencies
 - c. managing migrants in Calais
 - d. mobilising European and international action
 - e. 'Ministerial oversight, governance and programme management'
- In January 2018 the governments agreed the Treaty of Sandhurst. According to the government, this *'puts in place reinforced measures and resources to tackle illegal migration, in northern France and also in transit and source countries'*.
- The UK-France Coordination and Information Centre opened in Calais (Nov. 2018) [Home Office](#).

- The UK and France agreed on a [joint action plan](#) in January 2019 which saw the UK pay £6 million for increased security along the French coast. The agreement included a mutual commitment to conduct returns as quickly as possible under international and domestic laws. However, this also noted that *'migrants rescued at sea will be taken to a port of safety in accordance with international maritime law'*.
- The French Government announced new measures (Jan. 2019), including improved cooperation between law enforcement agencies and more surveillance and security on beaches along the French coastline ([Guardian](#), January 2019)
- The Prime Minister Boris Johnson warned those thinking of crossing the Channel on 23 August: *"We will send you back... If you come illegally, you are an illegal migrant and, I'm afraid, the law will treat you as such."* ([BBC News](#), January 2020).
- Border Force has a total fleet of five cutters and six Coastal Patrol Vessels (CPVs). Two CPVs and three cutters, HMC Vigilant, HMC Searcher and HMC Seeker, are currently deployed in the Channel working as part of an enhanced patrol rotation. A fourth cutter, HMC Protector, has now returned from the Mediterranean and is available to support operations in UK waters ([Home Office](#)).
- An enhanced joint action plan was agreed in Autumn 2019. This would have seen patrols on French beaches doubled and direct engagement with migrants to attempt to discourage them from making the journey ([Home Office](#), Oct. 2019). The plan aims to halve the number of migrants attempting the crossing from 300 in August to 150 during October, and ultimately for *'attempts to cross the Channel in small boat to be an infrequent phenomenon by Spring 2020.'* Other measures include:
 - a. action to intensify efforts against criminal gangs through more intelligence sharing
 - b. engaging directly with migrants to discourage journeys.
- In April 2020 it was reported that the Home Secretary was seeking to renegotiate the Dublin Agreement so it can be used to return more migrants to France ([BBC News](#)).
- In early May 2020 it was reported that the Home Office was seeking an agreement with the French to deter migrants from crossing the Channel through more returns ([Daily Telegraph](#)).⁸

14. The government's response has been beset by a range of problems, not least of which is the knowledge that those claiming asylum in the UK are unlikely to be removed, even if their asylum claim is rejected. Figure 1 below illustrates the precipitous drop in the total number of enforced removals of **failed** asylum seekers since 2004.

Figure 1: Total enforced removals of failed asylum seekers, 2004-2018



15. Another problem is the dearth of resources being devoted to enforcement. Combined spending on the Border Force and Immigration Enforcement has fallen by £20 million over the past five years (from £1.04 billion in 2014/15 to £1.02 billion in 2018/19 - Home Office Annual Reports).⁹ This includes a lack of enforcement muscle at a number of places on the English coastline. The ICIBI has identified significant gaps in the East Coast border with particularly poor coverage at smaller ports and that illegal immigrants may be exploiting staff shortages at southern England's sea ports. He also found that separately (see [report](#)) there is much work to be done in improving coverage of these ports - it was a “*work in progress*”, with much more to be done, particularly in freeing up officers to attend General Maritime arrivals. Anecdotal evidence also suggests *that* even the bigger ports facing difficulties and not coping nearly as well as they would like, with the implication that the actual job of immigration control is being neglected.

16. In 2017, Lucy Moreton, head of the Border Force trade union, said drastic cuts to the immigration enforcement workforce meant the UK was now a soft touch for illegal migrants (see [press report](#)). The Chief Inspector of Borders and Immigration also reported that some Border Force managers had said the Border Force was ‘resourced to fail’. A group at one port commented: “*The border is not secured by any stretch of the imagination*” ([ICIBI report on southern ports](#), Nov. 2018¹⁰).

What is the situation with those arriving as it relates to Coronavirus?

17. More than 2,000 migrants congregating in Calais and Dunkirk were facing a coronavirus lockdown by French authorities. However, many said they would try to reach the UK rather than go to accommodation centres if their camps are cleared. Conditions in the camps are not good, with shortages of food, water and showers. It has been reported that NGOs are being forced to pull out because of the coronavirus pandemic ([Guardian](#), March 2020).

18. With regard to those who successfully arrive in the UK after making the journey, they are thought to be monitored for symptoms of the virus but are not individually tested. Public Health England commented: *“They will be interviewed and their cases will be dealt with in line with the immigration rules, transferring to detention where appropriate. In line with Public Health England guidance migrants are not specifically tested for coronavirus, but are continuously monitored for symptoms.”* Border Force officers have been seen fitting face masks to people believed to be illegal migrants in Dover.

19. The MP for Dover and Deal, Natalie Elphicke, has suggested that illegal migrants must be placed in quarantine after reaching the UK. Migrants are only isolated currently if they show symptoms despite claims that illegal migrant encampments in France have been hit by outbreaks of Coronavirus (see [press report](#)).

20. The Immigration Services Union, the union for borders, immigration and customs, said: *“The greatest threat is irregular migration particularly in small boats. The French have withdrawn their police border controls to provide support to the lockdown in the whole of France... We have seen a steady upward curve in migrants attempting, and making the crossing.”* ([The Times](#), March 2020).¹¹

Conclusion

21. Cross-Channel arrivals provide a high-profile and increasingly regular demonstration of UK law being flagrantly disrespected - with the effect that criminal traffickers are profiting. This is an affront to legal migrants and law-abiding UK citizens and flies in the face of a recent assurance by one government minister that: **“Border Force and Immigration Enforcement are continuing to keep the UK’s border secure.”** 77% of the public say illegal immigration is a serious problem (Project28, 2018), while 57% say that those who come to the UK illegally should be **removed** ([Pew Research](#), 2018). The must government seriously step up enforcement - including through a very significant increase in removals of failed asylum seekers and other illegal immigrants.

22. As the government suggests, Brexit provides the opportunity to totally renegotiate, or withdraw from, the EU’s Dublin Regulation. It would be in the interests of the UK to increase the number of asylum claimants who are removed to their **first safe country of arrival**. The UK’s asylum process must not be abused by people who are illegally coming here from safe countries but reserved for those in genuine need.

23. The biggest incentive for those attempting dangerous Channel crossings is the knowledge that being picked up by a British Border Force vessel or managing to set foot on our soil provides a strong chance of a permanent stay. One way to neutralise this would be UK and French government agreement that anyone intercepted, wherever in the Channel or on reaching UK shores, will be returned immediately to France where any application for asylum could be made. Ultimately, it would be in French interests to prevent such departures.

8 May 2020

Annex A: Estimate of number of people who arrived via this route since start of 2018

This section estimates the number of people who have come to the UK by this manner since the start of 2018. As there are no regularly-released official figures, these estimates are based on both specific information released by the Home Office and on media reports:

2018

A total of **297** people were either intercepted and brought to the UK (191) or arrived in the UK without interception (106). A third - 144 - of the total of 441 who made the attempt, but did not abort their journey, were 'intercepted and returned to France' ([Home Office](#), March 2019).

2019

1,892 people successfully crossed the Channel ([BBC News](#)). This includes most of the estimate that 1,456 people believed to have arrived between December 2018 and October 2019 ([Sky News](#)). Of these, the Home Office said it had returned 'over 85', which means that only around 6% - or one in 17 - were sent back. It appears that 400-500 made it to the UK between October and the end of 2019 (figure compiled from individual media reports). The total understood to have been returned during 2019 is 125.

2020

1,037 people (at least) have crossed already this year (this is based on individual and compiled media reports (see Annex A below).

Total = 3,226

Breakdown of reported arrivals during 2020 so far

2020

- **1,037** people are believed to have successfully crossed the Channel illegally so far in 2020, as of 29 April (including **659** people since the Coronavirus lockdown began on 23 March). This included those arriving in the following reported incidents:

May

- 4 May - **16** migrants intercepted across Kent coast Border Force.
- 3 May - **49** migrants were intercepted by the Border Force off the Kent coast.

April

- 28 April - **90** migrants intercepted in Channel.
- 26 April - **35** migrants intercepted in the Channel.
- 24 April - **76** migrants were brought to Dover after being 'intercepted' by the Border Force. 17 April -

73 migrants cross the Channel. Those landing in Dover were given face masks amid concerns about reports of a coronavirus outbreak in migrant camps in Calais ([BBC News](#)).

- 9 April - A boat with **16** migrants was taken to Dover ([BBC News](#)).
- 7 April - **63** migrants in four boats were brought to Dover ([BBC News](#))
- 2 April - interception of **52** migrants, including five children, in the Dover area (see [report](#)).
- 4 April - Iranian, Iraqi, Kuwaiti, Syrian and Yemeni nationals were among the **53** people intercepted trying to cross the Channel. They were all taken ashore where they underwent medical checks and were passed to immigration officials, a government spokesman said. With the arrival of British Summer Time, such crossings were expected to become more frequent from now until the late autumn (see [report](#)).

March

- 27 March - Four small boats carrying **41 migrants** were intercepted in the *Channel* ([BBC News](#)).
- 25 March - **95** migrants brought to Kent after crossing. They included Iranian, Iraqi, Afghan or Kuwaiti nationals. They were among more than 160 migrants, in six boats, who were caught crossing the Channel as fewer French patrols and warmer weather prompted an upsurge in attempts. 74 of those who attempted the crossing were caught by French authorities and returned to Boulogne ([The Times](#)).
- **23 March - Lockdown measures put in place in the UK to tackle Covid-19**
- 19 March - A total **39** migrants in three boats were stopped in vessels in the English Channel. Among them were said to be Iranian and Iraqi nationals (see [report](#)).
- 17 March - **25 migrants were intercepted after crossing the English Channel** (see [report](#)).
- 4 March - **28 people, in two boats (27 of them men), were intercepted by the Border Force and taken to Dover where they were assessed medically and handed over to immigration officials** ([BBC News](#)).

February

- 7 February - **102** people were intercepted in the English Channel in the Dover area - the highest number in one day. Five boats contained people said to be from Iran, Iraq, Afghanistan, Pakistan and Syria ([Sky News](#)).
- 6 February - **90** migrants were intercepted in the Dover area (in eight boats) while trying to reach the UK. The Home Office said all of those found, apart from the group detained by Kent Police, were taken to Dover where they were medically assessed before being transferred to immigration officials to be interviewed. They were said to be of Syrian, Yemeni, Egyptian, Iraqi, Senegalese, Malian and Guinean descent (see [report](#)).

January

- January - **94** migrants were brought to the UK after making the attempted crossing between 20 - 27 January, according to figures from the UK and French authorities (see [report](#)).

Annex B: Four means of possible removal of those crossing the Channel in an unauthorised trip

i) Those who are immediately returned to Europe after being intercepted

The number of people returned in this manner during 2019 and 2020 is unclear. According to Parliamentary Answers, the total number of people who were returned to Europe after arriving in small boats between the start of 2019 and April 2020 was **155** (and 125 in 2019 alone - January 2020 [Parliamentary Answer](#) and February 2020 [Parliamentary Answer](#)). However, from the language of the answers, it is unclear what proportion of these were accounted for by this particular category, and by categories b) and c) below.

Home Office correspondence with the Home Affairs Select Committee suggests that **144** people were '*immediately returned to France*' after being '*intercepted*' during 2018 ([Home Office note to Home Affairs Select Committee](#), March 2019).

2020

- The Home Office suggests 155 people have been returned between the start of 2019 and April 2020 ([BBC News](#)¹²). It is not possible to estimate a reliable figure for returns for 2020 alone since the above figure is for the period 2019 to April 2020 (see [media report](#)).

2019

- The government said it had returned over **125** migrants who entered the UK on small boats to Europe (January 2020 [Parliamentary Answer](#) and February 2020 [Parliamentary Answer](#)). If we take the BBC figure of 1,892 people who arrived during 2019, that means a return rate of just 7%.

2018

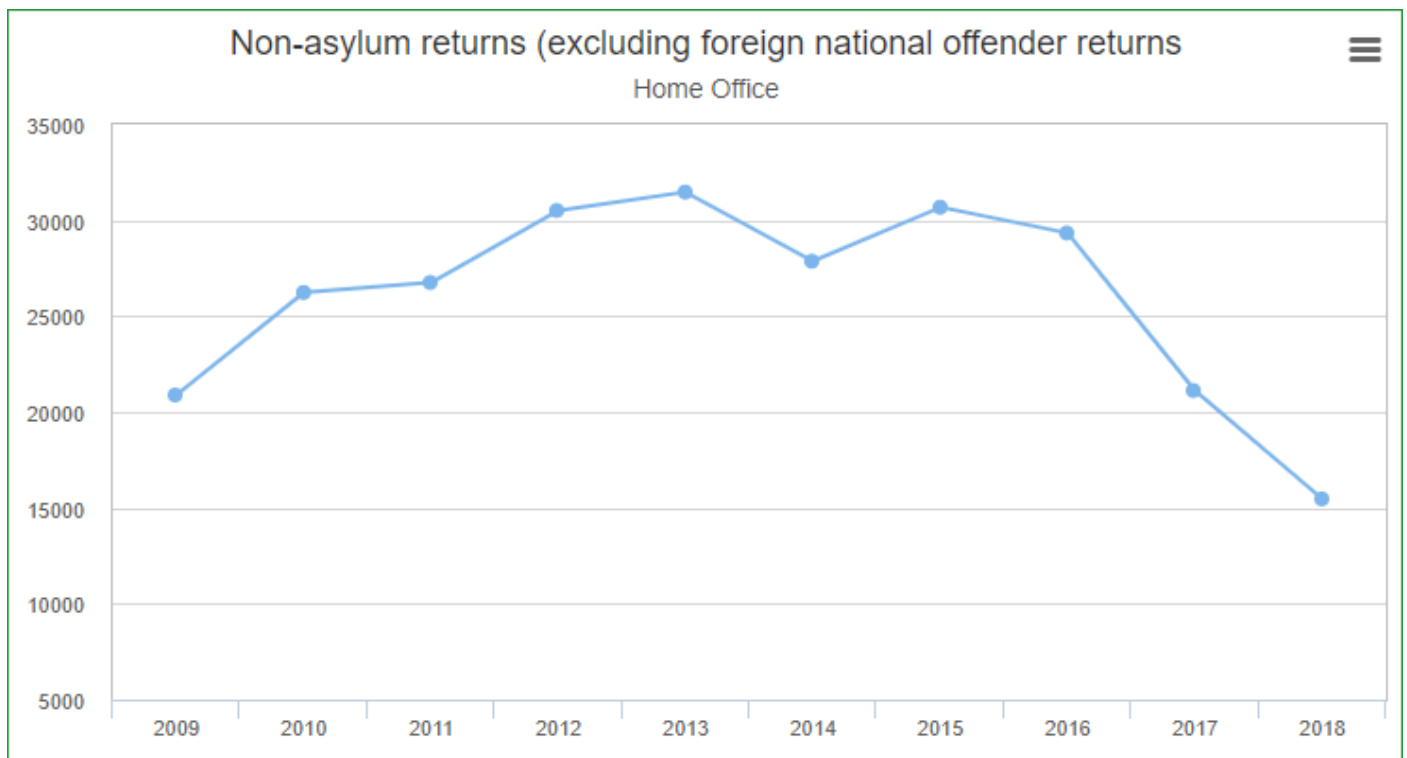
- The Home Office said that **144** migrants were returned to France in 2018, about a third of the total of 441 people who made the attempt who did not abort the journey themselves ([Home Office note to Home Affairs Select Committee](#), March 2019).

ii) Those who cross the Channel but who do not claim asylum

This number may be small as the vast majority of cross-Channel arrivals claim asylum - a trend that is believed to be increasing.

The total number of non-asylum related returns has been falling for a number of years. In 2018, the number was 20,700 (compared to 26,400 a decade earlier). However, it should be noted that non-asylum returns also include 5,000 to 6,000 foreign national offenders each year. If we exclude foreign national offender returns from the total, we are left with an annual total for the most recent year of 15,500 compared to 20,900 a decade earlier, so a 26% drop, and a 50% fall from the peak of 30,000 returns in 2013 - see Figure A below:

Figure A: Non-asylum returns (excluding foreign national offender returns: Home Office



It is believed that the decline in overall removals of those with no right to be here is part of a larger pattern of weakening enforcement, as the approach of the UK authorities towards tackling illegal immigration has been severely enfeebled in the wake of the 2018 Windrush affair. Despite the fact that a clear majority of the public believe those who come to the UK illegally should be removed ([Pew Research](#), 2018), the ICIBI reported that that Windrush has had a *'significant effect on Immigration Enforcement, operationally and psychologically [and]... it was no longer clear, at least to Immigration Compliance and Enforcement teams, what success looked like'* (see ICIBI's May 2019 [report](#)¹³).

iii) Dublin III transfers

Those who arrive via a Channel crossing and go on to claim asylum in the UK may be removed to another part of Europe under the Dublin regulation (EU No.604/2013 or 'Dublin III') if it can be proved that that is where they first arrived in Europe. The agreement establishes the criteria and mechanisms for determining which state is responsible for examining an application for international protection (an asylum claim). The Dublin III Regulation applies to all 28 EU member states, and Iceland, Norway, Liechtenstein and Switzerland.

As Figure B below indicates, the number of people removed from the UK to Europe having **halved** (from 510 to 263, 2015-19). What is also clear is that the Dublin rules are now being used to transfer more asylum seekers **into the UK** than out of the UK. This appears to be because family rules contained in the regulation - allowing minor asylum seekers to come and join family here in the UK - trump those which mandate that asylum seekers should have their asylum claim processed in the *first safe country of arrival*. For example, in 2019 there were 714 transfers into the UK from EU member states under Dublin (the majority, 456, were transferred from Greece) but there were only 263 transfers out of the UK to EU member states - 104 of the latter were transfers to Germany but 53 (20%) were transfers to France: see [Home Office asylum statistics](#):¹⁴). See our 2019 paper: '[Transfers of asylum seekers from the UK under the Dublin system](#)'.¹⁵

Figure B: Transfers of asylum seekers into and out of the UK under the EU's Dublin rules

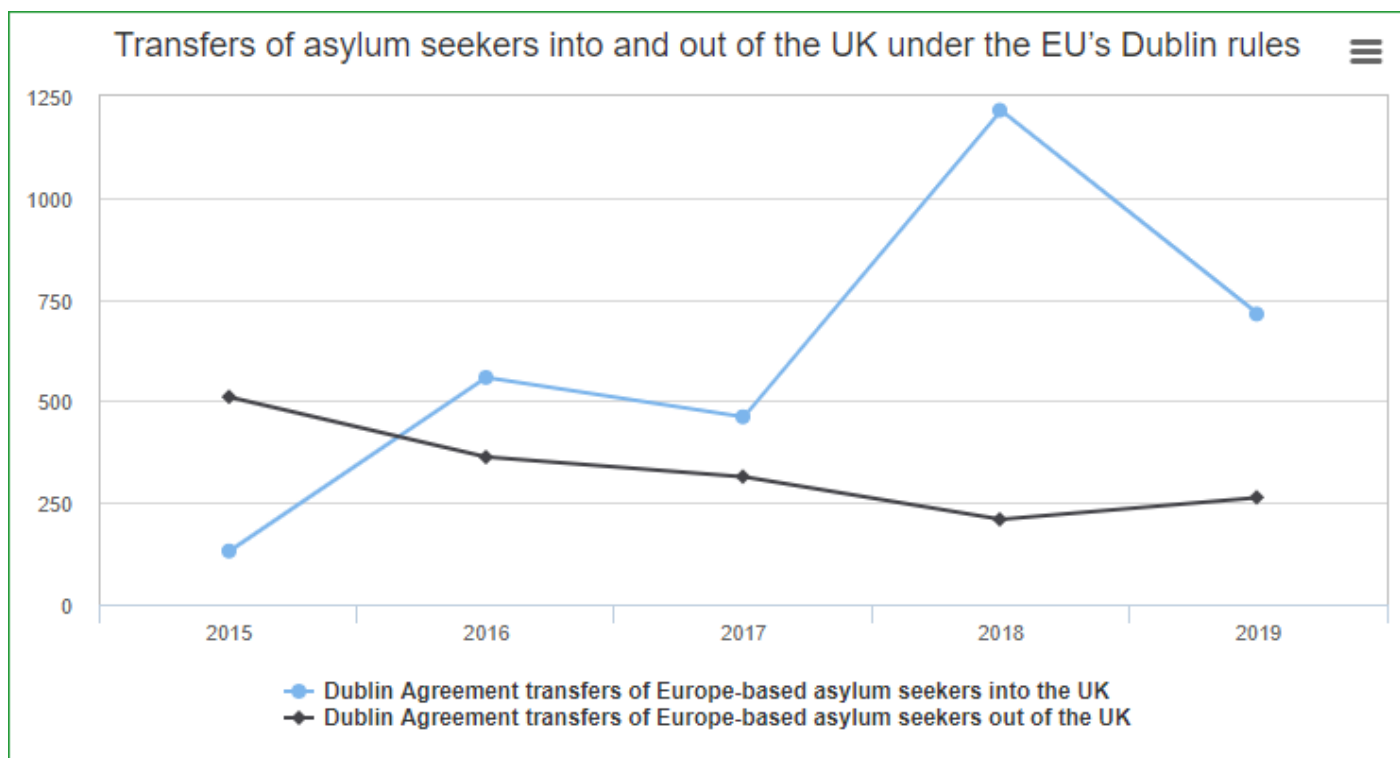


Figure C below shows that the UK has been making far more requests to France and Belgium to take back asylum seekers but the numbers transferred from the UK has actually shrunk, with a greatly increasing share of transfer applications to those countries getting nowhere.

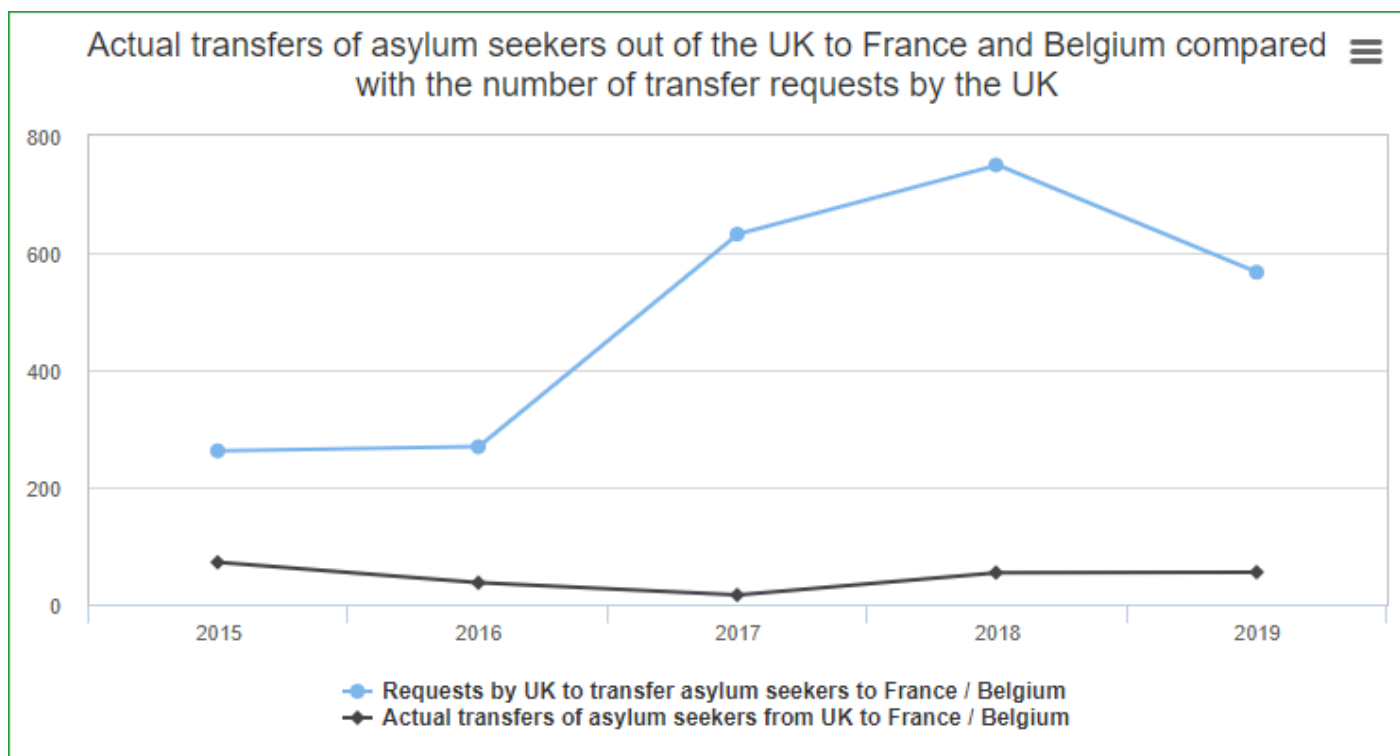


Figure C: Actual transfers of asylum seekers out of the UK to France and Belgium compared with the number of transfer requests by the UK

The above figures help to explain why the number of removals of asylum seekers who arrived illegally from France in Channel crossings have been so low. Only 53 people were removed from the UK to France under Dublin in 2019.

On 30 April 2020 it was reported that the Home Secretary intended to renegotiate the Dublin agreement after Brexit.¹⁶ Renegotiating this agreement, which the UK has indicated it will repeal after Brexit anyway, could be a potential way to ensure fewer arrivals and more returns, but only if it were significantly changed to ensure that the UK's interests are not overlooked. The Dublin process is a complex bureaucratic procedure which - especially in recent years - appeared to be decidedly weighted against UK interests. The last thing needed is negotiations getting bogged down in complex EU bureaucracy in which the UK may be seriously disadvantaged.

iv) Returns of failed asylum seekers

Once a claim for asylum has been through the legal process and is finally rejected, the applicant no longer has any right to be in the UK and, according to law, should be removed or remove themselves voluntarily. However, only a small number of failed asylum seekers are forcibly removed from the country. Indeed, only just under 80,000 of the total of nearly 210,000 rejected asylum applicants between 2004 and 2018 have been confirmed to have been returned or removed, meaning that there was no confirmation of departure for 62% ([Home Office Asylum statistics](#)¹⁷).

Annex C: Notes on legalities surrounding those crossing the Channel

The UK context

It is not legal to enter the UK by crossing the Channel in a small boat. Indeed, those who knowingly enter the UK without obtaining permission to do so are committing a criminal offence under the Immigration Act 1971 (see [Section 24](#) the Act). Prosecutions under this provision for illegal immigrants do occur but patchy statistics suggest they are quite low in number. For example, there were 72 such convictions in 2013 ([Hansard](#), December 2015)¹⁸. Those who do not claim asylum, or those whose asylum claim is rejected, are liable for removal from the UK.

However, evidence suggests that around 90% of clandestine migrants claim asylum. This complicates the legal position with regard to enforcing the prohibition on illegal entry. This is because currently asylum seekers are protected from prosecution for illegal entry by section 31 of the Immigration and Asylum Act 1999. This provides a defence based on Article 31 against charges based on illegal entry and various offences related to documentation.

The wider EU and international context

The UK is a signatory to the United Nations Convention relating to the Status of Refugees of July 1951 which sought to protect people fleeing events in Europe that occurred prior to 1951. The UK also signed up to the October 1967 Protocol relating to the Status of Refugees, which gives the 1951 Convention a global scope by applying to refugees without any geographic or temporal limitation. The EU's Charter of Fundamental Rights¹⁹ incorporates the Refugee Convention into the EU treaties, although this will no longer apply to the UK after the Brexit transition period is finished.

Article 31 of the UN Refugee Convention states that refugees cannot be penalised for entering the country illegally to claim asylum if they are *“coming directly from a territory where their life or freedom was threatened”* provided they *“present themselves without delay to the authorities and show good cause for their illegal entry or presence”*.

As stable democracies which have met the Copenhagen Criteria for EU membership, France and Belgium - the origin of most Channel crossings - are not countries from which people require refuge. Since people crossing the channel are not coming directly from war zones or tyrannical governments, it appears - on the face of it - that they would not have a well-founded right to claim asylum in the UK.

However, the UN Refugee Convention also says that asylum claimants should not be penalised for entering a country illegally. The Home Office has stated that it is an established principle that those wishing to apply for protection should claim asylum in the first safe country they reach (see [BBC News](#) report). Moreover, some suggest that it is not a requirement of international law that migrants claim asylum in the first safe country they reach.

Additionally, the question of which country is responsible for dealing with illegal migrants when they are halfway across the Channel is affected by the international law of the sea.

As the House of Commons Library has said: *“The narrowest part of the Channel, the Dover Strait, is just 21 miles and consists of British and French territorial waters. In other parts of the Channel, international waters separate UK and French territorial waters. Search and rescue zones have been divided between the two countries. UK Border Force has a total fleet of 11 boats, with five currently deployed in the Channel.”* (see [HoC Library report](#), Nov. 2019).²⁰

In January 2019 Immigration Minister Caroline Nokes told Parliament (see [Hansard](#)²¹): *“In the majority of cases, if a migrant is picked up in UK waters they are taken to the UK, and if they are picked up in French waters they are taken to France. The action plan we signed with France last week makes a commitment that migrants encountered in the Channel will be taken to the nearest safe port, in accordance with international maritime law... Too often, migrants in the channel dictated to those who came to their rescue where they should be taken. That is not right, and I have asked officials to do all they can to prevent that “asylum shopping”, whether on land or at sea.”*

Ships are mandated to rescue persons in distress at sea by both:

- *The 1982 United Nations Convention on the Law of the Sea*
- *The UN Safety of Life at Sea Convention (for merchant ships)*

Separately, the question of which European country is responsible for processing an asylum application

when the eventual claimant has travelled through multiple territories is affected, at least until 31 December 2020 in the UK's case, by the EU's Dublin III regulation which determines the EU nation that is responsible for processing asylum claims.²² The UK has participated in the Dublin process since it was inaugurated in 1990. Its most recent iteration is Regulation 604/2013 (Dublin III).

As is noted above, the Dublin rules have meant a net redistribution of asylum seekers from other EU member states to the UK over the past few years, in part because family reunion provisions (at Articles 8 to 11) are prioritised over the 'first safe country of arrival' principle (at Article 13) and also because it is difficult to prove the latter if documentation has been destroyed or if the member state in question does not keep adequate records. Also see our February 2016 paper: '[Asylum and the European Union - The Dublin Regulations](#)'.²³

Annex D - Note on sources

Migration Watch UK is committed to highlighting the relative utility of data (or otherwise) and any lacunae in the evidence, both the interests of transparency (regarding our own work) and in order to encourage accountability on the part of the government and other statistical bodies.

Partly because of the often-clandestine nature of unauthorised trips across the Channel, but also because there are limited official statistics on this topic, the information in this report has been compiled using a range of sources.

These are listed below:

- a. Individual press accounts, from a range of outlets, have been used to make a starting estimate of the number of people who came to the UK via unauthorised trips. Because this does not cover undetected trips, it may be an underestimate and is subject to journalistic error or a failure to report accurately by the authorities.
- b. Estimates made by the press. For example, [Sky News](#) estimated that 1,456 people arrived successfully between December 2018 and October 2019 and that of these, 'over 85' were sent back. Also, in early 2020 [BBC News](#) estimated that 1,892 people successfully crossed the Channel themselves or were brought here after being intercepted by the authorities in 2019.
- c. Parliamentary Answers contained sporadic yet useful, although not always well-contextualised, information.
- d. Written submissions by the Home Office. The figures for 2018 are derived from a letter from the then-Permanent Secretary to the Home Office to the Commons Home Affairs Select Committee. Again, it is not possible for these figures to capture a number of undetected people who arrived after a cross-channel trip.

As the ONS notes, '*by its very nature, it is extremely difficult to know the exact size of the illegally resident population*'. The distinct lack of effort by government to publish official figures on this question has meant that research bodies have to rely on collecting data from a range of sources. It is in the strong public interest that comprehensive data regarding what is known, and not known, about the scale of illegal immigration, and the current size of the illegal population, is published by the UK government.

1. *BBC News*, 7 April 2020, URL: <https://www.bbc.co.uk/news/uk-england-kent-52207869>
2. ICIBI report on lorry drops, July 2016, URL: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/540577/ICIBI_inspection_of_lorry_drops_July_2016.pdf
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19. The CFR gives the ECJ wide powers to interpret the standards to be followed by the EU institutions in making EU law. Article 18 of the CFR concerns the right to asylum and reads: "*The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community*".
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22. Although the government has indicated that it intends to renegotiate the Dublin Agreement after Brexit, a number of other EU-related asylum provisions will be retained in the form of domestic legislation on the UK statute books after Brexit including: 1) the Qualification Directive (2011), which sets out criteria for applicants to qualify for refugee status or subsidiary protection and defines the rights afforded to beneficiaries of these statuses (see EU summary of the QD). 2) The Procedures Directive (2013) which sets out minimum standards on procedures in Member States for granting and withdrawing refugee status which harmonises procedural guarantees given during the asylum procedure.
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