

## REFUGEE FREQUENTLY ASKED QUESTIONS

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### **1. What are the main reasons that people become refugees, and what other reasons drive people from their homes and across borders?**

There are many reasons a person may become a refugee. A refugee is someone facing persecution in their country of origin/nationality for one of five reasons – political opinion, religion, race, nationality or membership of a particular social group. Normally, people displaced by natural disasters are not refugees, though in the popular media, this term is often used to describe such people. Those fleeing from civil war may also not be refugees if none of the specific reasons listed above apply to their situation, even though they undoubtedly face very serious risks in their country of origin/nationality.

### **2. Is it legal to seek asylum?**

While it is lawful to seek asylum, an asylum-seeker may need to break immigration rules to get to another country in order to make an asylum claim. It is recognised in the 1951 UN Refugee Convention that people fleeing persecution may have to use irregular means in order to escape and claim asylum in another country. There is no legal way to travel to the UK for the specific purpose of seeking asylum. Its immigration laws require most migrants to obtain permission before travelling to the UK. There are some exceptions to this, but countries that enjoy visa-free travel to the UK tend to be countries from which someone is unlikely to need or

want to seek asylum – e.g. Australia, Canada, USA etc. The 1951 UN Refugee Convention requires that a State should not penalise refugees for having to cross borders in breach of immigration rules in order to seek asylum.

### **3. What's the difference between an asylum-seeker and a refugee?**

An asylum-seeker is a person asking for asylum from a country that is not their country of origin/nationality, to permit them the right to residence and receive the protection of that other country. A refugee is a person who is outside their country of origin/nationality and is at risk of persecution if returned to that country, as defined more fully by the 1951 UN Refugee Convention. In the UK, most refugees are either seeking asylum or have previously sought asylum and been formally recognised as being refugees. Many asylum-seekers are refugees, and it is imperative that the UK Home Office recognise their status as refugees and grant them asylum.

### **4. Are the terms refugee and asylum seeker mutually exclusive? Could an asylum-seeker who is waiting for their asylum application to be processed also be a refugee?**

The terms are not mutually exclusive. A person is a refugee by virtue of meeting the 1951 UN Refugee Convention definition. Subject to the provisions of that Convention, they should be granted asylum. A refugee, therefore, may seek asylum (i.e. ask that another country, e.g. the UK, formally recognise their refugee status). Thus, the UK

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does not (and cannot) give or refuse refugee status. It does operate a system to determine whether someone is or is not a refugee. If it accepts the person is a refugee, the UK usually provides them an immigration status permitting them to live in the UK (refugee leave). It does not thereby grant refugee status. Rather it acknowledges its international obligations to the refugee and grants a UK immigration status to reflect those obligations.

### **5. If someone's asylum application is not approved, what are they?**

In some cases, the refusal is incorrect and the person remains a refugee but is yet to be recognised as having that status. Those refused asylum are usually permitted to appeal within the UK. They continue to be treated as asylum-seekers unless and until their appeal is finally decided. If the appeal is dismissed, they will be treated differently – as refused asylum-seekers – though in some cases, refused asylum-seekers may once again become treated as an asylum-seeker if they make a fresh asylum claim setting out new material or information to establish their entitlement to asylum.

### **6. How come asylum-seekers and refugees get priority access to housing and benefits, i.e. get put above British people on the council housing list.**

They do not. Asylum-seekers do not have access to council housing or to social security benefits. If an asylum-seeker is recognised to be a refugee, they will be granted refugee leave (permission to remain in the UK) and then may be entitled to council housing and/or social security benefits on the basis of the very same criteria as British citizens. Asylum-seekers, whose asylum claims or appeals remain outstanding, can (if they would otherwise be destitute and homeless) receive

accommodation and support from the Home Office at rates substantially below that for social security. Most asylum-seekers access this support because they are not permitted to work in the UK and cannot support themselves. Refused asylum-seekers may be entitled to some support from the Home Office if they are for the time being unable to return to their country of origin/nationality.

### **7. Do refugees and asylum-seekers have the right to work in the UK?**

Asylum-seekers are normally refused permission to work in the UK. They may be permitted to take work if they have been waiting for more than a year for a decision on their asylum claim (i.e. the decision by the Home Office before any appeal). This is now very rare. If an asylum-seeker is recognised to be a refugee, and granted permission to remain in the UK, then they will be free to work like any British citizen, although they may still face prejudice from employers.

### **8. What percentage of refugees are able to return home?**

A refugee is someone who cannot return home safely. If someone is no longer at risk of persecution in their country of origin/nationality, they cease to be a refugee. However, this does not mean it will be appropriate to expect them to return home. Much will depend upon what has happened in the intervening period – how settled have they become in the country in which they have sought asylum (e.g. the UK) and what can they expect to return to in their country of origin/nationality, such as friends, family and work. Consider: their family may now be settled in the UK, they may have established a new family in the UK, and they may have no family or community to which they can return.

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### **9. How do refugee children get access to education and schooling in the UK?**

The 1951 UN Refugee Convention states that refugees should have the same access to elementary education as citizens of the country in which they have sought refuge. As regards all other education, the Convention states that refugees should have at least as good access (including as regards remission of fees) as the most favoured foreign nationals in that country. In the UK, education up to 18 years of age is available to all children regardless of immigration status, so child asylum-seekers up to this point should have access to education provided by a local authority. In practice, older children sometimes face bureaucratic difficulties, especially where a school is not properly aware of its obligations. Some local authorities provide alternative projects for children while they are waiting to find a school place. However, refugees may have difficulty accessing higher education (or post-18 further education) – either because it is not clear whether they will be in the UK to complete a course, or because they cannot afford a fee and cannot obtain a fee exemption. Once a refugee is formally recognised by the Home Office to be a refugee, these difficulties should be resolved. A person granted refugee leave (the immigration status given to a refugee once the UK has acknowledged the person to be a refugee) should be treated as a home student, so may be eligible for any fee remission on the same basis as a home student. In some circumstances, asylum-seekers may also be considered as a home student – e.g. if they have not been recognised to be refugees, but have been granted permission to remain in the UK for an extended period. This may happen when someone is at risk of serious harm if returned to their country of origin/nationality but not for

one of the five specific reasons relating to refugees.

### **10. What difficulties are faced by refugees in seeking asylum in the UK etc.?**

There are many difficulties, and some refugees may face greater hardships than others. Many refugees have suffered traumatic experiences. They may have been tortured, suffered during their journeys to the UK (e.g. think of those who have survived when boats have sunk in the Mediterranean.), or may have become separated from family and not have any news about family members. They may have also witnessed family members being killed. Many refugees also find the system and their treatment in the UK to be traumatising - being isolated, not familiar with the culture or language, being asked to retell their story repeatedly (including traumatic events), being 'dispersed' (see below), being detained, being racially abused, or being unable to work or fill their days with meaningful occupation. Thus, many refugees (including after they have been recognised to be refugees and granted permission to remain in the UK) suffer significant mental health difficulties. Refugees also have difficulty getting good immigration advice and representation. This is particularly problematic because poor advice or representation may cause their asylum claim to be refused, and lead to them being detained and returned to the country where they face persecution. Dispersal can exacerbate some of these problems. Refugees are not normally allowed to work unless and until their refugee status has been formally recognised by the Home Office. Hence, most refugees must rely upon the Home Office to provide accommodation and some financial support. Home Office accommodation is provided in different parts of the country, and while they are still seeking

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asylum refugees may be moved to accommodation far from friends, community, lawyers and other supporters (including healthcare providers). This experience is for many quite disorientating. As for financial support, this is provided at far below the level of social security benefits provided to British citizens (the basic rate for otherwise destitute asylum-seekers is just over £5 per day). Some refugees find themselves homeless and destitute; and some are or become vulnerable to labour or sexual exploitation.

### 11. What's the situation regarding child refugees in the UK?

Adult refugees given asylum in the UK are entitled to apply for their immediate family members to join them. However, this is not the case for children. The UK is one of only two European countries (along with Denmark) which denies this opportunity for refugee children.

A few hundred children each year are recognised as refugees and entitled to remain in the UK.

### 12. Why is it important for children to bring their family members over?

Many children left their home countries in traumatic circumstances and are suffering from intense anxiety. It would help their well-being if their family members could join them. It's not only the moral thing to do; it also makes sense from a policy perspective. Allowing children to be reunited with their close family could save valuable resources in the long run, such as costs for mental health services and foster care.

We all know how important family is in our lives, especially when we are children or entering adulthood. It's no different for these children save that their often traumatic past experiences and worries about the safety of

their family make it especially important that they be safely reunited here.

### 13. What do you want the government to do?

We want the UK Government to change the rules to allow child refugees to apply for their family members to join them in the UK just like adults similarly recognised as entitled to asylum here can.

### 14. How does the treatment of irregular migrants and regular migrants differ?

A regular migrant in the UK is someone permitted to be in the UK. There may be conditions on that permission, and it may only last for a limited period of time. For so long as the migrant keeps to any conditions and while their permission (called leave) continues, the migrant is free to remain in the UK.

An irregular migrant has no permission to be in the UK. Unless they are able to regularise their status (i.e. become a regular migrant by applying for permission to be in the UK), they may be detained or removed. The irregular migrant will also be subject to laws, which mean they cannot be lawfully employed in the UK and an employer may be fined for employing them. Landlords may be fined for providing accommodation to irregular migrants.

### 15. Can refugees be regular or irregular migrants?

Some refugees will be regular migrants and some will be irregular migrants. 'Regular' here simply refers to whether a migrant is complying with domestic immigration rules – so in the UK, if the person needs permission (e.g. a visa) to *travel* to the UK, do they have that permission? And if they need permission to *remain* in the UK, do they have that permission? There may be conditions on any

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permission granted to a migrant, about whether they are permitted to work or not, or how long they are permitted to stay in the UK. Most refugees cannot obtain permission to travel to the UK, but nonetheless must arrive here before they can make an asylum claim. Most of them (virtually all) come from countries for which a visa (a form of permission) is required before travelling to the UK. Therefore, most refugees travel to the UK as irregular migrants and claim asylum having entered the country.

A limited number of refugees are “resettled” to the UK. The Government has established a “Vulnerable Persons Relocation Scheme”, in order to provide a route for selected Syrian refugees to come to the UK. Originally, this scheme was to resettle a few hundred Syrian refugees over the course of three years. It has since been expanded with the aim of resettling 20,000 Syrian refugees over the course of five years. Even taken together with smaller resettlement schemes in the UK, this means that the great majority of refugees given asylum in the UK must make their own journey to the UK and claim asylum. Resettled refugees are agreed to be taken by the UK before they arrive here or travel to the UK. So, they are regular migrants.

In addition, some refugees may also qualify to migrate to the UK as students or to work. They may never even seek asylum, because they have an alternative regular migrants’ route to escape from persecution – though if the period for which they are permitted to be in the UK comes to an end and the risk to them continues - they may then need to seek asylum.

### **16. Are refugees treated differently to other irregular migrants?**

Remember that some refugees will be regular migrants. For the many refugees that travel and/or arrive in the UK as irregular migrants, they are in a different position to other irregular migrants. The 1951 UN Refugee Convention provides that they should not be penalised for having broken immigration rules in order to seek asylum. In the UK, there is a specific defence in criminal law relating to breaches of immigration law, which is intended to protect refugees from prosecution. However, the Convention does not provide a blanket protection for any refugee to breach immigration rules – it merely seeks to ensure that immigration laws are not used to prevent or penalise the refugee who needs to breach these rules in order to obtain asylum. Even so, there have been several instances in recent years where refugees have been wrongly prosecuted and convicted of immigration-related offences despite this protection. This remains a serious concern.

### **17. What is Amnesty doing to help refugees in the UK?**

Amnesty has campaigned on refugee’s rights for a number of years. We have now launched the I Welcome campaign to push for four main areas of refugee’s rights including; supporting the creation of a more welcome environment for refugees in the UK, building a movement of organisations that can work together for refugee rights, advocating for political change, including allowing child refugees to be reunited with their families, and responding to and offering support for global events.

You can find out more about our work at [www.amnesty.org.uk/refugees](http://www.amnesty.org.uk/refugees)