

Written evidence submitted by the Families Together Coalition (IB04)

Public bill committee of the Immigration and Social Security Co-ordination (EU Withdrawal) Bill 2017-19

1. About the Families Together Coalition

1.1. Families Together is a coalition of over 50 organisations that support the expansion of the UK's refugee family reunion rules.¹ We include many organisations that provide frontline services for refugees and support an expansion of refugee family reunion based on their experiences of the current rules.

2. Executive summary

2.1. As the UK leaves the European Union, including its provisions for freedom of movement between member states, it is vital that Government considers its new immigration system in the round, including measures through its immigration rules that provide for family reunion for refugees, and to consider reunion mechanisms that will be lost once it exits the EU.

2.2. Refugee family reunion has been a longstanding feature of the UK's immigration system, yet the current rules are not fit for purpose. As the UK prepares to implement a brand new immigration system, it is logical that it should also review its refugee family reunion rules to ensure families are able to be together.

2.3. In recent years, there has been a major increase in dangerous journeys by those seeking protection in Europe and beyond, and the need for safe and regular routes, such as those provided by refugee family reunion, is as urgent as ever.

2.3. Refugees in the UK often find themselves separated from their families following brutal experiences of conflict and persecution.

2.4. Under the UK's domestic refugee family reunion rules, adult refugees can sponsor their spouse and any children under 18 to come join them in the UK. The rules do not allow separated refugee children in the UK to sponsor any family members.

2.5. 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.

2.6. While refugee family reunion provides a safe and legal route for people to come to the UK, the current 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 family.

2.7. Refugee family reunion is vital in supporting refugees to integrate, providing them with support structures and alleviating concerns about the welfare of loved ones.

¹ Members of the coalition are Afghanistan and Central Asian Association (ACAA), All African Women's Group, Amnesty International UK, Asylum Matters, Asylum Welcome, British Future, British Red Cross, CARAS (Community Action for Refugees and Asylum Seekers), Care4Calais, CARE International UK, Central England Law Centre, The Children's Society, City of Sanctuary, Compass Collective, Development and Empowerment for Women Advancement (DEWA), Every Child Protected Against Trafficking (ECPAT UK), Greater Manchester Immigration Aid Unit (GMIAU), Helen Bamber Foundation, Help Refugees, Ice and Fire, IMiX, Islamic Relief, Islington Centre for Refugees and Migrants, Joint Council for the Welfare of Immigrants (JCWI), Jewish Council for Racial Equality (JCORE), KRAN (Kent Refugee Action Network), Lewisham Refugee and Migrant Network (LRMN), Migrants Resource Centre, North East Law Centre, Notre Dame Refugee Centre, Nottingham and Notts Refugee Forum, Oxfam UK, Play for Progress, PRAXIS Community Projects, RefuAid, Refugee Action, Refugee Council, Refugee Rights Europe, Rural Refugee Network, 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, The Three Peas, UNHCR, UNICEF UK, University of Bedfordshire Refugee Legal Assistance Project, The Voices Network, Welcome Presents, Welsh Refugee Council, Woodcraft Folk, Young Roots.

2.8. 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.

2.9. Families Together is calling for MPs to support two amendments that would expand the UK's refugee family reunion rules, allowing adult refugees to sponsor their parents and adult children and siblings that are under the age of 25. The amendments would also allow child refugees to sponsor their parents and siblings under the age of 25.

Proposed amendments

To move the following new clause—

“Refugee family reunion

The Secretary of State must make rules under section 3(2) of the Immigration Act 1971 to allow any person who has exercised a right brought to an end by Section 1 and Schedule 1 and who has been recognised as a refugee in the United Kingdom to sponsor their—

(a) children under the age of 25 who were either under the age of 18, or unmarried, at the time the person granted asylum left the country of their habitual residence in order to seek asylum;

(b) parents; or

(c) siblings under the age of 25 who were either under the age of 18, or unmarried, at the time the person granted asylum left the country of their habitual residence in order to seek asylum;

to join them in the United Kingdom.”

Note: only applies to EEA/Swiss families

To move the following new clause—

(1) For at least such time as a relevant agreement has not been concluded and implemented, anyone who has been recognised as a refugee in the United Kingdom shall be entitled to sponsor their –

(a) children under the age of 25 who were either under the age of 18, or unmarried, at the time the person granted asylum left the country of their habitual residence in order to seek asylum;

(b) parents; or

(c) siblings under the age of 25 who were either under the age of 18, or unmarried, at the time the person granted asylum left the country of their habitual residence in order to seek asylum

to join them in the United Kingdom.

(2) For the purposes of this section –

‘relevant agreement’ means an agreement negotiated by a Minister of the Crown, on behalf of the United Kingdom, with the European Union in accordance with which there is provision for the transfer of a person who has made an application for asylum in a Member State of the European Union to the United Kingdom and that provision is no less extensive than Regulation (EU) No. 604/2013 insofar as that regulation operated to enable the transfer of a person to join a family member in the United Kingdom before exit day.

3. About refugee family reunion

3.1. The UK has committed to “ensure that family unity can be maintained”, and eligibility for refugee family reunion is set out in the UK's immigration rules.

3.2. 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

3.3. 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, often in insecure and dangerous places, or embarking on treacherous, expensive, unregulated journeys.

3.4. The restrictions mean, for example, that parents are not automatically able to bring their child who has turned 18, which fails to recognise the realities of family life for most of us and ignores the long wait family members have before they are able to reunite. While the family reunion guidance does allow cases not covered by the rules to be granted in exceptional circumstances, in reality this rarely happens.

3.5. 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.

3.6. 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' discretion to grant entry outside the Immigration Rules.

4. Unaccompanied refugee children in the UK

4.1. 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 under the Home Office's Immigration Rules. Because of this rule, refugee children living in safety in the UK must live without their family in perpetuity.

4.2. On this issue, 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.'³

4.3. These children 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.

4.4. 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.⁴ However, there is no body of evidence to support the claim that this happens, as has been set out in comprehensive research published this year on unaccompanied children and refugee family reunion in the UK.⁵

4.5. Conversely, we know that because of this restriction, children undertake dangerous journeys in order to be with their siblings. Our organisations are aware of many cases of children travelling to join siblings in the UK, putting themselves at risk because there is no safe and legal route to reunion under the current rules.

4.6. Moreover, research by UNHCR in 2019⁶ and a number of previous research reports show a more complex, nuanced picture in terms of the choices made by unaccompanied refugee children and young people – with factors influencing young refugees' movement including the fear of persecution, mistreatment and neglect, exposure to trafficking, the influence of peers and smugglers and the location of family members. In particular, UNHCR's recent UK research found that the majority of refugee children leave in circumstances which strongly suggest that they

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

³ House of Commons Home Affairs Committee, 'The Work of the Immigration Directorates (Q1 2016)', Sixth Report of Session 2016-17.

⁴ See paragraph 10.21 of the immigration white paper.

⁵ *Without My Family*, <https://www.refugeecouncil.org.uk/information/resources/without-my-family-january-2020/>

⁶ Destination Anywhere, UNHCR 2019 <https://www.unhcr.org/uk/publications/legal/5daf2cef4/destination-anywhere.html>

were not sent ahead to the UK by their parents and in fact that many children set out with parents/family members but for a number of reasons often become separated en route.

4.7. These complexities have been acknowledged by government in its response to a parliamentary inquiry; agreeing that *There are a range of factors that encourage people to choose where to claim asylum, including the very real 'push factors' of conflict in their country of origin. As such it is difficult to provide clear evidence of the impact of any one policy.*

4.8. The research published in *'Without my Family'* shows that unaccompanied children in the UK live every day with the devastating impact of this prolonged separation. The testimonies from children and those who care for them paint a picture of children surviving not thriving, constantly thinking about resuming family life if only they had the same chances as their adult refugee counterparts. One young refugee described living without his mother as 'like a body without a soul'.

4.9. 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.

4.10. The government's argument around the impact on the safety of children was addressed in the last Parliament by Lord Kerr in a debate on the issue: '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.'⁷

4.11. 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.

4.12. 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.

5. Making refugee family reunion applications

5.1. For those refugees who do qualify for family reunion, the process to make an application is long and complicated.

5.2. A report by British Red Cross, *'Not So Straightforward'*⁸, sets out the many bureaucratic and practical barriers families face. Complexities include cases where the family are unable to obtain the required ID or evidence due to security reasons and resort to expensive DNA tests or those involving adoption and de facto adoption.

5.3. Such cases require legal advice in determining the eligibility of applications, support in gathering documentation, and reference to precedent and existing policy and guidance.

5.4. Since 2012, refugee family reunion cases have not been eligible for legal aid.

5.5. 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.

5.6. 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 asylum'.⁹ In the experience of many families seeking to reunite, the process is anything but straightforward.

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

⁸ British Red Cross, *'Not So Straightforward: the need for qualified legal support in refugee family reunion'*.

⁹ Ministry of Justice, *'Reform of Legal Aid in England and Wales: the Government Response'*, June 2011.

5.7. Following the publication last year of its Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), the government have chosen to keep refugee family reunion outside of the scope of legal aid provision.

5.8. This bill does not cover provisions on legal aid. However, Families Together believes that refugee family reunion should be brought within the scope of legal aid, to ensure that refugees are properly supported to be reunited with their loved ones.

6. Family reunion under the Dublin III regulation

6.1. Refugee family reunion is a discrete and entirely separate process to the Dublin III regulation (here referred to simply as 'Dublin').

6.2. 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 leave in line with the person they are joining.

6.3. Dublin is a system implemented by a piece of European Union legislation that is used to determine which Member State (among those taking part in the system) is responsible for deciding a specific individual's asylum application.

6.4. 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 application. Where an applicant is on one Member State but another is responsible for their asylum application, Dublin provides a process for that person to be transferred to that other Member State.

6.5. Dublin has become increasingly important for reuniting families, with more than 1,600 people transferred under Dublin to the UK to be reunited with family here since the start of 2018.

6.6. At the end of the transition period on 31 December 2020, the UK will no longer be part of Dublin which will deprive people seeking asylum in Europe of a safe and legal route to be reunited with family in the UK. The Government has committed to negotiating a reciprocal agreement for the transfer of unaccompanied children seeking asylum and has published its draft agreement. The EU's position is not currently public, and the agreement includes nothing to replicate that part of Dublin which enables people seeking asylum in Europe, including unaccompanied children, to be transferred to join their family in the UK.

6.7. Dublin and any negotiated agreement requires family members to be within a European Member State and to claim asylum to be transferred between Member States and the UK. However, many of these families would have taken dangerous, traumatic journeys to reach Europe. This can be avoided if families are able to reunite safely through domestic legislation.

6.8. Irrespective of the outcome of negotiations, the Families Together Coalition recommends expanding the refugee family reunion rules, allowing adult refugees to sponsor their parents and adult children and siblings that are under the age of 25. The amendments would also allow refugee children to sponsor their parents and siblings aged up to 25.

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