



BRIEFING PAPER

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# The UK's refugee family reunion rules: striking the right balance?

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## Summary

There are various different provisions for refugee family reunion in the UK. Against the backdrop of an increase in refugee and migrant flows into Europe and the ongoing refugee crisis caused by the conflict in Syria, campaigners are pressing the Government to extend these further.

### UK Immigration Rules

The UK's Immigration Rules enable people who have been granted Refugee status or Humanitarian Protection to be joined in the UK by immediate family members (i.e. partner and dependent children under 18) who were part of their family before they fled to claim asylum. There is no charge for these applications, and they are exempt from some of the eligibility criteria which usually apply to family visa applications. However the requirements that remain have been criticised by the Home Affairs Committee as 'unacceptable bureaucratic hurdles' hindering people's chances of reaching safety.

Different rules apply for other relations, such as dependent adult relatives, adopted children, and 'post-flight' family members. Significant application fees and more restrictive eligibility criteria, such as maintenance and English language requirements, usually apply.

Campaigners want the Government to extend the refugee family reunion rules, so that they would apply to all dependent relationships. The Home Affairs Committee also called on the Government to change the rules prohibiting refugee children from acting as sponsors for their close family.

The Government maintains that the current rules strike the right balance. It is concerned that more generous rules might act as a pull factor for asylum seekers to come to the UK. It also argues that giving child refugees the right to sponsor family reunion applications might put children at greater risk of trafficking. Nevertheless, it confirmed there is scope to make exceptions in special cases, and this was reflected in updated policy guidance published in July 2016.

There are also calls to reinstate legal aid for family reunion applications. It was removed in 2013, on the basis that these applications are straightforward to prepare. Campaigners argue that in practice they can be time-consuming and complex.

### EU law: the Dublin III Regulation

The EU's Dublin III Regulation, which determine which Member State should be responsible for deciding an asylum claim, prioritise respect for family unity over certain other considerations, such as which country the asylum seeker originally entered. Recent action taken by the Government to improve the handling of Dublin cases includes seconding officials to France, Italy and Greece to assist in the identification and swift processing of cases suitable for transfer to the UK, and establishing a new £10 million DFID fund which will be used in part to identify children in Europe in need of family reunion in the UK.

### Refugee Resettlement schemes

Having a close family member in the UK may bring a person within the scope of one of the various different refugee resettlement schemes operated by the UK. The Government is establishing some new resettlement schemes for children in the Middle East/North

Africa, and unaccompanied children already in Europe, in consultation with local authorities and the NGO sector.

### International comparisons

The rules for refugee family reunion in other EU Member States vary in practice, and have also received some criticism from some NGOs.

# 1. The UK Immigration Rules

## Box 1: Family reunion under the *1951 Geneva Convention relating to the Status of Refugees*

The *1951 Geneva Convention relating to the Status of Refugees* does not provide a right to family reunion for refugees, although the [associated travaux préparatoires](#) recommended that signatory states “take the necessary measures for the protection of the refugee’s family”, with particular reference to ensuring that family unity is maintained, and the protection of refugees who are minors.

## 1.1 Constituents in need of legal advice: useful sources

The following sources of general information may be useful sources for signposting constituents to:

- GOV.UK, '[Settlement: refugee or humanitarian protection/family reunion](#)' – provides a general overview of how to apply
- Home Office, *Asylum Instruction*, [Family Reunion](#) (29 July 2016) – policy guidance used by Home Office caseworkers
- Home Office, *Entry Clearance Guidance*, SET 10 (2 August 2012) and [SET 18](#) (6 July 2012) - guidance for entry clearance officers handling family reunion applications made overseas
- Free Movement Blog, '[Refugee family reunion: a user's guide](#)', 11 January 2016 – a blog post with practical guidance on how to apply

As always, constituents seeking legal advice about a personal family reunion case should be advised to speak to an immigration lawyer. The Immigration Law Practitioners' Association publishes a [list of specialist practitioners](#) alongside information about the regulation of immigration advice, and the GOV.UK website page on '[Find a regulated immigration adviser](#)' may also be helpful. The [British Red Cross](#) operates some international family tracing and family reunion services in [specific areas](#) across the UK.

## 1.2 The refugee family reunion rules

[Part 11 of the Immigration Rules](#) (HC 395 of 1993-4 as amended) provides for recognised refugees (i.e. people who have been granted Refugee status or Humanitarian Protection in the UK) to be joined by immediate family members (i.e. partner and dependent children under

A refugee's partner and dependent children can join them in the UK under the family reunion rules, if they were part of the family unit before the refugee's exile.

18) who formed part of their family unit before they fled to claim asylum.<sup>1</sup>

Successful applicants are given immigration permission for the same duration as the refugee sponsor.

There are various associated eligibility and evidential requirements. For example, partners must demonstrate that the relationship pre-dated the refugee's exile and is still subsisting, and that the two parties intend to live together as partners in the UK. Children must demonstrate that they are related to the refugee relative as claimed, are under 18, are unmarried and are not leading an independent life.

Refugee family reunion cases are exempt from some of the criteria that apply to other types of family visa application. For example, the refugee sponsor does not have to demonstrate that they will be able to adequately accommodate and maintain the family members without recourse to public funds, and the family members do not have to demonstrate any proficiency in English before coming to the UK. Also, refugee family reunion applications are free of charge (unlike most immigration application categories). Nevertheless the Home Affairs Committee criticised the requirements that refugees must meet in order to be joined by family members:

39. The bureaucratic hurdles that are being put in front of refugees after a decision has been made allowing them to enter the UK to be reunited with family members are totally unacceptable, particularly as many of those affected are fleeing conflict and will have already undergone severe hardship. The UK Government should be doing all it can to help people in these circumstances rather than hindering their chance to reach safety. Where an individual receives notification of permission to enter the UK but it arrives too late for transport to be secured, it is ridiculous for that permission to be cancelled and for the process then to have to be restarted. The system must be more flexible.<sup>2</sup>

The parents and siblings of a minor who has been granted refugee status are not entitled to refugee family reunion. There is no provision in the Immigration Rules for children who have been recognised as refugees to sponsor family members. Home Office guidance states that such applications should be referred for consideration of whether there are exceptional compassionate circumstances which would justify consideration 'outside the Immigration Rules' (discussed further below). The Home Affairs Committee called on the Government to reverse this approach:

41. It seems to us perverse that children who have been granted refugee status in the UK are not then allowed to bring their close family to join them in the same way as an adult would be able to do. The right to live safely with family should apply to child

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<sup>1</sup> [Paragraphs 352A-352FJ](#)

<sup>2</sup> Home Affairs Committee, [The work of the Immigration Directorates \(Q1 2016\)](#), 27 July 2016, HC 151 2016-17, para 39

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refugees just as it does to adults. The Government should amend the immigration rules to allow refugee children to act as sponsors for their close family.<sup>3</sup>

The Home Office's asylum policy guidance on [Family Reunion](#) contains further information about how applications should be assessed.

### 1.3 Alternative options for relatives not covered by the rules

As indicated above, the following categories of relative are excluded from the refugee family reunion rules:

- Family members of child refugees
- Dependent children over 18
- Other dependent adult relatives
- 'Post-flight' family members
- Family members of refugees who have naturalised as British citizens

Other dependent relatives must apply under different rules, which apply more restrictive eligibility criteria

Instead, they are subject to the same family migration rules that apply to British citizens and people with Indefinite Leave to Remain. It is also possible to obtain permission to come to the UK as an exception to the rules, or on the basis of Article 8 rights, for example.

### Immigration Rules for family members

The family migration rules are specified in [Appendix FM](#) and [part 8](#) of the Immigration Rules. There are significant application fees and more onerous eligibility requirements for these applications compared to those made under the refugee family reunion rules.

For example, the partner visa requirements include that the refugee sponsor satisfies a [financial requirement](#) equivalent to a minimum income of at least £18,600 per annum, and that the partner has a basic level of competence in English.<sup>4</sup> The [proposed application fee from April 2016](#) is £1,195, plus the [Immigration Health Surcharge](#) (£500).

Other adult dependent relatives (e.g. parents, siblings, children, aunts, uncles, nephews, nieces, grandparents and grandchildren) may be eligible for entry to the UK, although in most cases it must be shown that the relative is living overseas in the "most exceptional compassionate circumstances", is wholly or mainly financially dependent on the relative in the UK, has no other relatives who could provide support, and can be accommodated and maintained without recourse to public funds.

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<sup>3</sup> Ibid, para 41

<sup>4</sup> The financial requirement is subject to exceptions for people in receipt of certain welfare benefits.

## Scope to grant leave ‘outside the rules’ in exceptional cases

The then Minister for Immigration, James Brokenshire, clarified the scope for considering cases ‘outside the Immigration Rules’, in an answer to a PQ in April 2016:

(...) Where a family reunion application fails under the Immigration Rules, the Entry Clearance Officer must also consider whether there are exceptional circumstances or compassionate reasons to justify granting a visa outside the Rules. This caters for family members in exceptional circumstances and would include minors applying to join a member of their extended family who has refugee status or humanitarian protection.<sup>5</sup>

He also referred to scope to make exceptions to the rules, when responding to concerns about the position of dependent children over 18:

As the right hon. Lady knows, the current regulations are framed in a way that allows the resettlement of children under the age of 18. Our judgment is that that is framed in the right way. Adults seeking protection can use the normal route of claiming asylum in other countries. We do not think that resettlement should be extended beyond the current framework. As I have said, there are exceptions to that, particularly in cases of older relatives who have an illness. The rules can operate in a way that allows entry clearance officers to take such factors into account. Clearly, the rules are examined case by case, including by looking at whether leave falling outside the rules may be appropriate in certain circumstances.<sup>6</sup>

Speaking in June, Richard Harrington, then Minister for Syrian Refugees, acknowledged criticisms that the scope to exercise discretion has not been widely used in the past. He confirmed that updated policy guidance for officials on the family reunion rules and scope to exercise discretion would be published within weeks.<sup>7</sup>

That updated policy guidance, published on 29 July 2016, confirmed that caseworkers must consider whether there are any exceptional circumstances or compassionate factors which may justify a grant of leave outside the Rules. It said:

There may be exceptional circumstances raised in the application which make refusal of entry clearance a breach of ECHR Article 8 (the right to respect for family life) because refusal would result in unjustifiably harsh consequences for the applicant or their family. Compassionate factors are, broadly speaking, exceptional circumstances, which might mean that a refusal of leave to remain

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<sup>5</sup> [Written Question 34218](#), answered on 26 April 2016

<sup>6</sup> [HC Deb 1 December 2015 c229](#)

<sup>7</sup> [HC Deb 9 June 2016 c243WH](#)



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would result in unjustifiably harsh consequences for the applicant or their family, but not constitute a breach of Article 8.

It is for the applicant to demonstrate as part of their application what the exceptional circumstances or compassionate factors are in their case. Each case must be decided on its individual merits. Entry clearance or a grant of leave outside the Immigration Rules is likely to be appropriate only rarely and consideration should be given to interviewing both the applicant and sponsor where further information is needed to make an informed decision.<sup>8</sup>

The guidance provided examples of cases that may justify a grant of leave outside the Rules:

- an applicant who cannot qualify to join parents under the rules because they are over 18 but all the following apply:
  - their immediate family, including siblings under 18 qualify for family reunion and intend to travel, or have already travelled, to the UK
  - they would be left alone in a conflict zone or dangerous situation
  - they are dependent on immediate family in the country of origin and are not leading an independent life
  - there are no other relatives to turn to and would therefore have no means of support and would likely become destitute on their own
- where an applicant is an unmarried or same-sex partner and they meet all the requirements of paragraph 352AA with the exception that the sponsor was granted refugee status or humanitarian protection status before 9 October 2006
- where an applicant is an unmarried or same-sex partner and they meet all the requirements of paragraph 352AA except the requirement to live together and the caseworker is satisfied that they have evidenced that this would have put them in danger.<sup>9</sup>

## Discretionary applications based on Article 8 ECHR

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<sup>8</sup> Home Office, [Family reunion: for refugees and those with humanitarian protection](#), 29 July 2016, page 19

<sup>9</sup> Home Office, [Family reunion: for refugees and those with humanitarian protection](#), 29 July 2016, page 20

Applicants who cannot satisfy the Immigration Rules requirements for refugee family reunion or entry as a dependent relative may be able to submit an application to join family members in the UK, based on the UK's commitments under international law. For example, the Upper Tribunal recently allowed an appeal brought on Article 8 grounds by the mother and sibling of a child granted refugee status in the UK.<sup>10</sup>

There may also be scope to make an application based on human rights arguments

In particular, Article 8 of the European Convention on Human Rights provides a qualified right to respect for family and private life. This right can be interfered with for the purpose of maintaining effective immigration controls, however the interference must be proportionate. A relevant consideration in cases involving refugees is that they cannot easily move to join their family members in their country of origin (owing to the past persecution they experienced there), and may be unable to obtain a visa to join them in a different country.

Furthermore, Article 3 of the [1989 UN Convention on the Rights of the Child](#) requires that the best interests of a child be the primary consideration in all actions concerning children. Section 55 of the *Borders, Citizenship and Immigration Act 2009* requires the Home Secretary to safeguard and promote the welfare of children in the UK. Although the statutory duty does not apply to children outside the UK, Home Office policy guidance states that staff working overseas "must adhere to the spirit of the duty".<sup>11</sup>

## 1.4 Government response to calls to extend family reunion channels

There are calls to widen eligibility criteria and application channels, and ensure access to quality legal advice

Against the backdrop of an increase in refugee and migrant flows into Europe and the ongoing Syrian refugee crisis, family reunion policies are under increased scrutiny. For example, it has been reported that some naturalised British citizens have been living in the migrant camps in northern France alongside refugee family members who are unable to access family reunion processes.<sup>12</sup>

Calls for reform centre around introducing wider eligibility criteria, simplifying evidence requirements, providing appropriate channels for submitting applications, and ensuring access to quality legal advice.<sup>13</sup> [EDM 561](#) of the current session "calls for the Government to reform and widen the definition of family under the reunion rules... [and] reinstate legal aid". There were related debates during the passage of the

<sup>10</sup> [AT and another \(Article 8 ECHR – Child Refugee – Family Reunification: Eritrea\) \[2016\] UKUT 227 \(IAC\)](#)

<sup>11</sup> Home Office/Department for Children and Families, [Every child matters](#), November 2009

<sup>12</sup> The Guardian, ['British citizens living alongside their families in the squalor of Dunkirk'](#), 31 January 2016

<sup>13</sup> See, for example, Refugee Action, [Refugee family reunion – policy briefing](#), February 2016; Red Cross, ['Family reunion – a difficult fight to see your family'](#) (undated)

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*Immigration Bill 2015-16*, and a June 2016 [Westminster Hall debate on Refugee family reunion rules](#).

Amendments seeking to expand the eligibility criteria for refugee family reunion were tabled during the passage of the *Immigration Bill 2015 - 16*. The Government resisted changing the Immigration Rules, but confirmed it was reviewing its policy and would publish updated policy guidance.<sup>14</sup>

### Applying the family reunion rules to a wider range of relatives

Campaigners argue that the refugee family reunion rules should be expanded to cover all relationships where the applicants are dependent on the sponsor. A briefing by the charity Refugee Action provides some background context:

frequently within contexts of war, insecurity, and persecution, refugees may present applications on behalf of their younger siblings. In such cases, the parents may have died and the older sibling may be responsible for their younger brother or sister. There are also instances where refugees may be the primary carer of their nieces or nephews where the refugee's adult sibling has been killed and his or her children are taken in and become dependent on the refugee. Alternatively, adult children, siblings or parents of sponsors may well be dependent on the sponsoring refugee. Government policy exists that addresses cases such as these, under part 8 of the Immigration Rules; however, the financial requirements are prohibitive for many new refugees.<sup>15</sup>

The charity also argues that the exclusion of 'post-flight' family members has a particular impact on refugees who formed a family in a third country whilst waiting for resettlement.

Speaking at the Commons Report stage of the *Immigration Bill 2015-16*, the then Minister for Immigration argued that the UK's rules already compare favourably with some other EU Member States, and widening the eligibility criteria might act as a "pull factor" for further asylum claims:

We have granted over 21,000 family reunion visas over the past five years. In our judgment, widening the criteria for inclusion would not be practical or sustainable. It might be a significant additional factor in how the UK is viewed by those choosing where among the different jurisdictions to make their asylum claim, and it would undermine our wider asylum strategy. (...)<sup>16</sup>

Campaigners want all dependent relationships to be covered by the refugee family reunion rules

The Government argues that this would not be sustainable, and that there is already scope to make exceptions in particular cases

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<sup>14</sup> [HL Deb 26 April 2016 c1115](#)

<sup>15</sup> Refugee Action, [Refugee family reunion – policy briefing](#), February 2016

<sup>16</sup> [HC Deb 1 Dec 2015 c228](#)

Campaigners have also argued that child refugees should be able to sponsor family members under the refugee family reunion rules. However, in the Government's view, there is a risk that this would create a perverse incentive for children to make dangerous journeys to the UK, as explained by Lord Bates:

Our policy prevents children with refugee status in the UK sponsoring their parents to join them. This is a considered position designed to avoid perverse incentives for children to be encouraged or even forced to leave their country and undertake a hazardous journey to the UK. (...) Allowing children to sponsor their parents would play right into the hands of traffickers and criminal gangs and go against our safeguarding responsibilities.

I know that this point has been raised; we frequently discuss unaccompanied asylum-seeking children. We also know that one of the key concerns of the International Organization for Migration and the UNHCR, our partners in the Syrian vulnerable persons relocation scheme, is that the best interests of the child are often served by keeping the family unit together in the region rather than providing an incentive for them to undertake a hazardous journey.<sup>17</sup>

The Government is concerned that allowing child refugees to sponsor relatives to join them would create incentives for children to travel to

## Making the evidence requirements and application process more accessible

Critics say that refugees and their family members may struggle to produce the type of evidence required to support an application, for example because the documents are not issued in their country of origin, or became lost or unobtainable when they left. The application form and associated guidance has also been criticised for being complex and contradictory.

The application process and evidential requirements can pose additional barriers for applicants

The [British Red Cross published a report in July 2015](#) based on examination of 91 family reunion cases it had dealt with.<sup>18</sup> It argued that family reunion applications are not straightforward and that vulnerable family members can be left in danger as a result of difficulties accessing family reunion.

Findings indicating the complexity of applications included:

- Most refugees (62 per cent) needed some English language support with their applications.
- 74 per cent of people were missing at least one form of required documentation, such as a birth or marriage certificate.
- In 23 per cent of cases, the reunion was with a stepchild or adopted child, causing extra legal and procedural difficulties.

<sup>17</sup> [HL Deb 3 February 2016 c1881](#)

<sup>18</sup> British Red Cross, [Not So Straightforward](#), July 2015

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The Government confirmed in February 2016 that it had accepted a number of recommendations made by the Red Cross for simplifying the application form and improving the associated guidance.<sup>19</sup>

A post on the website of Greater Manchester Immigration Aid Unit (a free legal advice provider) gives an indication of some difficulties that applicants may encounter when preparing family reunion applications, and how they might be overcome:

### **What if there are no marriage/birth certificates?**

If these are not available, the embassy can carry out DNA tests to confirm the family relationships, or can look at other evidence in order to decide whether or not they accept the relationship. Again, an explanation for the lack of these documents will need to be included in the sponsor's statement or the covering letter. In this type of case, it will be particularly important to show that the sponsor mentioned their family when they applied for asylum.

### **What if there has been a long delay in making the application?**

This can sometimes cause a problem, as it may make the Entry Clearance Officer think that the applicants are not part of the Sponsor's family unit. The reasons for any delay must be carefully explained in the sponsor's statement.

(...)<sup>20</sup>

Difficulties in accessing application points have also been highlighted as an additional barrier. For example, family members might have to travel long distances through potentially unsafe environments in order to attend an appointment at a British consulate or embassy to provide fingerprints and submit to DNA or health tests.

## **Reinstating legal aid**

In light of the type of difficulties identified above, campaigners have argued that in practice, family reunion applications can be far from straightforward, and that applicants need access to quality legal advice.

Family reunion applications were removed from the scope of legal aid with effect from April 2013, by the *Legal Aid, Sentencing and Punishment of Offenders Act 2012*. The then government took the view that such applications were straightforward, and constituted an "immigration" rather than "asylum" matter (asylum matters remain in scope).

Refugee family reunion applications are considered to be straightforward immigration applications, but campaigners argue that in practice they are often complex to prepare

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<sup>19</sup> [HL Deb 3 February 2016 c1882](#)

<sup>20</sup> GMIAU, '[Refugee family reunion](#)' (undated)

## 2. EU law: Dublin III Regulation

Separate to the Immigration Rules, EU law provides a route of entry to the UK for people who have already entered Europe as asylum seekers and have family living in the UK.

The [Dublin III Regulation](#), which apply to the UK and all other EU Member States, specify a hierarchy for determining which Member State should be responsible for processing an asylum claim made by someone who has entered the EU. The Regulation prioritises respect for family reunion above certain other considerations, such as which EU state the person initially entered.

For example:

- Unaccompanied minors who have a family member or sibling who is legally present in another Member State are eligible to be transferred to that Member State, provided that it is in their best interests (Article 8 of the Regulations).
- People who have a family member who has applied for or been granted international protection in another Member State are eligible to be transferred to that Member State, provided that they submit a written request (Articles 9 and 10). The definition of family member includes post-flight family members of people granted international protection.

The EU's Dublin Regulation facilitate family reunion for asylum seekers with family members in other Member States

### Pressure to improve processing of Dublin transfers

Criticisms have been made that the Dublin protections are difficult to access in practice, and that the process for transferring cases is slow and bureaucratic. There are concerns that some eligible cases are not being identified, particularly in relation to unaccompanied children. For example, according to an [answer to a Parliamentary Question in June 2016](#), a survey of children in the camps in the Calais area conducted by the French NGO France Terre d'Asile identified 43 children claiming family links in the UK.

Chapter VI of the Regulation details the process and timetable for initiating and implementing transfers of cases between Member States. Put briefly, a Member State can request another state to "take charge" of an asylum application which it considers should be the other's responsibility. The request should be made as quickly as possible, in any case, within three months of receipt of the application (or within two months of a 'hit' against the Eurodac fingerprint database). Receiving Member States are expected to respond to such requests within two months. States can request urgent responses in certain scenarios.

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### Recent Government action

The UK Government maintains that a person must first claim asylum in another Member State in order to initiate a transfer to the UK on family reunion grounds under the Dublin Regulation.

It has taken a series of measures over the past few months in order to assist the identification of Dublin cases eligible for a transfer to the UK and reduce the length of time they take to process, notably by:

- Agreeing, in the [joint UK-France declaration of August 2015](#), to establish a permanent contact group to improve operational effectiveness in implementing Dublin transfers from France, and running communication campaigns in northern France about the right to claim asylum and the family reunion process.
- Announcing, [in January 2016](#), a new £10 million fund to support the needs of vulnerable migrant and refugee children in Europe, which will be partly used to support the Dublin provisions by assisting to identify children who need to be reunited with family members.
- [Seconding Home Office officials](#) to France, Italy and Greece to improve the handling of Dublin transfer cases.

During a [related Westminster Hall debate in June 2016](#) the Minister for Syrian Refugees reported on the impact these measures are having in terms of improving the speed of facilitating transfers to the UK:

More than 30 children were accepted between January and April. Many people say that that is totally inadequate and that things are moving at a snail's pace, but they are speeding up; there is absolutely no question about that. There are many cases now in train and transfers can happen within weeks; there is often an implication that it is months, or even longer.

(...)

Over the last five years, the rate of family reunification has been 4,000 to 5,000 per year, but I see that increasing with the different schemes that are happening. It is for **our** Government to help the other Governments in mainland Europe to provide the machinery, so that we can resettle those people more quickly.

One could argue that the Governments of mainland Europe have been so overwhelmed by the numbers that they have not been able to process the unaccompanied children for family reunification. Again, I do not think that that is down to lack of will. I just think that the numbers have completely overwhelmed them. From our end, it is important that we do everything that we can to help them to catch up.

The Home Office is unable to provide specific data on the length of time taken to process Dublin transfer cases.<sup>21</sup>

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<sup>21</sup> [Written Question HL8155](#), answered on 12 May 2016

### Box 2: Judicial review challenging the Government's approach

In January 2016, the Upper Tribunal [allowed a judicial review](#) brought by four young Syrians who were living in the 'jungle' camp in Calais and seeking to reunite with siblings in the UK who had already been granted Refugee status. The applicants had not claimed asylum in France. The Upper Tribunal found that accessing the process for family reunion under the Dublin Regulations would likely delay the applicants' entry to the UK by almost a year at best, and that this would further increase the particular hardship they and their siblings were experiencing, and disproportionately interfere with their right to family life under Article 8 ECHR. It ordered that the usual Dublin transfer process should not apply. Instead, the applicants should be transferred to the UK for consideration of their asylum application as soon as they had submitted a letter to the French authorities claiming asylum. A number of case-specific factors were relevant to the decision.<sup>22</sup>

The Home Office successfully appealed against the judgment. In August 2016 the [Court of Appeal ruled](#) that bypassing the Dublin III Regulation "can only be justified in an especially compelling case".<sup>23</sup>

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<sup>22</sup> R (on the application of ZAT and Others) v Secretary of State for the Home Department [\[2016\] UKUT 61 \(IAC\)](#)

<sup>23</sup> Secretary of State for the Home Department v ZAT & Others [\[2016\] EWCA Civ 810](#)



## 3. Refugee Resettlement schemes

Family reunion may also be achieved through the various different refugee resettlement schemes operated by the UK.

### 3.1 Mandate and Gateway resettlement schemes

The longstanding '[Mandate](#)' and '[Gateway](#)' schemes provide a route for recognised refugees living overseas to be resettled in the UK, where this is deemed to be in their best interests. Refugees who have a close family tie in the UK may be eligible, particularly under the Mandate scheme. Typically, family ties means applicants who are the spouse, minor child or parents/grandparents over the age of 65 of someone settled in the UK. In exceptional circumstances it can apply to those who are a parent/grandparent under 65, or adult son, daughter, sister, brother, uncle, aunt.<sup>24</sup>

### 3.2 Syrian Vulnerable Person Resettlement Programme

Under the [Syrian Vulnerable Person Resettlement scheme](#), the UK is seeking to resettle up to 20,000 Syrian refugees in the UK over the course of this Parliament. Having family links in the UK is one of the grounds for potential eligibility under the scheme.

Updated figures on the number of Syrians resettled through the scheme in each participating local authority are regularly published through the Home Office's [quarterly statistical releases](#).

### 3.3 Resettlement schemes for vulnerable children

The Government has recently announced plans to provide some additional resettlement opportunities for vulnerable children (including unaccompanied children and children coming as part of a family unit), which could include those with family ties in the UK.

Neither of the schemes, detailed below, are operational yet. It is expected that local authorities will have a central role in providing support to unaccompanied children resettled under these schemes (similar to how they already do for unaccompanied asylum seeking children in the UK).

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<sup>24</sup> [GBR Chapter](#), *UNHCR Resettlement Handbook*, October 2014

The [Local Government Association's website](#) includes "a one-stop resource for councillors and council officers to answer any questions you might have about taking in refugees and unaccompanied children".

## "Children at risk" resettlement scheme

The "[children at risk](#)" scheme, which was first announced in January 2016, is intended to provide a route for up to 3,000 children at risk in conflict situations in the Middle East and North Africa to resettle in the UK over the course of this Parliament, where this is judged by UNHCR to be in their best interests. Unaccompanied children and children who have become separated from family members may be eligible for consideration under the scheme, alongside other vulnerable children (and their family members).

### *Immigration Act 2016*: Resettlement for unaccompanied children in Europe

[Section 67 of the Immigration Act 2016](#), often referred to as the 'Dubs amendment', requires the Home Secretary to make arrangements to resettle in the UK an unspecified number of unaccompanied children in Europe, in consultation with local authorities. It has been in force since 31 May 2016.

Unaccompanied children who had registered in Greece, Italy or France before 20 March 2016 will be eligible for resettlement under the scheme. Priority will be given to children with family links in the UK.<sup>25</sup> Richard Harrington, then Minister for Refugees, gave a progress update on 13 June 2016:

Ministers and senior officials have formally opened consultations with Greece, Italy and France to identify and transfer to the UK unaccompanied refugee children where it is in their best interests. We are also consulting local authorities, non-governmental organisations and UNHCR.<sup>26</sup>

In an interview with the *Guardian* in September 2016 Lord Dubs expressed disappointment at the progress that had been made.<sup>27</sup> While it was originally expected that the operation of section 67 would see around 3,000 children given a home in the UK, in October the Home Secretary described the prospect of the UK taking in only 300 unaccompanied children as a "really good result".<sup>28</sup>

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<sup>25</sup> HC Deb 9 June 2016 c240WH

<sup>26</sup> [HC Deb 13 June 2016 c1425](#)

<sup>27</sup> "[It is a disgrace to Europe': former child refugee Lord Dubs on the Calais camp](#)", *Guardian*, 5 September 2016

<sup>28</sup> "[Taking in 300 children from Calais camp would be good result, says Amber Rudd](#)", *Guardian*, 10 October 2016

## 4. Recent application statistics

Refugee family reunion applications made under the Immigration Rules are not separately recorded in the quarterly immigration statistics, but comprise the majority of the applications in the 'Family: Other' category. The most recent quarterly statistical release shows a 54% increase in the number of decisions resolved in this category in the year ending June 2016 compared with the previous twelve month period. The grant rate in the year-ending June 2016 was 60%.

### Entry clearance visa applications and resolutions in the "Family: Other" category, YE June 2012 to YE June 2016

| Year        | Applications | Resolved | Granted |       | Refused |       | Withdrawn or lapsed |
|-------------|--------------|----------|---------|-------|---------|-------|---------------------|
|             |              |          | Number  | %     | Number  | %     |                     |
| YE Jun 2012 | 4,594        | 5,055    | 3,855   | 76.3% | 1,036   | 20.5% | 164                 |
| YE Jun 2013 | 5,938        | 5,824    | 3,778   | 64.9% | 1,922   | 33.0% | 124                 |
| YE Jun 2014 | 5,668        | 6,779    | 4,961   | 73.2% | 1,712   | 25.3% | 106                 |
| YE Jun 2015 | 6,791        | 6,510    | 3,930   | 60.4% | 2,420   | 37.2% | 160                 |
| YE Jun 2016 | 9,381        | 10,007   | 5,999   | 59.9% | 3,940   | 39.4% | 68                  |

Source: Home Office, [Immigration Statistics: April to June 2016](#), Table vi\_01\_q

Over a third (36%) of the visas granted in the year ending June 2016 in the 'Family: Other' category were to Syrian nationals. The top five nationalities accounted for 75% of visas granted in the 'Family: Other' category in the year ending June 2016, compared with 62% in the previous 12 month period.

### Entry clearance visas granted to top five countries of nationality in the "Family: Other" category, YE June 2016 and YE June 2015

| Nationality              | Rank        |             | Number       |              | Change on previous year |               |
|--------------------------|-------------|-------------|--------------|--------------|-------------------------|---------------|
|                          | YE Jun 2016 | YE Jun 2015 | YE Jun 2016  | YE Jun 2015  | Number                  | %             |
| Syria                    | 1           | 1           | 2,153        | 1,093        | +1,060                  | +97.0%        |
| Sudan                    | 2           | 2           | 784          | 378          | +406                    | +107.4%       |
| Eritrea                  | 3           | 5           | 766          | 275          | +491                    | +178.5%       |
| Iran                     | 4           | 4           | 510          | 317          | +193                    | +60.9%        |
| Sri Lanka                | 5           | 6           | 270          | 250          | +20                     | +8.0%         |
| <b>All nationalities</b> | -           | -           | <b>5,999</b> | <b>3,930</b> | <b>+2,069</b>           | <b>+52.6%</b> |

Source: Home Office, [Immigration Statistics: April to June 2016](#), Table vi\_06\_q\_f

A [Parliamentary Question in May 2016](#) sought details of the number of family reunion cases involving children which have been handled under the Immigration Rules, as exceptions to the rules, or under the Dublin III Regulations:

**Immigration: Children:Written question - 37351**

**Asked by [Stuart C. McDonald](#) (Cumbernauld, Kilsyth and Kirkintilloch East) Asked on: 18 May 2016**

To ask the Secretary of State for the Home Department, how many children have been reunited with their families in the UK in (a) the last five years and (b) the last year under (i) the EU Dublin III Regulation; (ii) part 11 of the UK immigration rules, (iii) any other parts of the UK immigration rules and (iv) under exceptional circumstances.

**Answered by: [James Brokenshire](#) Answered on: 08 June 2016**

There are several routes for children to be reunited safely with their families in the UK. Applications for family reunion for individuals under the age of 18 years of age can be received both in country and out of country and are processed by a number of casework units within the Home Office including International Operations, Settlement, Complex Casework and Asylum Operations. Unfortunately the way these applications are processed and the method used to store the data on the main immigration database means that not all of the data is recorded in a format that can be reported on automatically and would therefore require a manual investigation of thousands of case records. As a result this data could only be provided at disproportionate cost.

Since 2010 we have granted more than 21,000 family reunion visas and 175 visas for exceptional circumstances though we are not able to distinguish from the data how many of these applicants were under the age of 18. Internal Management information concerning applications from people under 18 processed by International Operations and Complex Casework are listed in the table below:

## 21 UK refugee family reunion rules: striking the right balance?

| <b>Year</b>        | <b>Complex Casework</b> |
|--------------------|-------------------------|
| 2010               | 14                      |
| 2011               | 14                      |
| 2012               | 8                       |
| 2013               | 7                       |
| 2014               | 24                      |
| 2015               | 10                      |
| <b>Grand Total</b> | <b>77</b>               |

| <b>Year</b>        | <b>International Operations</b> |
|--------------------|---------------------------------|
| 2011               | 2950                            |
| 2012               | 2406                            |
| 2013               | 2624                            |
| 2014               | 2882                            |
| 2015               | 3088                            |
| <b>Grand Total</b> | <b>13950</b>                    |

This is provisional management information that is subject to change. It has not been assured to the standard of Official Statistics.

## 5. Family reunion rules in other EU Member States

[EU Directive 2003/86/EC](#) *on the right to family reunification* covers family members of people granted Refugee status, as well as family members of other categories of migrant. The Directive applies in all Member States apart from Denmark, Ireland and the UK (who exercised their special 'opt-out' rights).

The preamble to the Directive states that "more favourable conditions" should be laid down for refugee family reunion (compared to other third country residents covered by the Directive).

Chapter V of the Directive specifically concerns refugee family reunion. There are certain similarities and differences between the Directive and the UK's comparable provisions.

Under the Directive, family reunion can be confined to 'pre-flight' family members, and to refugees granted Refugee status under the 1951 Convention (whereas the UK's rules also apply to family members of people granted asylum on other grounds). Eligible family members are the spouse and minor children (including adopted children). Member States may also authorise family reunion for other family members if they are dependent on the refugee.

Unlike the UK Immigration Rules, Article 10(3) of the Directive allows for unaccompanied refugee children to sponsor family reunion applications.

The Directive requires Member States to exercise a degree of flexibility in terms of the evidence required to substantiate an application, and states that applications should not be refused solely because documentary evidence is lacking (Article 11).

Refugees are generally exempt from requirements to demonstrate adequate accommodation, sickness insurance or maintenance funds when sponsoring immediate family members (similar to the UK's rules). However, if the family reunion application is not submitted within three months of gaining Refugee status, they may be required to satisfy these requirements (Article 12).

Some NGOs have been critical of how the Directive is applied in some Member States, citing examples of how more favourable rules are not applied in practice in refugee cases.<sup>29</sup>

Other EU Member States apply different refugee family reunion rules, which have also attracted some criticism from NGOs

<sup>29</sup> ECRE/Red Cross EU Office, [Disrupted Flight: the realities of separated refugee families in the EU](#), 2014

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