

Institution: University of Liverpool		
Unit of Assessment: UoA 20 Law		
Title of case study: Protecting Children's Legal Status and Rights in the UK After Brexit		
Period when the underpinning research was undertaken: September 2001- August 2020		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s): Helen Stalford European Children's Rights Unit (ECRU)	Role(s) (e.g. job title): Professor of Law (director European Children's Rights Unit)	Period(s) employed by submitting HEI: April 2000-Date
Period when the claimed impact occurred: September 2016 - December 2020		
Is this case study continued from a case study submitted in 2014? N		
1. Summary of the impact <p>Brexit has more profound implications for children than virtually any other group. They will lose many of the special protections and support put in place by the EU. This has left EU migrant children in a particularly vulnerable position unless they regularise their immigration status under the EU Settlement Scheme (EUSS).</p> <p>As the leading authority on EU children's rights, Stalford's research has directly responded to these concerns in four ways. First, in 2017 she established a UK-wide Brexit and Children Coalition involving prominent civil society organisations, practitioners and academics to bring children's rights issues to bear on the Brexit debates. Second, applying her unique methods to developing legal information for children, in 2019 Stalford was appointed by the Home Office to design a communications strategy to facilitate children's awareness of and access to the EUSS. This work drew attention to particular groups of EU migrant children who are vulnerable to being left without legal status post-Brexit. Third, these efforts prompted the introduction of governmental EUSS guidance for looked after children in 2019 and, fourth, informed successful strategic litigation and calls for legislative amendment to support EU children's access to British citizenship.</p>		
2. Underpinning research <p>Stalford's research is distinguished by its socio-legal analysis of EU law through the lens of children's rights theory, law and methods. Her published work spanning over two decades, including her monograph (3.1), remain seminal reference points, offering a comprehensive, empirically-grounded examination of the nature, scope and impact of EU law on children across a range of contexts. This research shows that:</p> <ul style="list-style-type: none"> • children benefit from specific, enhanced constitutional, legal and policy protection at EU level across a diverse range of areas, including cross-border movement, online and offline exploitation and abuse, parental child abduction, and poverty and social exclusion. This is directly informed by international children's rights law and principles, offering a crucial, additional layer of provision that is not otherwise available at UK domestic level (3.1 - 3.3) • The UK Government has failed to put resources in place – legally, politically, financially and procedurally – to guard against the potential repeal or dilution of existing EU provision available to children across these areas. This poses an immediate and potentially serious risk to children's welfare and entitlement in the aftermath of Brexit (3.5 - 3.6) 		

Stalford's efforts to demonstrate the unique potential of European measures to advance children's rights at the domestic level were supported by an ESRC grant to run a workshop series, *'European Responses to Global Children's Rights Issues: Building Capacity and Exchanging Knowledge'* (GBP30,000, 2013-2015). This was a two-year interdisciplinary series which engaged practitioners, children's rights organisations, Parliamentarians and fellow academics in exposing both the benefits and limitations of EU intervention in different areas. In doing so, **this work nurtured the necessary practitioner and civil society networks to support the establishment of the Brexit and Children Coalition and to maximize input into the Brexit debates (3.3).**

An important context for Stalford's research has been the scope and application of children's rights under EU free movement, immigration and asylum law. This work has charted how EU migrant children's rights has evolved from being largely 'parasitic', dependent on and conflated with the rights of their parents, towards independent recognition and entitlement as citizens in their own right (3.1). This has enabled children to access a range of social, economic and cultural benefits across the EU, regardless of their parents' migration status. A more recent development of this work has explored children's access to the EU Settlement Scheme (EUSS), the new mandatory immigration status for EU migrants wishing to remain in the UK. **This research has revealed particular gaps for children (in terms of awareness of and support with registration), particularly those in care, children with criminal convictions and Roma children (3.6).** Drawing on Stalford's earlier empirical work on EU family migration, childbearing, and residence, the research has pointed to the likely eligibility of a high proportion of EU migrant children for British citizenship (3.6). A more recent development of this work revealed that many families and children who are otherwise obliged to apply for EU settlement have no awareness of their eligibility for British citizenship and those that are aware have no recourse to the high fees (in excess of GBP1,000) required to fund such an application. This is particularly so for those on the economic and social margins, such as the EU Roma Community, leaving many with a less secure immigration status than that to which they are legally entitled (3.6).

Stalford's wider children's rights research has highlighted how **access to comprehensible information is an essential starting point for securing children's enforcement of their rights in any legal context.** This hypothesis was initially tested out in a project funded by the Council of Europe to develop a child friendly version of its European Child Friendly Justice Guidelines (2015-16). Through this work, **Stalford developed a new methodological approach to creating child friendly legal resources** which moved beyond simply re-branding existing information in a 'child friendly' format towards gathering deeper insights directly from children and young people as to how they understand, articulate and experience the law (3.4).

3. References to the research

- 3.1** Stalford, H. (2012) *Children and the European Union: Rights, Welfare and Accountability*, (Oxford: Hart Publishing) – particularly chapters 2, 3, 4, 5 and 7 (available from the University on request).
- 3.2** Stalford, H. 'Using the Convention on the Rights of the Child in litigation under EU law' in Liefwaard, T. and Doek, J. (eds) (2014) *Litigating the Rights of the Child*, (London, Springer) (available from the University on request).
- 3.3** Iusmen, I and Stalford, H. (2016) *The EU as a Children's Rights Actor: Law, Policy and Structural Dimensions* (London: Budrich Academic Publishers) – particularly the concluding chapter (available from the University on request).
- 3.4** Stalford, H., Cairns, L. and Marshall, J. *Achieving Child Friendly Justice Through Child Friendly Methods: Let's Start with the Right to Information, Social Inclusion*, 2017, 5(3), 207 (DOI <http://dx.doi.org/10.17645/si.v5i3.1043>)

- 3.5** Stalford et al. 'Making Brexit Work for Children' Brexit and Children Coalition Report, November 2017, https://www.childrenslegalcentre.com/wp-content/uploads/2017/08/Brexit_Discussion_Paper_FINAL.pdf
- 3.6** Stalford, H. and Humphreys, D. Research Briefings: EU Roma Children and the EU Settled Status Scheme: Awareness, Access and Eligibility, September 2020a <https://www.liverpool.ac.uk/media/livacuk/law/2-research/ecru/EU,Roma,Children,and,the,EU,Settled,Status,Scheme,-,September,2020.pdf>; and 'EEA Children and British Citizenship: Why it is Important to focus on Roma Children', ECRU Briefing September 2020b, <http://www.imlab.ac.uk/media/livacuk/law/2-research/ecru/EEA,Children,and,British,Citizenship,-,September,2020.pdf>.

4. Details of the impact

Stalford's work has clarified and helped secure the legal status of children in a post Brexit UK in three respects: (A) by orienting Parliamentary debates and civil society campaigns about Brexit towards children; (B) by enhancing children's awareness of and independent access to the EU Settlement Scheme; and (C) by providing evidence in support of litigation and legislative reform aimed at removing obstacles to British citizenship for children.

A. Impact on Parliamentary Debates and on Children's Rights Organisations' Brexit Campaign

Stalford's detailed legal analysis of the nature and scope of children's rights under EU law was instrumental in raising awareness of the potential implications of Brexit among Parliamentarians and others working in the field of children's rights across the UK.

In the months leading up to the Brexit referendum, in January 2016 Stalford was appointed Special Adviser to the House of Lords (HL) Home Affairs EU sub-committee in relation to their inquiry in the UK and EU's response to unaccompanied asylum-seeking children. She was working in Parliament when the referendum results were announced which enabled her to harness the links developed with Peers to draw attention to the specific implications of Brexit for children. She provided all of the materials and identified the priorities that shaped the first HL speeches drawing attention to the impact of Brexit on children [5.1i & ii]. Baroness Massey who made these speeches refers to Stalford as "*a key player...who prepared documentation for Parliamentarians and other key decision makers at the beginning of the Brexit process*" and in making Ministers "*aware of issues they knew very little about*". The briefings prepared by Stalford were "*used in the House of Commons and the House of Lords to inform debates at second readings, committee stages and report stages of Bills*" [5.2].

Following these debates, mindful of the need for those working in the children's rights sector to transmit clear, informed and consistent messages on the specific implications of Brexit for children, Stalford approached the Children's Society, the Children's Rights Alliance for England and Coram Children's Legal Centre to establish a UK-wide **Brexit and Children Coalition** in September 2017. The Coalition, which comprises over 30 organisations, practitioners and academics, was officially launched at a **cross-party symposium in the House of Lords**, chaired by Helen Goodman MP (13th Sept 2017), attended by 60 representatives from all of the main political parties, as well as civil society organisations from across the UK, and the Children's Commissioners of NI and Scotland. The symposium was followed by publication of the Coalition's first joint report, *Making Brexit Work for Children*, which set the scene for numerous subsequent Parliamentary debates and proposed amendments to the EU Withdrawal Bill. In particular, Stalford's '*in-depth understanding of the domestic and international legal framework*' [policy director, Coram – 5.3] and '*incisive analyses*' [Baroness Massey, 5.1i] of the status of children's rights at EU level informed recommendations for an explicit reference to the UN

Convention on the Rights of the Child and retention of the EU Charter within the EU Withdrawal Bill [5.1iii].

Whilst the proposed amendments on children's rights were not adopted as part of the EU Withdrawal Agreement, Ministers agreed to set out in more detailed terms their plans to protect children's rights following Brexit [5.1iv]. This resulted in a statement on 20th November 2018 by then Parliamentary Under Secretary of State for Children and Families. That statement reaffirmed the UK Government's commitment to the UN Convention on the Rights of the Child and announced the launch of a new children's rights training package and impact assessment template in collaboration with the Children's Rights Alliance For England to support the development of law and policy across the different ministries [5.4].

B. Impact on children's access to the EU Settlement Scheme (EUSS)

A particular priority for EU nationals currently residing in the UK is to retain residence rights by securing EU settled status under the EUSS. Representing the Brexit and Children Coalition, Stalford attended two closed meetings/conference calls with the Department for Exiting the EU, the Department for Education and Home Office officials in September 2018 and November 2018 to raise concerns around gaps in protection for the estimated 900,000 children required to register under the EUSS. Stalford presented three specific recommendations to those departments:

- The EUSS is designed with adults rather than children in mind and needs to include adequate provision to ensure that vulnerable groups, including children in care and children with criminal convictions, can access the scheme;
- Additional training and resourcing should be available to advice providers, social workers, criminal justice professionals and Home Office decision-makers to ensure that the EUSS is applied appropriately to children in light of their best interests;
- The Home Office should develop child targeted information to support children's direct access to and understanding of the EUSS, particularly for those children whose parents are unable (e.g. due to language or literacy issues such as the Roma) to apply for EU settlement on their behalf.

These discussions led to the development of concrete guidance for Local Authorities on how to support looked after children in applying for the EUSS [5.5].

Building on this advice, and directly informed by her innovative methods of developing child focused legal information, the Home Office appointed Stalford to lead a UK-wide consultation with children to develop an **EUSS Communications Strategy for Children** (June 2019 - December 2020) [5.6]. This focused on facilitating EUSS registration for children vulnerable to falling through the gaps, such as those in care, those outside of mainstream education, those with special educational needs and Roma children. The project resulted in the production of a suite of hard copy and online child friendly information resources. The materials are the only child focused communications that have been approved by the Home Office and are designed for use by advice workers, parents, schools and children across the UK. They will be instrumental in enabling some of the most vulnerable EU migrant children (over 400,000 eligible EU children have yet to apply for the EUSS as of December 2020) to regularise their immigration status by the deadline of 30 June 2021. For instance, the Director of the Roma Support Group (the main NGO supporting the Roma community across the UK), attributes a rise in EU Roma awareness of and applications to the EUSS largely to Stalford's targeted communications and awareness raising strategy among the Roma community [5.7].

C. Impact on EU Children's Access to British Citizenship

Stalford drew on her research expertise, including the findings of her consultation with children in the course of the Home Office EUSS project, to evidence the high proportion of EU migrant children likely to qualify for British citizenship. Stalford was invited to present this evidence in the

form of a **witness statement to support High Court strategic litigation** led by Amnesty International and the Project for the Registration of Children as British Nationals (*R (oao (1) The Project For The Registration Of Children As British Citizens, (2) O, a child, by her litigation friend, AO, and (3) A, a child, by her litigation friend, NJM) Claimants v. Secretary Of State For The Home Department* [2019] EWHC 3536 (Admin) [5.8]. This litigation led to the Court making a declaration that the Secretary of State had breached its duty to act in children's best interests when setting such high fees. The research has also **informed Parliamentary lobbying in relation to the new Immigration and Social Security Co-ordination (EU Withdrawal) Bill 2019-2021**: ECRU issued a joint letter with the Project for the Registration of Children as British Citizens (PRCBC), Amnesty International and others to the Home Office Minister urging him to facilitate EU children's access to their British citizenship entitlement not least by removing prohibitive registration fees and obviating their requirement to register under the EUSS [5.9-5.10]. ECRU's research pointing to the distinct interests of EU Roma children in relation to British citizenship and EUSS registration were also **highlighted by Baroness Lister** in the House of Lords on 16 September 2020 to support the proposed amendments to the Immigration and Social Security Co-ordination (EU Withdrawal) Bill [5.1vi].

5. Sources to corroborate the impact

5.1 Hansard Reports – extracts from relevant Parliamentary debates that refer directly to the research and impacts detailed

5.2 Testimonial from Baroness Massey, House of Lords

5.3 Testimonial from Kamena Dorling, then Policy Director of Coram Children's Legal Centre

5.4 Written Ministerial Statement for Universal Children's Day - HCWS1093:

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-11-20/HCWS1093/>.

5.5 EU Settlement Scheme and looked-after children and care leavers, House of Commons Debate, Number CDP-0207 (2019), 2 September 2019 (reference to University of Liverpool research on children in conflict with the Law at p.7):

<https://researchbriefings.files.parliament.uk/documents/CDP-2019-0207/CDP-2019-0207.pdf>

5.6 Letter from Home Office setting out terms of reference for developing a communications strategy for children in relation to the EUSS, informed explicitly by Stalford's published methods for producing child friendly legal information

5.7 Testimonial from Director of Roma Support Group, Mihai Bica

5.8 Witness statement to support High Court Strategic Litigation led by Amnesty International and PRCBC

5.9 Joint letter with PRCBC and Amnesty International to Minister of State, Brandon Lewis

5.10 PRCNC and Amnesty International [Briefing on the Immigration and Social Security Coordination \(EU Withdrawal\) Bill 2019-2021 – House of Lords Second Reading, July 2020](#). ECRU's contribution is noted at page 3 and footnote 11.