

FAMILIES TOGETHER COALITION BRIEFING

ON THE SECOND READING OF THE

IMMIGRATION AND SOCIAL SECURITY

CO-ORDINATION (EU WITHDRAWAL) BILL

January 2019

This briefing is provided by the Families Together Coalition ahead of the second reading of the Immigration and Social Security Co-ordination (EU Withdrawal) Bill on Wednesday 16 January 2019.

The Coalition supports the expansion of the UK rules on refugee family reunion - which currently prevent families from being together just when they need each other most. An expansion of the rules would allow more families to be reunited safely in the UK. We believe that the Bill is an opportunity to make this change.



MEMBERS OF THE FAMILIES TOGETHER COALITION ARE:

All African Women's Network, Amnesty International UK, Asylum Matters, British Red Cross, Care4Calais, CARE International UK, The Children's Society, City of Sanctuary, Every Child Protected Against Trafficking (ECPAT UK), Greater Manchester Immigration Aid Unit (GMIAU), Helen Bamber Foundation, Help Refugees, Jewish Council for Racial Equality (JCORE), Lewisham Refugee and Migrant Network (LRMN), Migrants Resource Centre, Oxfam UK, Refugee Action, Refugee Council, Refugee Rights Europe, Safe Passage, Scottish Refugee Council, Solidarity with Refugees, SOS Children's Villages UK, STAR (Student Action for Refugees), The Tavistock and Portman NHS Foundation Trust, UNHCR, Welsh Refugee Council, Young Roots

THE IMMIGRATION AND SOCIAL SECURITY CO-ORDINATION (EU WITHDRAWAL) BILL

The Immigration and Social Security Co-ordination (EU Withdrawal) Bill was introduced in the House of Commons the day after the Government published its white paper setting out proposals for the shape of the immigration system after the UK leaves the European Union.¹ Within Chapter 10 of the white paper, it is stated that the Government “recognise the importance of family unity” and that the “existing approach to family reunion provides a comprehensive framework to bring families together”.

Refugees in the UK often find themselves separated from their families following brutal experiences of conflict and persecution. Being reunited with family members can be a life changing moment, bringing together loved ones who had been torn apart by war and violence. However, far from being a comprehensive framework, the existing restrictive rules about who is eligible to be reunited prevents families from being together just when they need each other the most. The restrictive rules risk driving people to undertake dangerous journeys, putting their lives in the hands of people smugglers, so that they can be with their relatives.

The Families Together Coalition believes that the Immigration and Social Security Co-ordination (EU Withdrawal) Bill is an opportunity to expand the current refugee family reunion rules and allow more families to be safely reunited in the UK.

Specifically, the Bill is an opportunity to:

- **Expand the criteria of who qualifies as a family member for the purposes of refugee family reunion** allowing adult refugees in the UK to sponsor their adult children and siblings that are under the age of 25; and their parents.
- **Give unaccompanied refugee children in the United Kingdom the right to sponsor their parents and siblings that are under the age of 25 to join them** under the refugee family reunion rules.

WHAT IS REFUGEE FAMILY REUNION AND WHO IS ELIGIBLE?

The UK has committed to “ensure that family unity can be maintained”. Eligibility for refugee family reunion is set out in the UK’s immigration rules. Under these rules, adult refugees in the UK can be joined via family reunion by their spouse/partner and their dependent children who are under the age of 18.² This means that those family members who have become separated but are not covered by the rules are left with the invidious choice of staying put in insecure and dangerous places or embarking on treacherous, expensive, unregulated journeys.

The restrictions mean, for example, that parents are not automatically able to bring their child who has turned 18, even if that child is still dependent on them and has not married or formed their own family. While the family reunion guidance does allow cases not covered by the rules to be granted in exceptional circumstances, in

reality this rarely happens. In 2017, only 81 applications for refugee family reunion were made “outside the rules”, and the Home Office has not been able to provide information on how many of those applications were subsequently granted.³

Home Office entry clearance officers may also decide to grant leave outside the rules on the condition that the family member has no recourse to public funds, including no access to most benefits or free hospital treatment in most of the UK. This places the reunited family in an incredibly difficult situation, creating barriers to the successful integration of the family.

The Families Together Coalition recommends that parents should be able to sponsor their dependent children over the age of 18, without needing to rely on Home Office decision makers.

1 See <https://www.gov.uk/government/publications/the-uks-future-skills-based-immigration-system>

2 The eligibility for refugee family reunion is set out in Part 11 of the Immigration Rules.

3 For example, see the answer to question 185008 given on 29 October 2018

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-10-29/185008/>

CASE STUDY

Muhammed and Amal are from Syria. They fled to Libya with their four children shortly after the conflict began. Life in Libya became increasingly dangerous while they were there and after two years Muhammed decided to make the journey to Europe.

Muhammed was granted refugee status in the UK. Aware that his son, Kusai, was due to turn 18 very soon, making him ineligible for family reunion, Muhammed immediately began the process of applying to bring his family to the UK.

That application was rejected. Muhammed knew that his 20 year old daughter, Athar, might not be accepted but also knew that, under family reunion law, he had the right to bring his wife and any children under the age of 18 to the UK. It turned out that the reason for the rejection was Kusai's passport expiring while the family was in Libya. While awaiting that decision Kusai turned 18 and became ineligible for family reunion.

Muhammed appealed, and a judge ruled that while Muhammed's wife and two youngest children were eligible for family reunion and could come to the UK, Kusai and Athar were rejected on the basis of being over 18 years old.

While Athar has remained in the region, Kusai decided to take matters into his own hands and took the dangerous journey across the Mediterranean to a makeshift camp in unthinkable conditions in Calais*.

*Case study accurate as of May 2016

WHAT ABOUT UNACCOMPANIED REFUGEE CHILDREN IN THE UK?

Unlike adult refugees, children who are in the UK alone and who have refugee status have no right to be reunited with even their closest family members. Because of this rule, children living in safety in the UK must live without their family for perpetuity. The Home Affairs Select Committee has said:

"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 refugees just as it does to adults."⁴

These are children who have been through the UK asylum process and been found to be in need of protection as refugees – the UK government has determined that it is not safe for them to return home. However, the current refugee family rules then deny these children the ability to be joined by their closest relatives.

The Government argues that granting refugee children the right to sponsor family members to come to the UK will lead to more children making dangerous journeys, being sent to the UK by their families overseas.⁵ However there is no body of evidence to support the claim that this happens. In addition, in every other EU country refugee children can sponsor close relatives to join them. Therefore, extending this right in the UK would simply bring us in line with neighbouring countries. Indeed, our organisations are aware of many cases of children travelling to join siblings in the UK, putting themselves at risk because there is no right to reunion under the rules.

Lord Kerr addressed this argument in a recent debate in the House of Lords:

"Is it really plausible that, say in Idlib, if it is under siege in six weeks' time, the family sits around the dining table, pick a child and tell it that it must set off across the battle lines and the Mediterranean, to try to get into England so that it can then pull the family into England? That is implausible. We are talking about refugee reunion and about children. We really must stop talking about this wildly implausible pull factor. They come here to escape being killed; they do not come here in order to become a magnet for the rest of the family."⁶

Allowing refugee children to sponsor their immediate families would reduce the number of people making irregular journeys to reach the UK and would be a straightforward change which would have a transformational impact on the lives of a small number of child refugees.

The Families Together Coalition recommends that separated refugee children in the UK are granted the right to sponsor their parents and siblings to join them.

4 House of Commons Home Affairs Committee, 'The Work of the Immigration Directorates (Q1 2016)', Sixth Report of Session 2016-17

5 See paragraph 10.21 of the immigration white paper

6 HL Deb 11 May 2018, Volume 791 c372 <https://goo.gl/i9rdNU>

FOR FAMILIES WHO ARE ELIGIBLE, IS IT A STRAIGHTFORWARD PROCESS?

For those refugees who do qualify for family reunion, the process is long and complicated. The report by the British Red Cross, 'Not So Straightforward',⁷ sets out the many bureaucratic and practical barriers families face. Complexities include cases requiring DNA tests or those involving adoption and de facto adoption. Such cases require legal advice in determining the eligibility of applications, support in gathering documentation, and reference to precedent and existing policy and guidance.

Since 2012, refugee family reunion cases have not been eligible for legal aid. Refugees must navigate complex legal processes and immigration rules whilst enduring prolonged separation from their families and the many harms which this can cause; including isolation, emotional distress and lack of confidence, as well as practical barriers to integration.

In the Government response to the consultation on changes that removed refugee family reunion from the scope of legal aid provision the Ministry of Justice stated that "applications to join family members are treated as immigration cases, and are generally straightforward because they follow a grant of asylum⁸." In the experience of many families seeking to reunite, the process is anything but straightforward.

IS REFUGEE FAMILY REUNION THE SAME AS FAMILY REUNION UNDER THE DUBLIN III REGULATION?

No. Refugee family reunion allows refugees present in the UK to be joined by their family members. When family members come to the UK, they are given the same immigration status as the person they are joining. The Dublin III Regulation is a piece of European Union legislation that is used to determine which member state is responsible for deciding a specific individual's asylum application. One of the criteria for deciding which Member State is responsible is whether the applicant has family members in a different Member State to the one in which they have made their asylum claim.

After the UK leaves the European Union, it is expected that the UK will no longer be part of the Dublin system.⁹ In the immigration white paper, the Government committed to seeking to negotiate an agreement with the

EU that allows separated children who have applied for asylum in the EU to be reunited with family members in the UK. However, there is no commitment to retain the ability for adults in the EU who have applied for asylum to be reunited with family members in the UK.

If you have any questions on the information above, please contact:

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About the Families Together Coalition

This is a coalition of organisations who support the expansion of the UK's refugee family rules. Together, the coalition has worked with MPs and Peers from across all parties to support Private Members Bills in the House of Commons and the House of Lords. This includes the Refugee (Family Reunion) No.2 Bill, introduced by Angus MacNeil MP, which successfully passed its Second Reading on 16 March 2018. Members of the Families Together Coalition are: All African Women's Network, Amnesty International UK, Asylum Matters, British Red Cross, Care4Calais, CARE International UK, The Children's Society, City of Sanctuary, Every Child Protected Against Trafficking (ECPAT UK), Greater Manchester Immigration Aid Unit (GMIAU), Helen Bamber Foundation, Help Refugees, Jewish Council for Racial Equality (JCORE), Lewisham Refugee and Migrant Network (LRMN), Migrants Resource Centre, Oxfam UK, Refugee Action, Refugee Council, Refugee Rights Europe, Safe Passage, Scottish Refugee Council, Solidarity with Refugees, SOS Children's Villages UK, STAR (Student Action for Refugees), The Tavistock and Portman NHS Foundation Trust, UNHCR, Welsh Refugee Council, Young Roots

7 British Red Cross, 'Not So Straightforward: the need for qualified legal support in refugee family reunion'

8 Ministry of Justice, 'Reform of Legal Aid in England and Wales: the Government Response', June 2011

9 If there is a transitioned exit from the European Union, the UK will remain part of the Dublin system until the end of the transition.