

## Family reunion

This fact sheet provides information on the ways in which children can be reunited with their family members who have been recognised as refugees or beneficiaries of humanitarian protection in the UK.

If you have any questions about this issue relating to a refugee or migrant child, young person or family, you can call our Migrant Children's Project advice line on 0207 636 8505 or email [mcp@coramclc.org.uk](mailto:mcp@coramclc.org.uk).

### What is family reunion?

If an individual flees with his family from their country in order to seek asylum or humanitarian protection in the UK, they can include details of dependent family members on their asylum application. However, some individuals may have left without their family members or lost those family members on the journey to the UK.

The United Nations Conference on the Status of Refugees and Stateless Persons recognised that family was an essential right of refugees and recommended that governments take necessary measures to ensure that the unity of a refugee's family is maintained. This is especially the case where an individual has fulfilled the necessary conditions for admission to a particular country – i.e. an individual with refugee status. [1]

When an individual is granted asylum or humanitarian protection in the UK, the Home Office will normally grant their dependants in the UK 'leave in line' with them (i.e. permission to be in the UK for the same period of time).

Family members who are not in the UK and not included in the application for protection will not be granted leave in line. Instead, the Home Office makes provision in the Immigration Rules to allow for recognised refugees or those granted humanitarian protection to bring their family members over to the UK in order to be reunited.

The relevant provisions for family reunion depend on whether those family members are deemed to be pre-

flight or post-flight members of the refugee or beneficiary of humanitarian protection.

It is very difficult for a UK-based refugee child to be reunited with their family members. A child who has been granted refugee status or humanitarian protection in the UK does not have a right to be a sponsor for family reunification purposes within the Immigration Rules. If a family member was in a European country, they may be able to be reunited under the Dublin process. For further information please see our fact sheet on this process at: <http://bit.ly/25w5ww2>. Alternatively an application based on family life outside of the rules could be made (for example, under Article 8 of the European Convention on Human Rights) or, if the child was settled, under the Immigration Rules. For further information on these applications, please see our fact sheet on family life applications: <http://bit.ly/1GIDeJ5>

### Pre-flight and post-flight family

Pre-flight family members are primarily defined as:

- Husband, wife or civil partner; [2]
- Unmarried or same sex partner; [3]
- The child of the parent who is the refugee or beneficiary of humanitarian protection; [4] or
- The child of a relative whose family member is the refugee or beneficiary of humanitarian protection. [5]

Post-flight family members are defined as those who did not form part of the immediate family unit before the asylum seeker fled their country. This includes:

- Children who were conceived after the asylum seeker fled their country;
- Adult dependent relatives; and
- Other child relatives such as siblings or nieces and nephews.

The relatively simple rules for pre-flight family reunion do not apply to post-flight family members. Instead a more complex set of requirements in Appendix FM of the Immigration Rules must be followed. Alternatively an application could be made outside of the Immigration Rules but this can be difficult to achieve. Please see the section on post-flight children below for further information.

This fact sheet focuses on the rights of a child as the non UK-based family member ('the applicant') to be reunited with their parents or other relative (the UK-based family member – 'the sponsor').

### **Family reunion for parents with a pre-flight child**

A parent who has been recognised as a refugee or a beneficiary of humanitarian protection in the UK and who wishes to be reunited with their child/children, can make an application for family reunion. A child will be granted entry to the UK under family reunion as long as the child is:

- Under the age of 18;
- Part of the family unit before the parent or parents fled;
- Not leading an independent life;
- Not married or in a civil partnership; and
- Not formed an independent family unit.

As long as these requirements are met, the child ought to be granted leave to remain in the UK that is the same length as their parent's leave (although they will not receive the same status – they will not be a refugee or have humanitarian protection).

These rules also apply to step-children as long as the child is under 18; part of the family unit before the step-parent fled; and the child's mother/father is dead.

There are no English language, maintenance or accommodation requirements to satisfy for this form of leave. However, the child must not trigger one or more of the general grounds of refusal – for example, by having committed certain criminal offences or

provided false representations or documents. [6] There is also a requirement that they would not be excluded from refugee status if they themselves claimed asylum in the UK.

### **Other child relatives**

Often a sponsor may wish to be reunited with child relatives who are not their children. These child relatives may include siblings, nieces, nephews, or cousins.

The Immigration Rules do allow for this form of family reunion under paragraph 319X but the rules are particularly hard to satisfy. If the child was looking to be reunited with his family, they must meet the same requirements as a pre-flight child above. In particular, this includes the child being part of the family unit before the sponsor fled the country of origin. However, in addition those requirements, the following requirements must also be met:

- There must be serious and compelling family or other considerations which make exclusion of the child undesirable;
- Suitable arrangements must be made for the child's care;
- The relative must not be the parent of the child; and
- The child can, and will, be accommodated and maintained adequately by the relative without recourse to public funds in accommodation which the relative in the United Kingdom owns or occupies exclusively.

These are very strict conditions and it is often hard to satisfy the serious and compelling considerations and maintenance and accommodation requirements. There is no English language requirement but again the child must not trigger one or more of the general grounds of refusal.

## **Family Reunion Procedure**

The vast majority of applications will be made outside of the UK, with the application often being prepared from within the UK. However, you can also make an application for family reunion within the UK.

### UK-based applications

As noted above, it is possible for a family reunion application to be made from within the UK. The type of form/application to be made and who to send it to in the case of an in-country application can be found on the government website. **[7]** Please note that the form used in this type of application has a different address and includes a section on payment details. The address the application should be sent to is on the government website and there is no fee for the in-country family reunion application. There is also detailed guidance and policy published by the Home Office in respect of in-country family reunion applications. **[8]**

### Out-of-country applications

In the case of out-of-country applications, the application needs to be made to the relevant visa application centre in the country where they are living. Please note that there is not a visa application centre in every country and the individual may have to go to another country. The Home Office lists details, including addresses, contact numbers, and which country the applicant would need to go to on their website. **[9]**

The application needs to be made online and the government website provides a link to the online application website with some useful information on information required and timescales. **[10]** However, an application form VAF4A, together with Form Appendix 4, will also need to be completed. **[11]** There is accompanying guidance on the website on filling out the form. **[12]** The Home Office does not allow an individual to apply online from Cuba, North Korea or Zimbabwe. There is specific information on the government website on how you should apply if you are applying from one of these countries. **[13]**

The online application will be submitted and the applicant will then be offered an appointment to go to

the visa application centre in order to submit their accompanying documents. There is often flexibility on the date and time that person is able to submit their documentation in person. The applicant will be expected to provide their biometric details: they will have their photograph and fingerprints taken at the Visa Application Centre.

There is no fee for making a family reunion application within or outside of the UK.

## **Evidence**

The individual making the application will have to print off the completed online form and take this with them to the appointment to submit their documentation. If they have had assistance in making their application, it can also be helpful to have a covering letter or document that outlines the reason for the application, why that person fits within the family reunion rules and a list of supporting documentation. Some documents must be submitted with the application but other documents will depend on the specifics of the case.

Applications will require some or all of the following documentation:

- A valid passport – if this cannot be provided/obtained an explanation should be given as there is a discretion to provide a visa without a passport being provided;
- Passport photographs;
- A certified copy of the UK-based family member's biometric residence permit or immigration status document;
- A letter from the Home Office confirming the UK-based family member's refugee status or humanitarian protection;
- A statement from the UK-based family member;
- A statement from the applicant;
- Any photographic evidence – family photos, photo messages, etc.
- Any evidence of financial support; and

- Any evidence of contact, such as telephone bills, emails, text messages, WhatsApp messages, etc.

It is usually important that the UK-based family member mentioned their applicant family member in their asylum claim – most commonly during their screening interview, statement or substantive interview. If this has not been done, an explanation should be provided as to why the child was not mentioned at the time.

If any evidence cannot be provided, an explanation of the lack of evidence should be given. Statements can form evidence of relationships, family history and the circumstances that led to the application. Any supporting documentation, such as copies of messages, evidence of contact and of support should be provided.

A child applicant would normally be expected to provide a birth certificate. It would be better to provide the original document but a copy may be sufficient. Again, an explanation should be given if this cannot be provided. Alternative evidence of paternity that could be provided includes a DNA test proving the relationship between the parent and child or details of the child's parents in a statement. A DNA test must have been provided by a Home Office approved test centre.

### **Decision & Appeals**

A written decision will be provided and if the application is allowed, the applicant will be granted leave to remain in line with the UK-based family member (please note that the applicant will not be granted status in line – they will not be a refugee).

If the application is refused, the reasons for refusal must be stated in a written decision and will state what compelling and compassionate circumstances were considered.

Although in-country appeal rights have been restricted in recent years, an applicant will very likely receive an appeal right in the UK as it will involve human rights grounds.

### **Reuniting with post-flight children**

A child who is conceived after their parent or parents fled their country in order to seek asylum in the UK will be viewed as a post-flight child and will not be granted leave under the same family reunion provisions noted above.

In this scenario, an application under the provisions in Appendix FM will need to be met. If the requirements under Appendix FM cannot be met, it may be possible to raise a case for reunion under Article 8 of the European Convention on Human Rights. Article 8 provides for the right to respect for family and private life. This form of argument will only be successful in exceptional circumstances and professional legal advice should be sought before making a claim under this route.

### **Legal aid**

It is important to note that since April 2013, there is no legal aid available for these types of application. However, there is provision to provide legal aid in exceptional cases where failing to provide funding would risk a breach of someone's human rights or a breach of European Union law. The Public Law Project runs an Exceptional Funding Project which is designed to assist people in need of legal advice, assistance or representation with making exceptional funding applications and challenging refusals of funding where appropriate. For further details please see our fact sheet on exceptional cases funding at: <http://bit.ly/1G9rgRi>.

Some law centres, citizen's advice bureaux and community projects may also be able to assist to differing extents in helping to prepare family reunion applications. Alternatively you can pay privately for the cost of a registered immigration adviser to make your application. For further details please see our fact sheet on obtaining legal representation at: <http://bit.ly/1G9rgRi>.

The British Red Cross have published a comprehensive report on family reunion and the challenges faced by applicants and sponsors, as well as providing potential solutions and recommendations for changes to the system. [14]

## NOTES

[1] United Nations Conference on the Status of Refugees and Stateless Persons, Final Act and Convention relating to the status of refugees

<http://www.unhcr.org/40a8a7394.html>

[2] Paragraph 352A, Part 11, Immigration Rules

<https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-11-asylum>

[3] Paragraph 352AA, Part 11, Immigration Rules

<https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-11-asylum>

[4] Paragraph 352D, Part 11, Immigration Rules

<https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-11-asylum>

[5] Paragraph 319X, Part 8, Immigration Rules:

<https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-8-family-members>

[6] Paragraph 320, Part 9, Immigration Rules

<https://www.gov.uk/topic/immigration-operational-guidance/immigration-rules>

[7] Gov.uk Website, Family Reunion

<https://www.gov.uk/settlement-refugee-or-humanitarian-protection/family-reunion>

[8] Home Office, Family Reunion Policy

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257465/familyreunion.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257465/familyreunion.pdf) & Gov.uk

Website, Family reunion: SET10 Guidance

<https://www.gov.uk/government/publications/family-reunion-set10-see-also-post-flight-family-members-set18/family-reunion-set10-see-also-post-flight-family-members-set18>

[9] Gov.uk website, Find a visa application centre,

<https://www.gov.uk/find-a-visa-application-centre>

[10] Gov.uk website, Apply for a UK Visa

<https://www.gov.uk/apply-uk-visa>

[11] Gov.uk Website, Form VAF4A & Form Appendix 1

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/274029/VAF4A.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274029/VAF4A.pdf)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/261434/vaf4a4.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/261434/vaf4a4.pdf)

[12] Gov.uk Website, VAF Guidance

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/299662/VAF2-8b-Guidance-Notes.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299662/VAF2-8b-Guidance-Notes.pdf)

[13] Gov.uk Website, North Korea, Cuba & Zimbabwe

<https://www.gov.uk/settlement-refugee-or-humanitarian-protection/family-reunion>

[14] British Red Cross, "Not so straightforward: the need for qualified legal support in refugee family reunion"

<http://www.redcross.org.uk/~media/BritishRedCross/Documents/About%20us/Not%20so%20straightforward%20refugee%20family%20reunion%20report%202015.pdf>

**This fact sheet should not be used to give legal advice and is for information and guidance only. For advice on individual cases, assistance should be sought from an independent regulated legal adviser.**

**For further assistance contact our advice line. Call 0207 636 8505 or email [mcp@coramclc.org.uk](mailto:mcp@coramclc.org.uk).**