

Refugee Family Reunion Project

This information is accurate as of February 2017. We will be updating this information semi-annually.

This information is one of a series designed by GMIAU to help you understand how to make a family reunion application if you have Refugee status in the UK. Please always check for changes on the Home Office website www.gov.uk/government/organisations/uk-visas-and-immigration

The Law

Until 1st April 2013, Legal Aid was available to pay a legal representative to help with this kind of application. Legal Aid is no longer available for this type of case. This leaves refugees with only two alternatives: to pay for advice, or to make the application without legal advice and assistance.

As a refugee you may be able to make this application yourself – particularly if you read and speak English or have a friend who can help.

This fact sheet aims to equip refugees with an understanding of the law, and a practical knowledge of how applications are made. It is not a substitute for legal advice. If you want to prepare your own application and would like a legal view as to whether you have completed the application properly, please phone us. If you want help with the application please come to the drop-in on Tuesday mornings or phone us.

Who qualifies – the sponsor

The person in the UK who wants to bring their family here is known as the "sponsor". In order for their family to qualify for refugee family reunion, the sponsor must have either refugee status or humanitarian protection.

Refugee status is granted for a period of 5 years initially. After five years, a refugee can apply for indefinite leave to remain (permanent residence in the UK). Some refugees are given indefinite leave to remain immediately – these are people who came to the UK under the Gateway Protection Programme, a special Government programme run in conjunction with UNHCR for refugees who are being resettled from abroad.

Humanitarian protection is quite rare. Like refugee status, it is granted for 5 years initially, and then indefinite leave to remain is granted after 5 years. It gives rise to almost the same rights and entitlements as refugee status. For the remainder of this advice we refer to refugee status only.

You/The sponsor should have one of the following documents to evidence the fact that you have refugee status or humanitarian protection:

- An immigration status document – this is an A4 sheet of paper, with a picture of the person on it, their name and date of birth, and confirmation of the person's status. It should say "refugee status" or "humanitarian protection"
- A biometric residence permit – this is a plastic card, which looks a bit like a UK photo card driving licence, with the person's picture on it. It will say "refugee" or "humanitarian protection"
- A refugee convention travel document. This is dark blue and looks like a passport
- Some people had refugee status but don't have it any more. Once a person who is a refugee becomes a British citizen, they lose their entitlement to family reunion under the rules for refugees.

If you are a refugee sponsor and are thinking of becoming British, do not apply to do so until your family reunion application is sorted out.

Who qualifies – the family abroad

Refugees are allowed to bring pre-existing family to the UK under the refugee family reunion rules.

Pre-existing family includes:

- The refugee's spouse or civil partner, where the marriage took place before the refugee fled their own country to seek asylum in the UK
- The refugee's unmarried or same sex partner, where the refugee and their partner had been together for two years or more before the refugee fled their own country to seek asylum in the UK
- The refugee's children who are under the age of 18 and who were part of the refugee's family unit before he/she fled to seek asylum
- The refugee's children who had been conceived but not born prior to the refugee leaving to seek asylum
- The refugee's step-children who are under the age of 18 and who were part of the refugee's family unit before he/she fled to seek asylum, but only if the child's biological mother/father is dead

Pre-existing family does not include:

- The refugee's spouse/civil partner/unmarried or same sex partner, where the marriage/partnership post –dates the grant of refugee status
- The refugee's siblings
- The refugee's parents
- The refugee's children who are over the age of 18
- The refugee's adopted children, unless they were formally adopted following a court procedure which is recognised by the UK Government (in practice, adoptions in the countries where our clients come from are not recognised)
- The refugee's nieces and nephews

Members of the family who are not pre-existing family may be able to come to the UK under other provisions of the immigration rules or under Article 8 of the European Convention on Human Rights (the right to family life), but they do not qualify for refugee family reunion and their applications are much more complex.

The Law

The legal provisions about family reunion are found in the immigration rules. You can find the immigration rules on the Home Office website

(<https://www.gov.uk/government/organisations/home-office>)

There are separate rules for spouses, unmarried partners, and children. The rules for spouses and children are specified below.

Spouses

352A. *The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the partner of a person granted refugee status are that:*

- (i) the applicant is the partner of a person who currently has refugee status granted under the Immigration Rules in the United Kingdom; and*
- (ii) the marriage or civil partnership did not take place after the person granted refugee status left the country of their former habitual residence in order to seek asylum or the parties have been living together in a relationship akin to marriage or a civil partnership which has subsisted for two years or more before the person granted refugee status left the country of their former habitual residence in order to seek asylum; and*
- (iii) the relationship existed before the person granted refugee status left the country of their former habitual residence in order to seek asylum; and*
- (iv) the applicant would not be excluded from protection by virtue of paragraph 334(iii) or (iv) of these Rules or Article 1F of the Refugee Convention if they were to seek asylum in their own right; and*
- (v) each of the parties intends to live permanently with the other as their spouse or civil partner and the marriage is subsisting; and*
- (vi) the applicant and their partner must not be within the prohibited degree of relationship; and*
- (vii) if seeking leave to enter, the applicant holds a valid United Kingdom entry clearance for entry in this capacity.*

Children

352D. *The requirements to be met by a person seeking leave to enter or remain in the United Kingdom in order to join or remain with the parent who currently has refugee status are that the applicant:*

- (i) is the child of a parent who currently has refugee status granted under the Immigration Rules in the United Kingdom; and*
- (ii) is under the age of 18; and*
- (iii) is not leading an independent life, is unmarried and is not a civil partner, and has not formed an independent family unit; and*
- (iv) was part of the family unit of the person granted asylum at the time that the person granted asylum left the country of their habitual residence in order to seek asylum; and*
- (v) the applicant would not be excluded from protection by virtue of paragraph 334(iii) or (iv) of these Rules or Article 1F of the Refugee Convention if they were to seek asylum in their own right; and*
- (vi) if seeking leave to enter, holds a valid United Kingdom entry clearance for entry in this capacity.*

These are the only requirements that need to be met. Notice that there is no requirement that the refugee is able to support their family financially, or provide accommodation for them.

This is a big difference between the refugee family reunion rules and other categories of the immigration rules, where the person who is coming to the UK will always need to show that they have enough money to support themselves and their family.

Section 2 – Procedure for the application

Overview

The application for refugee family reunion needs to be made by the family members abroad, to the British High Commission or British Embassy in the country where they are living. However, the application can be prepared here in the UK, and then sent to the family member abroad in order for them to submit it to the Embassy.

If there is no British Embassy or High Commission in the country you wish to make the application, the UKVI website gives advice about which Visa Application Centre in a neighbouring country you can make the application from.

The application needs to be made on an application form called a VAF4A, together with a separate Appendix form. Copies of both forms are in the resources section. For most countries, you fill in the application form online. To start the online application process, go to: www.visa4uk.fco.gov.uk

Once the online application is submitted, the applicant is offered an appointment to go to the Visa Application Centre or Embassy to submit their documents. You can normally choose the date and time of the appointment.

GMIAU has a project to help refugees to make family reunion applications.

The procedure for making the application goes like this:

- Refugee sponsor comes to see GMIAU
- We assess whether the application is suitable for the project
- We advise what evidence is needed to support the application
- The refugee/sponsor returns with all the evidence and we assist them to complete the online application form
- The online application form is submitted and an appointment made for their family to go to the Embassy
- We put all of the documents together and send them to the applicant abroad
- The applicant attends the Embassy with the documents and submits the application
- We wait for a decision. A decision will take several weeks or months.
- There is no fee for making an application.

Evidence

Various documents will always need to be submitted to support the application. This is to prove that the requirements of the immigration rules are satisfied. The evidence that needs to be submitted to support an application will vary from case to case but will include some or all of the following documents. It is helpful to break it down into categories.

Basic evidence needed for all applications:

- Valid passport for each applicant
- Two passport sized photographs of each applicant
- Certified copy of the sponsor's refugee status document/biometric residence permit
- A statement from the sponsor, setting out who is in their family, giving names and dates of birth, how they came to leave their family behind, and what contact they are having with their family currently, what circumstances their family is living in

For applications by spouses/unmarried partners:

- Original marriage certificate, plus English translation – showing that the marriage took place before the refugee left their country to seek asylum? Does the certificate give the correct names for the sponsor and their spouse?
- Evidence that the refugee sponsor and their spouse are maintaining contact with each other – eg copies of emails, letters, telephone bills, telephone cards – this is to prove that the marriage is subsisting at the time that the application is made
- Evidence that the refugee sponsor mentioned their spouse when they applied for asylum in the UK – this should be in the asylum screening interview and asylum interview record – again, this is to prove that it is a genuine and subsisting marriage
- If the refugee sponsor is sending money to their spouse, money transfer receipts

For applications by children:

- Birth certificate for each child – this is to show that they are the child of the sponsor – check carefully to see that the birth certificate records the date of birth that the sponsor has given you, and the names of both of the parents
- Evidence of contact and money transfer receipts, as above

Common problems

This section aims to provide practical guidance for how to deal with some of the most common problems which will arise in this type of application.

What if the applicants don't have passports?

For some countries (for example Somalia) it will not be possible for the applicants to obtain a valid passport. However, generally applicants should be advised to try and obtain passports if it is at all possible. This should be done before starting the application process. If the applicants really can't get passports, then the Embassy has discretion to accept the application and to issue the visa on a document called a "Uniform Format Form". There will need to be an explanation contained in the application as to why passports cannot be provided.

What if there are no marriage/birth certificates?

If these are not available, the Embassy can look at other evidence in order to decide whether or not they accept the relationship. Again, an explanation for the lack of these documents will need to be included in the sponsor's statement or the covering letter. In this type of case, it will be particularly important to show that the sponsor mentioned their family when they applied for asylum.

What if there has been a long delay in making the application?

This can sometimes cause a problem, as it may make the Entry Clearance Officer think that the applicants are not part of the Sponsor's family unit. The reasons for any delay must be carefully explained in the sponsor's statement.

What if there is no British Embassy in the country where the applicants are living?

It will normally be possible for the applicant to go to a neighbouring country. For example, at the moment nationals of Iran can go to United Arab Emirates to make their application, or nationals of Syria can go to Lebanon or Jordan. Use the "Do I need a UK Visa" section of the application form to find out where the application should be made. This information changes regularly so always check for the most up to date advice.

What if you are trying to fill in the online application form, and you don't know what to put in a box which is not applicable?

The online application form has lots of required fields, which need to be completed before you can move on to the next section of the form. Sometimes you won't be able to provide the information required – for example, the form may ask for passport details for a person who does not have a passport, or you may not know a person's date of birth. Just put something fictitious in the form – so for a passport number, put "A0000000" and make up issue and expiry dates. If you don't know a date of birth, put in a rough approximation. You may be able to just put "n/a" or "xxx" in other boxes.

Glossary

Here are some definitions of common terms which we use in this advice sheet:

"entry clearance" or **"visa"** – permission given to a person to come to the UK while they are still in their own country, by the British Embassy or High Commission. A visa will give a person permission to come to the UK for a limited period or indefinitely. A vignette is endorsed in the passport and will have a "valid from" and "valid until" date, or alternatively will state indefinite leave to enter.

"entry clearance officer" – an official working in a British Embassy or High Commission, who makes a decision on an application for entry clearance

"leave to enter" – permission to enter the UK, given by an immigration officer at port

"leave to remain" – permission to remain in the UK, given by UKVI after entry

"indefinite leave to remain" – permission to live in the UK permanently. Often abbreviated to ILR.

"residence permit" – this is a vignette endorsed in a person's passport showing that they have leave to remain in the UK. In the past, these vignettes were just a stamp; now they are more sophisticated and contain the person's photo and other security features

"immigration status document" – a document (just a piece of paper) which is given to a person who does not have a passport to show that they have leave to remain in the UK

"biometric residence permit" – an ID card, which resembles a UK driving licence, showing that a person has leave to remain in the UK

Next steps

If you have prepared your own application(s) and would like someone to check it before submitting it to the Visa Application Centre, please let us know.

If you cannot make the application yourself, please contact us and we will do our best to assist.