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JUSTRIGHT SCOTLAND

# REFUGEE FAMILY REUNION

An accessible, concise document on the process of reuniting family members with those who have sought refuge in the UK

## What is family reunion?

As a result of increased conflict and displacement, significant changes have occurred in **how refugee family units** are formed, **what** constitutes a family unit, and **where** families are formed. There has also been an increase in **families becoming separated on the move**.

The United Nations High Commissioner for Refugees (UNHCR) recognises that family is an essential right of refugees and recommends that governments take necessary measures to ensure that a refugee's family unit is maintained. According to the UNHCR, *“family is the natural and fundamental group unit of society, and is entitled to protection by society and the state.”*

## Routes to Family Reunion

There are different routes to family reunion. Some stem from state or inter-state agreements and some from an individual's right to be reunited.

## STATE/INTERSTATE AGREEMENTS

With this type of agreement, an individual may have a more limited ability to influence an outcome. These routes are given different names, which can be confusing to navigate. It can also be difficult to know how, if at all, any route can be accessed. We have set out some of the more common routes and names below:

## What is the Dublin agreement?

This is a legal agreement **between** countries within the EU as to who has responsibility for processing an asylum claim. Usually, the country where the asylum seeker first entered the EU is responsible for examining the asylum claim. However, family unity is prioritised and this can lead to family being transferred to a second country, such as the UK, in order to have their asylum claim processed.

This process can be lengthy and bureaucratic, and it depends on various timescales being met. It is also important to note that an asylum claim must still be made when in the UK.

In 2017, there were 2,137 requests to transfer into the UK under the Dublin regulation, and there were 461 actual transfers into the UK. This process can take up to one year.

## What is Dubs?

Section 67 of the Immigration Act 2016 required the UK government to accept unaccompanied children seeking asylum in Europe for resettlement in the UK. Lord Dubs proposed this amendment, which is why it is often referred to as “Dubs”. The UK Government agreed to accept 480 unaccompanied children

- who were present in Europe before 18 January 2018
- where it was deemed to be in their best

interests, and;

- where they would likely be granted refugee status in the UK.

There is now only a limited number of children arriving in the UK on this route.

### What is resettlement?

The UNHCR resettles a small amount of refugees. When someone registers as a refugee with the UNHCR, their long term prospects are considered; for example, whether they can integrate into their new country, whether they can return to their country of origin, or (as a final option) whether they should be resettled to a different country.

Any resettlement is considered under the **UNHCR resettlement criteria**. The UNHCR first assesses each individual/family's vulnerability, based on multiple factors. The UNHCR then sends the individual resettlement profiles of those most suited to the criteria specified by the countries that have offered to host.

The UK hosts various programmes in this regard. These include the Vulnerable Person Resettlement Scheme, the Vulnerable Children's Resettlement Scheme, the Gateway Protection Programme and the Mandate Refugee Scheme.

- **Vulnerable Person Resettlement Scheme (VPRS)** - commitment to take 20,000 individuals by 2020.
- **Vulnerable Children's Resettlement (VCRS)** - commitment to take 3,000 children and their families by 2020.
- **The Gateway Protection Programme** - commitment to take 750 individuals per year who are normally in the protracted refugee situations.

In 2017, 10,538 individuals had been resettled under the VPRS and 539 under the VCRS.

If individuals in the UK would like to let the UNHCR know about family that they have abroad who may be eligible for resettlement, there is a form that can be filled out and sent to UNHCR UK: the **Family Links Information Sharing** form. On this form, the family's links in the UK and their own vulnerabilities can be noted. UNHCR UK will then be able to notify the UNHCR in the other country to update them. There is no guarantee that a family will travel to

the UK by completing this form.

A very small number of all resettlement cases are accepted on the basis of family reunification alone. The Mandate Refugee Scheme may resettle refugees with a close family member in the UK. However, the UK has made no annual commitment to resettle individuals on this basis.

### The Mandate Refugee Scheme

Only 28 individuals were resettled on this basis in 2017.

For other programmes, if a family are chosen for resettlement, a factor to be considered is whether resettlement should take place in a country where their family are, instead of somewhere else. It is however only one factor that is taken into account, and other factors may mean that the family are resettled elsewhere.

### Right to Refugee Family Reunion

Refugee family reunion is a reunion route contained within Part 11 of the UK Immigration Rules, which allows refugees and those granted humanitarian protection to bring over a group of narrowly defined family members.

In 2017, 5,218 family reunion visas were issued to partners and children of those granted asylum or humanitarian protection.

## THE REFUGEE FAMILY REUNION APPLICATION PROCESS

### Free application

The family reunification process is free, and if successful, the refugee's family are given permission to stay in the UK in line with the refugee sponsor. However, there can be linked costs, such as obtaining identity and travel documents or tuberculosis tests.

### Who is eligible to sponsor?

Those who have been granted refugee status or humanitarian protection in the UK are considered sponsors for the purposes of refugee family reunion. This includes those who have refugee status through the UNHCR resettlement programmes and those who have obtained Indefinite Leave to Remain as a refugee or with humanitarian protection status.

### Who is not eligible to sponsor?

- Asylum seekers
- Children under 18
- A family member of a refugee who has not qualified for refugee status in their own right
- British citizens
- Individuals with leave to remain in the UK which is not refugee/humanitarian protection (including Discretionary/Limited/Further Leave to Remain)

### Which family members can be included in an application for family reunion?

As the immigration rules currently stand, this is a narrow group which includes:

#### • Spouses/unmarried partners

For partners, the relationship must have existed for at least 2 years prior to the refugee fleeing their country of habitual residence.

For spouses and partners, the marriage/relationship must still be subsisting, and the two parties must intend to live together as partners in the UK.

#### • Children of the refugee

A child must demonstrate that

- they are related to the refugee relative as claimed.
- that they are under 18.
- that they are unmarried and are not leading an independent life.

The rules include children who have been legally adopted in a country whose adoption orders are recognised by the United Kingdom.

The family must have existed as a **pre-flight family unit**. This means that marriages or partnerships must have existed before the refugee fled his or her country of habitual residence. In relation to children born post-flight, the child must have been conceived before the refugee left his or her country of habitual residence.

### Which family members are excluded?

- Family members of child refugees
- Dependent children over 18
- Other dependent relatives (siblings, parents, grandparents etc)
- Children who are treated as adopted but have

not gone through a legal process (known as De Facto Adopted Children)

- 'Post-flight' family members, for example: children conceived and born post-flight, or marriages and partnerships created post-flight

## OTHER ROUTES

There can be other routes within the Immigration Rules or contained within Home Office guidance which can lead to family reunification. However, these will require additional factors to be present than in the case of family reunion rules.

### Immigration Rules - Paragraph 319X

This rule provides a route for other dependent child relatives of a refugee to join a refugee in the UK, such as nieces/nephews, grandchildren or cousins. However, the full requirements of this rule can be difficult to meet in practice. This is because serious and compelling family considerations or other factors must be shown. In addition, there is a fee to be paid and a refugee must demonstrate that he or she can support the child without recourse to public funds.

### Home Office Guidance/Right to Family Life

In some circumstances, where an application under the Immigration Rules has failed, Home Office guidance allows family reunion to be considered "outside of the immigration rules" where there are exceptional circumstances or compassionate grounds. Applications can also be made relying on the right to family life as protected by Article 8 of the European Convention of Human Rights. It can, however, be difficult for an individual to know what circumstances would fall within these categories.

## Immigration Rules

If none of the above categories apply, family members are subject to the same family migration rules that apply to British citizens and people with Indefinite Leave to Remain, contained within Appendix FM of the Immigration Rules. Under these rules, the conditions are much more onerous. For example, the family member may need to satisfy income thresholds, and large fees will apply. These are often significant barriers for families of refugees.

# THE SCOTTISH FAMILY REUNION SERVICE

## How can the Scottish Family Reunion Service help?

The Scottish Family Reunion Service (SFRS) is a joint collaboration between JustRight Scotland and the British Red Cross working together to provide an information, outreach and casework hub for refugees who wish to bring their family members to Scotland.

We provide information and advice to refugees and those supporting refugees by telephone or by appointment (including remote advice appointments).

We provide an enhanced casework service where there are additional support needs, a certain urgency to the case or a legal complexity. This includes applications under the Immigration Rules, as well as outside the rules and under Section 319X.

## CONTACT DETAILS

If you wish to make a referral to SFRS, then please download and complete the form [on our website](#):

This should then be sent to **Jen Symington**

by email to:

[jens@justrightscotland.org.uk](mailto:jens@justrightscotland.org.uk)

by post to JustRight Scotland, Suite 145, 2nd Floor, Central Chambers, 11 Bothwell Street, Glasgow, G2 6LY.

## British Red Cross Dublin Service

If you have queries about cases that fall within the Dublin Agreement, then please contact the British Red Cross at:

[dublinenquires@redcross.org.uk](mailto:dublinenquires@redcross.org.uk)



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