



Briefing paper on family reunion for refugees in the North West of England

January 2019

Rosie is a mum with two daughters and a son. She has been separated from them for three years.

'I claimed asylum on the day I arrived in the UK. My claim was refused, I appealed the decision and was finally granted asylum. It was only when I was granted refugee status that I was told I could apply for my children to come and join me in the UK. At first I got in touch with a private solicitor. Six months later I realised the work was not finished and the applications were not ready. It took me several months to find out about Greater Manchester Immigration Aid Unit. When I got in touch with them I had to wait before someone was able to take on my case. It was very hard for me, I could not do the application on my own. I felt lonely and depressed. I miss my children and I am missing out on their childhood. They should be with me and I should be looking after them, I want my children to be allowed to join me so we can be a family once again. I do not think they are safe. My friends who live close by tell me that my children are not very clean and wander out on their own.'

GMIAU helped Rosie apply for her children to join her in the UK. Despite having mentioned them in her asylum interview, and providing birth certificates and photographs, the application was refused. The Entry Clearance Officer said

'I have carefully studied your application and accompanying documents but there is no satisfactory evidence of the relationship you specify.'

Rosie is now appealing the decision with DNA evidence to show that she is the mother of her children. In the meantime they remain separated.

What is refugee family reunion?

In the speed and chaos of fleeing conflict or persecution, families often become separated. A father with a passport who has to leave in a hurry to escape imprisonment, while the rest of the family without documents seek shelter with friends in another town. Parents fleeing the conflict in Syria who have to make the excruciating decision to leave behind a daughter with a broken leg because the smugglers refuse to take her with the rest of her siblings. A mother who took the long journey across the Sahara after her husband was killed by the authorities, desperately worried about her daughter living with relatives in a refugee camp in the Horn of Africa. It can take a long time for some families to even trace where everyone is.

People who claim asylum in the UK, and are either recognised as refugees or given humanitarian protection, are able to apply for their separated family members to join them. The UK's Immigration Rules allow married or civil partners, same-sex partners and children aged 17 or under to apply to reunite here as long as they were part of a family unit before the refugee had to flee, and if they can meet certain evidential requirements.

In the middle of the largest humanitarian crisis since World War Two it is unsurprising that the number of applications for refugee families to reunite in the UK runs at over 7,000 a year.¹

¹ Independent Chief Inspector of Borders and Immigration, A re-inspection of the family reunion process, focusing on applications received at the Amman Entry Clearance Decision Making Centre, September 2018, para 4.1

What is GMIAU and why are we involved?

Applying for refugee family reunion is a legal process made using an official form and requiring evidence. It is considered by a UK civil servant, often sitting in an overseas embassy, with a right of appeal before an immigration judge at a Tribunal. However, since 2013 there has been no legal aid available for refugees applying for family to join them in the UK.² This has left people either paying for private legal assistance, attempting the application themselves, or not making an application at all. The government justified cutting legal aid for refugee family reunion cases by saying they 'are generally straightforward because they follow a grant of asylum'. The government's position has not been borne out by the experiences of the families who come to us for help.

Greater Manchester Immigration Aid Unit (GMIAU) is a registered charity (1123908) based in the North West of England providing free, confidential, independent legal advice and representation on immigration and asylum. Every year we represent more than 1,000 people claiming asylum in the UK.

As a response to the legal aid cuts and the impact we knew it would have on refugee families, GMIAU started running a free legal service for refugees living in the North West and we have since worked with over 350 families. This briefing documents the problems refugees face when making family reunion applications. We show how the process is too complicated, too costly, too lengthy, too often wrong and too restrictive; and we offer solutions based on the experiences of the families we support.

Problem one: it's complicated

Refugee family reunion cases are complex – both because of the process and because of the people involved.

The process

- The **application process is largely carried out overseas** as the applicant is not the UK-based refugee but their overseas family members. The application form is online and increasing numbers of decisions are now made in Sheffield, but applicants still have to visit their nearest Visa Application Centre to have fingerprints taken, lodge documents and pick up visas. To find the nearest visa centre, many overseas family members have to make applications in a different country to the one they live in. In a sample of 35 families who came to GMIAU for help between December 2016 and May 2017 there were 11 nationalities – seven nationalities had to make their application through a visa centre in a different country.³ Many of the families' applications then went on to be decided by someone in a third country altogether. For example, applications made by Eritreans through a visa centre in Ethiopia were decided in South Africa, while applications made by Afghans in a visa centre in Pakistan were decided in the UK.
- The **Immigration Rules** are also complicated and, because they are so restrictive, many applications fall outside them, adding to their complexity. While the government argues straightforwardness, the Office of the Immigration Services Commissioner (OISC) – which regulates immigration advice - recognises complication. OISC designates advice on refugee family reunion applications as needing a level two competency and considers it 'asylum and protection' work (which should have legal aid available).
- Yet despite the complexity, the application itself is completed on a **generic online immigration form** which is not tailored to the refugee family reunion process. This means some of the sections relate to other applications and not all the relevant questions are asked.

The people

- While refugees are far from a homogenous group, people making family reunion applications often have particular vulnerabilities that make a complex process even more complicated. Virtually all of the families in our sample **required an interpreter** and so were not able to fill out an online application form in English without assistance. Some of the UK-based refugees we support are **illiterate** or have **never used a computer**.

² Refugee family reunion was taken out of scope for legal aid in the Legal Aid, Sentencing and Punishment of Offenders Act 2012

³ In each of the families at least one family member was in the UK and had been recognised as a refugee having fled persecution from countries like Eritrea, Sudan and Iran, or conflict in Syria.

Greater Manchester Immigration Aid Unit

1 Delaunays Road, Crumpsall, Manchester, M8 4QS

Tel 0161 740 7722 | Fax 0161 740 5172 | Email info@gmiau.org | www.gmiau.org

Company Limited by Guarantee Registered in England Company No. 2838845
Registered Charity No. 1123908 | List of directors open to inspection at above office.



- While refugee family reunion applications are tested against **documentation** norms in the UK, many of the countries the families come from do not have cultures of documentation, and so birth certificates or marriage certificates are not routinely issued or may simply not exist. It is estimated that more than 220 million children under five have never had their birth recorded – in Somalia only 3% of children are registered.⁴ Family members may still be in the refugee's country of persecution, facing the risk of violence themselves. Or they may be in a third country, living in a refugee camp or surviving without legal status. In both cases gathering the required documentary evidence may be impossible and will need a detailed written explanation of the difficulties as part of the family's application.

Problem two: it's costly

At the point at which people are making family reunion applications, many refugees in the UK have limited financial resources. They have often fled their home countries in a hurry, have not been allowed to work while their asylum claim was processed and are now trying to navigate their new life in the UK. The refugee family reunion application itself is free. However, there is a long list of associated legal costs, evidential requirements and logistical expenses that all require substantial sums of money.

Legal costs

- Since refugee family reunion applications became out of scope for legal aid, if people want **legal assistance** they generally have to pay for it.⁵ While costs vary we know of families who have been asked to pay up to £1,000 for private legal assistance.
- If the Home Office reject's a family's application it then costs £140 per person in court hearing costs to **appeal** the decision and incurs further legal costs from private solicitors.

Evidential requirements

- If the Home Office will not accept a family's relationship without a **DNA test**, the family has to pay for it using Home Office approved private companies.⁶ DNA tests were required in eight of the 35 cases in our sample, either for the application or on appeal. For example, we have worked with a Syrian father where one of the children was diagnosed with a life threatening illness. The Home Office would not accept the family's relationship without DNA tests which cost £798.60 plus the additional private clinic fees which brought the total to over £1,000.
- Family members applying from certain countries are required to have a chest x-ray so that a **TB certificate** can be issued declaring they are clear of tuberculosis. The certificates are issued by the International Organisation for Migration which charges approximately \$150 per person over the age of 11 and \$50 for those who are younger. Some TB certificates are only issued for six months and expire before the application has been decided, meaning the costs have to be incurred again.
- As the Home Office will only accept documents in English, the **cost of translating** all the paper work needed for the application has to be met by the families.

Logistical expenses

- All family members overseas have to visit a Visa Application Centre which are run by private companies (VFS and Teleperformance). Some of the visa centres charge an **entry fee** to access the building – for example in Sierra Leone it is \$74 per applicant while some of the Turkish visa centres charge £59. Some centres refuse to let people in to make refugee family reunion applications without a passport, despite letters from legal representatives explaining why a passport is not available or required.
- Since June 2017 the Home Office has contracted out its **customer enquiries service** for overseas visa applications to a private outsourcing firm, Sitel UK, which charges £5.48 for each email enquiry or £1.37 per minute for a phone call.

⁴ The Independent, 220 million children who don't exist: A birth certificate is a passport to a better life – so why can't we all have one?, 27 July 2013

⁵ Legal representatives are able to apply for exceptional case funding to cover the cost of particularly complex family reunion cases, but many will not because the amount of funding granted does not match the work required.

⁶ Until 2014 if the Home Office was minded to refuse an application on the grounds they doubted the relationship, they would pay for the family's DNA test.

Greater Manchester Immigration Aid Unit

1 Delaunays Road, Crumpsall, Manchester, M8 4QS

Tel 0161 740 7722 | Fax 0161 740 5172 | Email info@gmiau.org | www.gmiau.org

Company Limited by Guarantee Registered in England Company No. 2838845
Registered Charity No. 1123908 | List of directors open to inspection at above office.



- Because some families have to travel to neighbouring countries to make their application there are **travel and accommodation costs** to be met. There are often significant risks for people crossing borders in order to find their nearest visa centre.
- If the application succeeds families then have to pay for **flights** to the UK. Some are able to apply to the British Red Cross or other charities for funding, otherwise they have to fund it themselves.

Problem three: it's lengthy

'I want my family with me, in a safe place. I ask to be reunited with my family so we can be a family unit again. I want my children to have their father's and mother's support. I miss my wife so much it's very hard to explain how I feel about her going through all these difficult and hard times alone with two young children.'

- A Syrian father talking about his wife and children who have fled to Lebanon. They have been separated from each other for two years.

The length of time it takes for a refugee family reunion application to be decided puts enormous strain on the families we work with and can contribute to families breaking down.

- The Home Office's service standard is for 95% of settlement visas made outside the UK to be decided in 12 weeks – for too many families it takes a lot longer. In 2018 even in 'straightforward' cases the families we support routinely waited longer than 12 weeks. For example, a family who lodged an application in June 2018 were still awaiting a decision in November 2018. In 2015 at least one family had to wait nearly a year (357 days) to have their **application processed**, while in 2013 one case took more than three times as long at 1,184 days.⁷
- Further delays occur if a family has to appeal against the Home Office's rejection of their application. Tribunal Statistics issued in March 2017 put the **waiting time for an appeal** to be heard against the decision of an Entry Clearance Officer at 83 weeks, i.e. over a year and a half.⁸

All of these delays have a huge impact on people's health and wellbeing. By the time an application succeeds, a family may have had to move several times; children may have no memory of the parent in the UK; family members have to navigate feelings of loss, guilt, grief and resentment for the time lost. As overseas family are only given legal status in the UK in line with the UK-based family member, by the time the family has been traced, and the application and the appeal process have gone through, there may only be one year's leave to remain left before the whole family then needs to make a **further application to stay**.

Problem four: it's too often wrong

Too often the decision making on refugee family reunion applications is flawed. In our experience decisions are too **arbitrary and unpredictable**, with similar cases having different outcomes. Around a third of cases are **refused**.⁹

- Decisions on family reunion applications are usually paper-based (interviews are rare). They make up a comparatively small number of immigration decisions made by Entry Clearance Officers who are not always used to handling them and are too often poorly trained. In 2016 the Chief Inspector of Borders and Immigration criticised the **poor quality** of family reunion decisions. He cited the use of cut and paste paragraphs, failure to acknowledge positive evidence, refusing applications for a lack of evidence that had never been requested, and the use of arbitrary decisions that were not balanced or explained.¹⁰

⁷ House of Commons Written Question 11525, 13 October 2015

⁸ Free Movement, Waiting time in the immigration tribunal now 83 weeks for some appeals, 5 May 2017

⁹ Independent Chief Inspector of Borders and Immigration, A re-inspection of the family reunion process, focusing on applications received at the Amman Entry Clearance Decision Making Centre, September 2018, para 4.2

¹⁰ Independent Chief Inspector of Borders and Immigration, An Inspection of Family Reunion Applications, September 2016, para 2.14

Greater Manchester Immigration Aid Unit

1 Delaunays Road, Crumpsall, Manchester, M8 4QS

Tel 0161 740 7722 | Fax 0161 740 5172 | Email info@gmiau.org | www.gmiau.org

Company Limited by Guarantee Registered in England Company No. 2838845
Registered Charity No. 1123908 | List of directors open to inspection at above office.



- The number of refused family reunion applications has risen since they were taken **out of scope for legal aid**,¹¹ suggesting that a lack of free legal help is having a negative impact on the ability of refugee families to successfully reunite.
- The refusal rate also increased after the Home Office stopped commissioning **DNA tests**. Certain nationalities, where contemporaneous documentation may not exist, or may have been lost in conflict, now have particularly poor outcomes. In 2015 the refusal rate for applications from Somali nationals was 80%.¹² In our experience decision makers too often treat non-contemporaneous documents as offering ‘little evidential value’ and are only accepted on re-application with supplementary DNA evidence.

Problem five: it’s restrictive

The categories of family members that can apply to reunite with refugees in the UK are very restrictive.

- They do not include siblings, parents or children older than 17 (albeit new guidance in July 2016 provides some discretion for children over 18). The criteria are also applied with **limited flexibility**, at odds with the lived reality of complex family life, particularly in situations of conflict. In two of the cases in our sample some but not all family members were given permission to enter the UK. In one family the father was in the UK and his wife and five children were given permission to join him but not his elderly mother. In another family the wife and four of the five children were given permission to join the father in the UK – the other child (from the father’s previous marriage) was not.
- Unlike many other EU countries, the UK does not allow **refugee children** to apply for family members to join them – not even their parents. The government argues that to do so would create perverse incentives for families to put their children in the hands of people smugglers. Instead refugee children in the UK live in foster care or local authority supported lodgings, unable to apply to be reunited with their parents and forced to navigate their new life without them at huge cost to the public purse.

What needs to be done?

The UK government is to be commended for its understanding that refugee families can become separated and its recognition that the UK has an obligation to support family reunion. However at GMIAU we believe there are some significant problems with the UK’s current approach to refugee family reunion, which result in mothers separated from children and husbands separated from wives for far too long. There are also some straightforward solutions that would gold plate the process and make sure that refugees are reunited with family in a timely, safe and supportive way in line with the UK’s obligations under international law.

Solution One: legal aid

Legal aid for refugee family reunion cases should be reintroduced through any governmental review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Solution Two: asylum not immigration

Refugee family reunion should be recognised as a protection-based application. Decisions should be made using the standard of proof for asylum applications - ‘reasonable likelihood’ – and not ‘on the balance of probabilities’ used in immigration applications. As a protection-based application, refugee family reunion should be eligible for legal aid.

Solution Three: ghosting

Refugee family reunion should be considered from the beginning of an asylum application. Information about family overseas should be collected as part of the asylum process and family members should be advised to collect and keep useful evidence. Where possible family reunion applications should be ‘ghosted’ at the outset, so if an asylum application is successful the assessed family members can be automatically granted entry clearance, subject to a DNA test commissioned by the Home Office.

¹¹ The Justice Gap, The number of refused family reunion applications has shot up since the removal of legal aid, July 2016

¹² Independent Chief Inspector of Borders and Immigration, An Inspection of Family Reunion Applications, September 2016, para 5.37

Greater Manchester Immigration Aid Unit

1 Delaunays Road, Crumpsall, Manchester, M8 4QS

Tel 0161 740 7722 | Fax 0161 740 5172 | Email info@gmiau.org | www.gmiau.org

Company Limited by Guarantee Registered in England Company No. 2838845
Registered Charity No. 1123908 | List of directors open to inspection at above office.



Solution Four: decision-making and expedited appeals in the UK with enhanced logistical support overseas

Decision-making for refugee family reunion applications is being consolidated in Sheffield. Now more thought must be given to the logistics overseas that would make UK-based decisions run smoothly. Refugees should be able to submit the family's application, with decisions made in the UK and, where necessary, with an expedited appeals process. There should be a dedicated refugee family reunion form tailored to specific application criteria and evidential requirements.

Solution five: integration service

Refugee families reunited in the UK should have access to integration support to help them successfully transition to life in the UK and to guard against the risk of family breakdown. Best practice from integration models developed through the Gateway Programme should be considered.

Solution six: realistic categories of family members

The categories of family members eligible to join a refugee in the UK should reflect the lived reality of refugee families. A flexible approach to which family members can apply to be reunited should be embedded in the Immigration Rules to enable

- refugees to reunite with parents, siblings or adult children
- separated child refugees to sponsor family to join them
- British citizens (or other people settled in the UK) to sponsor refugee family members overseas.

Problem	Solution
It's complex	Legal Aid Make it asylum not immigration
It's costly	Commission DNA tests Enhanced logistical support overseas
It's lengthy	Decisions in the UK Expedited appeal hearings Ghost applications Integration service
It's often wrong	Decisions in the UK Ghost applications Make it asylum not immigration Dedicated form
It's restrictive	Increase flexibility of family members' eligibility

For more information on GMIAU's refugee family reunion policy work contact amanda@gmiau.org

Greater Manchester Immigration Aid Unit

1 Delaunays Road, Crumpsall, Manchester, M8 4QS

Tel 0161 740 7722 | Fax 0161 740 5172 | Email info@gmiau.org | www.gmiau.org

Company Limited by Guarantee Registered in England Company No. 2838845
Registered Charity No. 1123908 | List of directors open to inspection at above office.

